

IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No.D-1541 of 2025

(Muhammad Aslam and another v. Province of Sindh and others)

Date

Order with signature of Judge(s)

Before:

**Muhammad Karim Khan Agha, J.
Adnan-ul-Karim Memon, J.**

Date of hearing and order: 03.09.2025

Mr. Malik Altaf Hussain, advocate for the petitioners.

Mr. Ali Safdar Depar, AAG.

ORDER

Muhammad Karim Khan Agha J. Through this petition, the petitioners have sought the following relief:

To hold and declare that the Impugned Orders dated 19.03.2025 and 10.08.2023 are illegal, unlawful, unconstitutional, malafide, and non-est; consequently, to set aside the same.

To direct the Respondents to restore the promotion order of the Petitioners forthwith.

Pending adjudication of the captioned petition, the operation of the Impugned Orders be suspended and/or the Respondent No.1 be restrained from reversing the salaries of the Petitioners.

Award cost of this Petition and any other relief(s) which this Hon'ble Court may deem fit for the disposal of the instant case/petition.

2. Petitioners, who are High School Teachers (BPS-16), are challenging the withdrawal of their promotions. They were promoted from BPS-9/14 and BPS-7/9 to BPS-16 through a Departmental Promotion Committee (DPC) meeting on July 3, 2023. They subsequently joined their new posts and received salaries in the higher grade. The promotions were initially put on hold on August 10, 2023, by an allegedly fake letter issued by an official who was about to retire. Petitioners believe this was a corrupt act and submit that the order was effectively made null and void when their BPS-16 salaries were approved the following month. However, on March 19, 2025, the promotions were officially withdrawn in a new order that also revived the previously disputed letter. The petitioners submit that this action is illegal and violates their fundamental/service rights, as they were not given a show-cause notice or the opportunity to be heard before the adverse decision was made.

3. The petitioners' counsel argues that the order dated March 19, 2025, is illegal and unconstitutional; that the Respondent No. 2, the Director of School Education, lacked the legal authority to issue such an order. He added that according to the Sindh Civil Servants Rules, the competent authority for BPS-16 promotions is the Secretary of Education, not the Director. The order was issued without giving the

petitioners a chance to be heard, providing a show-cause notice, or following any other legal formalities. This violates the principles of natural justice and their vested rights. He emphasized that the order not only withdraws the promotions but also reverses their salaries, leading the petitioners to fear that recovery proceedings will be initiated against them. He next submitted that the original promotion process was completed legally and was not challenged at any point, making the mass cancellation of the promotions unwarranted and unjust. He further submitted that the order violates Section 24-A of the General Clauses Act, 1897, and Article 9 of the Constitution of Pakistan, which protects their right to be dealt with in accordance with the law. The counsel concludes by requesting that the petition be allowed and the impugned order be set aside.

4. The Assistant Advocate General argues against the petition on the ground that this court lacks jurisdiction under Article 212(2) of the Constitution, which gives the Sindh Service Tribunal exclusive authority over service-related matters, even if they are based on alleged malice or illegality. He added that the petitioners' promotions were invalid due to serious irregularities, a lack of merit, and a failure to follow the seniority-cum-fitness criteria. He emphasized that the promotions were canceled to protect the rights of more deserving, senior teachers. The promotions of petitioners Muhammad Aslam and Fahmida were particularly flawed. Muhammad Aslam's seniority number was 604, far below the last promoted candidate's number of 268. Fahmida's seniority was 154, while the last recommended candidate's was 121. The petitioners never challenged the August 10, 2023, order that first put their promotions in abeyance, nor did they object to the formation of a scrutiny committee on August 30, 2023. Their inaction over a significant period (603 days) constitutes laches and undermines their current petition. He next submitted that the August 10, 2023, order from Director Yar Muhammad Baladi was genuine and made in response to public complaints. The petitioners' claims of forgery and extortion are unsubstantiated and it is their responsibility to provide proof. The petitioners did not use any available legal or departmental channels to challenge the initial abeyance order, implying their acceptance of it. The Assistant Advocate General concludes by asking the court to dismiss the petition.

5. We have heard the learned counsel for the parties and perused the record with their assistance.

6. The Supreme Court in the case of *Nazeer Ahmed Chkrani v Government of Pakistan* (2004 SCMR 623), reiterating the principle from *Pakistan International Airlines v Nasir Jamal Malik* (2001 SCMR 934), established that a promoted employee cannot be demoted without being given a chance to be heard and present their case. In the Nazeer Ahmed Chkrani case, the petitioner was promoted to General Manager in 1995 and then demoted to Deputy General Manager in 1997 without any prior explanation sought regarding the circumstances of their promotion

or their capability to hold the higher post. The demotion order also lacked any stated reasons for the Competent Authority's opinion that the promotion was wrongful. The Supreme Court, without delving into the merits of the case, held that the demotion violated the principles of natural justice ("no one should be condemned unheard"). Consequently, the petition was converted into an appeal and allowed, setting aside the Federal Service Tribunal's order and the departmental demotion order. The Supreme Court clarified that the Pakistan State Oil Company Limited remains free to initiate fresh action against the petitioner, provided they follow the correct legal procedure, and no order regarding costs was issued. In recent judgment of 2022, the Supreme Court has ruled that no decision be taken effacing the right of any person without first being informed of the case and affording an ample opportunity of defense, therefore judicial propriety demand that this matter needs to be taken care of by the competitive authority of respondents before taking adverse view until and unless there is strict compliance of the Supreme Court decisions.

7. Based on the Supreme Court's findings, it is clear that a government cannot demote an employee to a lower position without providing them notice and a chance to be heard. This fundamental principle of natural justice is implicitly part of all laws, rules, and organizational decisions, including those made by the respondents.

8. At this point, we proposed remitting the case to the respondents' competent authority for reconsideration. This would involve a thorough review of the service record of the petitioners, consideration of relevant Supreme Court judgments, and granting the petitioners a proper hearing to reach a fresh decision within three months. As such, we find it appropriate to remit the matter to the Chief Secretary of Sindh. The Chief Secretary will coordinate with the Secretary of Education to convene a meeting. After examining the petitioners' service records and promotion orders, a new decision will be made within three months.

9. This petition stands disposed of in the aforesaid terms.

Head of Const. Benches

Judge