

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
Constitutional Petition No. D-5738 of 2024  
(*Ghulam Murtaza Shaikh versus Province of Sindh & others*)

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

**Date of hearing and order:- 06.11.2025**

Mr. Muhammad Farooq advocate for the petitioner  
Ms. Saima Imdad, Assistant Advocate General.

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**ORDER**

**Muhammad Karim Khan Agha, J:**                      The petitioner has prayed as  
under:-

- 1. Declare that the impugned inactions of respondents No. 1,2, and 3 about recommending/consideration/nomination of petitioner for training and promotion are illegal, unlawful, and in the eyes of the law.*
- 2. To direct respondent Nos. 1 and 2, recommending/consideration/nomination of the name of the petitioner for training for the upcoming MCMC.*
- 3. To direct Respondent Nos. 1,2, and 3 to issue the promotion of the petitioner as a full-fledged Senior Superintendent (BPS-19) by Respondent No. 1's Notification dated 13.12.2015 after completing 12 years of service.*
- 4. To direct Respondent No. 1,2 and 3 to issue the promotion of the petitioner as DIG after completing 17 years of service.*
- 5. To direct respondents No. 1,2, and 4 to recommend/consideration/nomination of the name of the petitioner for SMC (Senior Management Course) Training, which is compulsory for the post of DIG (BPS-20), that the petitioner may be exempted from the SMC training because the department has not sent him for training despite the petitioner's request.*
- 6. To set aside/abolish the post of DIG Headquarters, created to accommodate the blue-eyed officers, being illegal, unlawful, and an arbitrary/colorable exercise of discretionary powers by executive departments and functionaries.*
- 7. To direct the official respondents to formulate a final list of seniority after the promotion of the petitioner as a DIG, being a competent/meritorious officer per the law, while following the due process and abiding by the method, criteria, and qualifications laid down for the promotion as mentioned earlier.*
- 8. To restrain the respondents, their agents, successors, assignees, employees, and servants from acting upon the impugned inactions in any way, shape, or form whatsoever since the same have been illegally and unlawfully.*
- 9. To award costs of the instant petition in favor of the petitioner; and*
- 10. Any other relief this Hon'ble Court may deem fit in the facts and circumstances of the instant petition.*

2. The case of the petitioner is that he was appointed as Superintendent of Prisons BPS-17 in the Prisons and Correction Services, Sindh, through Notification No. HD(PRS-I) 11-10/2005 dated 21.04.2005. His name appeared at serial No.11 in the final list of Superintendents BPS-17 issued on 01.09.2005, senior to all current DIGs. In 2015, he was promoted on an acting charge basis to Senior Superintendent BPS-19 via Notification No. SOIII(S&GAD)7-2/2015 dated 13.11.2015, subject to completion of 12 years' service and required training per Notification No. HD/SO/PRS-I/11-80/2009(Pt-1) dated 29.05.2015.

3. The petitioner's counsel argued that his acting charge promotion in 2015 should count for seniority; however, due to the respondents' inaction violates Supreme Court judgments and may warrant contempt proceedings. He contended that respondents failed to follow rules regarding training, promotion, qualifications, and experience under the Civil Servants Act 1973 and the 2021 promotion rules, displaying mala fide and arbitrary exercise of powers.

4. The learned AAG submitted that the petitioner was promoted on acting charge basis to Senior Superintendent Prison (BS-19) in 2015, as he had not completed the required 12 years of service in BS-17 and above; however, the petitioner could not be promoted due to his involvement in the 2017 escape case of two high-profile inmates, which led to his confinement and conviction; these cases were later set aside by the Supreme Court in May and August 2024 (CP No. 438/2022 and Civil Petition No. 646-K). The AAG further submitted that regular promotion to Senior Superintendent (BS-19) requires completion of 12 years' service and mandatory MCMC training. The petitioner had previously declined the 23rd MCMC training and could not attend subsequent courses due to pending criminal cases. After attending the 42nd MCMC course, his promotion case will be considered by the competent forum. She argued that Seniority is determined under the Sindh Civil Servants Act 1973; since the petitioner's promotion is regularly pending completion of service and training, his claims of seniority over other officers are premature. The post of D.I.G. Prisons Headquarters is unnecessary and was not demanded by any competent authority. The petition is thus not maintainable, and the AAG prayed for its dismissal.

