

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D-5403 of 2023
(Ghulam Shabbir Sheikh v Province of Sindh & others)

Date	Order with signature of Judge(s)
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Before:
Mr. Justice Muhammad Karim Khan Agha
Mr. Justice Adnan-ul-Karim Memon

Date of hearing and order:- 14.10.2025

Mr. Talha Abbasi advocate for the petitioner
Mr. Imran Ahmed Khan Abro, AAG

ORDER

Muhammad Karim Khan Agha, J: The petitioner prayed that
this Court may be pleased to:

1. *Declare that the petitioner is entitled to promotion in BPS-19, having fulfilled all requirements.*
2. *Direct the respondents to consider the case of the petitioner for promotion against the post of Additional Secretary Litigation (BS-19) or against any other suitable post.*
3. *Grant any other/further relief(s) as this court may deem proper in the circumstances.*

2. The facts of the case, as narrated in the petition, are that the petitioner, a civil servant, is governed by the Sindh Civil Servants Promotion (BPS-18 to BPS-21) Rules 2022, which require a minimum of 7 years’ service for promotion to BPS-19. The petitioner completed this requirement on 27.07.2017, but has not been promoted despite being eligible.

3. The petitioner’s counsel contended that the petitioner was initially appointed as Second Capacity Legal Assistant (BPS-18) on 28.07.2010 on contract and regularized on 15.12.2011. He argued that the petitioner has represented the LU Department in several cases before this Court and the Supreme Court, performing duties with integrity and excellence. It is next argued that as the sole Second Capacity Legal Assistant post exists, seniority is not an issue, and length of service under Schedule-II of the Promotion Rules makes him eligible for promotion since 2017. He next submitted that despite an application to the Chief Minister, directing action by the concerned officials, the respondents have failed to promote him.

4. The learned AAG submitted that the subject promotion from Second Capacity Legal Assistant (BS-18) to Additional Secretary (BS-19), Land Utilization Department, has been pending for 7 years. He next submitted that as per Section 9 of the Sindh Civil Servants Act, 1973, read with Rule 7(2) of the Sindh Civil Servants (Appointment, Transfer, and Promotion) Rules, 1974, a civil servant must possess the prescribed

minimum length of service for promotion. Under Rule 6(1)(a) read with Schedule-II of the Sindh Civil Servants Promotion (BS-18 to BS-21) Rules, 2022, a BS-18 officer directly appointed requires 7 years of service for promotion to BS-19. He argued that petitioner was appointed on contract as Second Capacity Legal Assistant (BS-18) on 28.07.2010 and regularized on 15.12.2011. however, with over 14 years' service and an LLM from Karachi University, he fulfills all conditions for promotion. Having been ignored for promotion, he filed CP No. D-5403/2023, and this Court directed consideration of his case on 08.11.2023. His application was then forwarded by the Chief Minister to the Chief Secretary and subsequently to the Senior Member Board of Revenue. He argued that as per working paper available on record, there is no service structure for promotion from Second Capacity Legal Assistant, but one post of Additional Secretary (BS-19) has been vacant for long and could be filled by promotion from eligible BS-18 officers with at least 12 years' service in BS-17 & above and five years' experience handling LU Department/Board of Revenue court matters. The learned AAG prayed for direction to the competent authority of the respondents to first frame the recruitment rules as per the working paper, and the case of the petitioner be considered in accordance with the recruitment rules. This proposal seems to be reasonable and has been acceded to.

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

6. In light of the facts and applicable legal provisions, the petitioner prima facie has fulfilled all eligibility criteria for promotion from Second Capacity Legal Assistant (BPS-18) to Additional Secretary (BPS-19) in the Land Utilization Department. He has completed over 14 years of service in BPS-18, possesses the requisite legal qualifications, and has demonstrated exemplary performance throughout his tenure. Despite his eligibility, the respondents have failed to promote him, even after directives from the Chief Minister.

7. The Sindh Civil Servants Promotion (BPS-18 to BPS-21) Rules, 2022, stipulate that a civil servant directly appointed in BPS-18 requires 7 years of service in BPS-17 and above for promotion to BPS-19. Petitioner prima facie, meets this requirement subject to scrutiny by the respondent department on the issue of length of service. Furthermore, the Sindh Civil Servants Act, 1973, mandates that promotions be based on seniority-cum-fitness, and any unjustified delay in promotion constitutes a violation of his constitutional rights. In similar cases, this Court has directed authorities to consider eligible civil servants for promotion when unjustified delays occur. For instance, in Constitutional Petition No. D-

5466 of 2022, this Court emphasized the importance of timely promotions and directed the concerned authorities to review the petitioner's case in accordance with the law. This Court in constitutional Petition No. D-5066 of 2024 emphasized the importance of considering civil servants for promotion based on eligibility and seniority, and directed the authorities to rectify any unjustified delays.

8. Since the petitioner has met all the legal requirements for promotion and has been unjustly denied his rightful advancement. The respondents must comply with the applicable laws and promote the petitioner accordingly, subject to framing of the recruitment rules for the subject post within a reasonable time. Failure to do so not only violates his rights but also undermines the principles of justice and fairness in public service.

9. This petition is allowed in the above terms.

Head of the Constitution Benches

JUDGE

Shafi