

HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD

C.P. No.D-1617 of 2014

[Abdul Fatah Abbasi & others vs. Federation of Pakistan and others]

BEFORE:

JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE RIAZAT ALI SAHAR

Mr. Irfan Ahmed Qureshi, Advocate for Petitioners

Nemo for the respondents.

Date of hearing & decision: 01.12.2025

ORDER

ADNAN-UL-KARIM MEMON J.- Through this Constitutional Petition, the petitioner prays that their names appearing at serial numbers 34, 35, and 36 be confirmed as correct and be properly reflected in the final seniority list.

2. The case of the Petitioners is that they were appointed in WAPDA in Grade-16 in 1990 and have been serving at the Thermal Power House, Lakhra. They subsequently filed Appeals before the Federal Service Tribunal, Karachi, which were disposed of through a common judgment dated 10.11.2003 deciding the issue of their seniority. In compliance with that judgment, the Petitioners were promoted to BPS-17 as Junior Engineers with immediate effect, and in the seniority list their names i.e. Abdul Fatah, Fida Hussain, and Rasool Bux were placed at Serial Nos. 5, 6, and 8. The Petitioners then filed an Appeal before the Chief Engineer (Admin), Power, Lahore, seeking full compliance with the Tribunal's judgment, as the Tribunal had directed that their promotions be granted from the date their juniors were promoted. Their Appeals were accepted by the competent authority vide order dated 24.09.2012. Accordingly, a tentative seniority list dated 31.12.2012 was issued by Lakhra Power Generation Company (GENCO-IV), in which the Petitioners' seniority was maintained along with their 1998 batchmates. Subsequently, for the promotion of Junior Engineers, another seniority list dated 18.04.2013 was prepared, wherein the Petitioners were correctly placed at Serial Nos. 35, 36, and 37, while Respondents 5 to 9 appeared at Serial Nos. 33, 34, 38, 39, and 40. A first tentative seniority list dated 23.05.2014 also placed the Petitioners at Serial Nos. 35, 36, and 37. However, in the finalized list, their names were shifted to Serial Nos. 162, 163, and 164. The Petitioners challenged this final seniority list, but their application was rejected, leading them to file the present Constitutional Petition.

3. Learned counsel for the Petitioners argued that the final seniority list issued by GENCO Holding Company is contrary to law, to Section 10 of the

Pakistan WAPDA Common Cadre Services Rules, 1980, and to the principles of fairness. He contended that the respondents manipulated the list to accommodate their preferred individuals. He further submitted that the Federal Service Tribunal had already declared the Petitioners senior to Respondents 6 to 10, yet the respondents unlawfully placed the Petitioners below their juniors in the impugned seniority list. He, however, admitted that the petitioners have reached the age of superannuation during pendency of the petition; now their case is confined to the service benefits if their seniority is corrected; therefore prayed that the present Petition be allowed.

4. Respondents in their comments submitted that the petitioners' claim regarding seniority falls within the terms and conditions of service. However, GENCO has no statutory rules of its own and relies on borrowed rules. As established by the Apex Court, in the absence of statutory rules, such a petition is not maintainable under Article 199 of the Constitution, and no violation of statutory rules has occurred. They submitted that the petitioners' appointments and service are admitted, but it is denied that they rendered their services satisfactorily or flawlessly. The induction and promotion of Graduate and Junior Engineers were carried out in accordance with provincial quotas and applicable rules, with no discrimination, and all related allegations are denied. They added that all references to Service Tribunal proceedings are judicial in nature and require no comment. Respondents have complied with all court orders and instructions at the relevant time. The tentative and final seniority lists were prepared by the competent authority within the legal framework, and all objections, representations, and appeals by the petitioners were examined and dismissed after observing codal formalities. Any alleged variations in the placement of names are legal, proper, and final. It is urged that the petitioners' representations on the review of the tentative seniority list circulated in April 2013 were considered but not accepted, as the matter had already been settled by the competent forum. The final seniority list was prepared in accordance with applicable rules and is not open to challenge. Orders of the Federal Service Tribunal were complied with at the relevant time, and any attempt to apply them at this stage is not acceptable. They submitted that there is no evidence of discrimination, and all legal requirements were duly followed in preparing the seniority list. Therefore, the petition is without merit, groundless, belated, and merits dismissal with costs.

5. After hearing the petitioner and learned DAG on the issue of seniority, it appears that the petitioners' grievance regarding their placement in the final seniority list stems from a matter that has already been resolved through proper channels, including decisions of the Federal Service Tribunal and reviews by the competent authority.

6. GENCO, having no statutory rules of its own, has acted in accordance with the applicable rules, and no violation of statutory provisions is apparent. All objections and appeals submitted by the petitioners were duly examined at the relevant time and rejected following codal formalities. Since the petitioners have reached superannuation, their claims are now confined to service benefits and do not justify any alteration of the seniority list. The petition therefore being without any merit, groundless and belated is dismissed.

JUDGE

JUDGE

Karar Hussain/PS*