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

6. The Supreme Court, in paragraph 10 of its judgment dated 28th October 2021, converted the civil petitions into appeals and allowed them.

Consequently, the penalties imposed on petitioner by the learned Sindh Service Tribunal was set aside and he was ordered to be reinstated to his original position with back benefits. Now the petitioner has filed a writ of mandamus seeking a recommendation for the Mid Career Management Course (MCMC) required for promotion to Senior Superintendent (BS-19) and further for SMC training for BS-20. Since the petitioner has already been nominated for MCMC by the Establishment Division (letters dated 04-12-2024, Annex-I) and relieved to attend the training at the National Institute of Management, Karachi, from 09-12-2024 to 14-02-2025 (Annex-II).

7. So far as the promotion to the post of BS 20 in prison department is concerned, the Government of Sindh, through Notification No. HD/SO(PRS-1)/11-39/1997, issued under Rule 3(2) of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, prescribed the method, qualifications, and conditions for appointments in the Sindh Prisons Department. For the post of Deputy Inspector General of Prisons (BPS-20), promotion shall be made from among Senior Superintendents of Prisons (BPS-19) having at least 17 years of service in BPS-17 and above, along with mandatory participation in the Senior Management Course (SMC). Similarly, for Deputy Inspector General of Prisons (Female), promotion shall be made from Senior Lady Superintendents of Prisons (BPS-19) under the same service and training conditions.

8. From the facts and law discussed above, prima facie, the petitioner does not presently possess the requisite qualifications to claim promotion to BPS-20. Under Notification No. HD/SO(PRS-1)/11-39/1997, the post of Deputy Inspector General of Prisons (BPS-20) is to be filled by promotion from among Senior Superintendents of Prisons (BPS-19) who have completed at least 17 years of service in BPS-17 and above, along with mandatory completion of the Senior Management Course (SMC). The record reflects that the petitioner was appointed as Superintendent of Prisons (BPS-17) on 21.04.2005 and was granted acting charge promotion as Senior Superintendent (BPS-19) on 13.11.2015. As of 2025, he has completed approximately 20 years of total service in BPS-17 and above, and therefore, prima facie meets the service-length requirement for promotion to BPS-20. However, his promotion to BPS-19 has not yet been regularized, as it remains subject to successful completion of the Mid-Career Management Course (MCMC) a mandatory prerequisite for regular promotion to BPS-19. The record further indicates that due to his previous conviction later set aside by the Supreme Court with restoration of service and back benefits the petitioner could not earlier attend the MCMC course. He has now been relieved to attend the said training in 2025.

Consequently, until he successfully completes the MCMC and is formally promoted to BPS-19, he cannot be considered for SMC training or promotion to BPS-20. It is, therefore, for the respondent department to verify whether the petitioner completes the requisite MCMC as required for regular promotion to BPS-19, and if so, his case for regularization in BPS-19 must be considered in light of the Departmental Promotion Committee's (DPC) recommendations of 2015, from the date such recommendations were made, as this appears to have been the only impediment in his career progression. Therefore, the petitioner's claim for promotion to BPS-20 (DIG Prisons) at this stage is premature and untenable in law, as the necessary service tenure and training conditions prescribed under the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, have not yet been fulfilled.

9. In light of the foregoing, since the respondents have expressed no objection to his promotion upon successful completion of this training as discussed supra. Furthermore, any nomination for SMC training for BS-20 can only occur after his actualization of promotion to BS-19, in accordance with the applicable rules and if he completes then his candidature is required to be considered for further promotion in BS-20 subject to completion of his SMC Course as per recruitment rules.

10. This petition stands disposed of in the above terms.

HEAD OF CONST. BENCHES

JUDGE

Shafi