

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

C.P.No.D-491/2015

C.P.No.D-492/2015

C.P.No.D-3058/2015

Date

Order with signature of Judge

Present

Mr. Justice Muhammad Ali Mazhar

Mr. Justice Arshad Hussain Khan

1. C.P.No.D-491/2015

Abdul Hameed Chandio.....Petitioner

V E R S U S

Secretary,

Agriculture, Supply and Prices & others.....Respondents

2. C.P.No.D-492/2015

Tarique Akbar Abbasi.....Petitioner

V E R S U S

Secretary,

Agriculture, Supply and Prices & others.....Respondents

3. C.P.No.D-3058/2015

Bashir Ahmed Ansari.....Petitioner

V E R S U S

Secretary,

Agriculture, Supply and Prices & others.....Respondents

Date of hearing: 04.10.2016

Mr. Muhammad Asghar Malik, Advocate a/w Petitioners.
Mr. Abdul Jalil Zubedi, A.A.G. a/w Akhtar Kamal Khan,
Deputy Director, Agriculture Marketing, and
Abdul Samad Shaikh, Incharge Legal Section,
Agricultural Department, Government of Sindh, Karachi.

Muhammad Ali Mazhar, J: All the petitioners have approached this Court for directions against the respondents to promote the petitioners in accordance with law. It is, *inter alia*, contended by the learned counsel for the petitioners that the petitioners are performing their duties for the last considerable period of time and at present they are Sub-Inspector in BPS-10. Despite lapse of considerable period, the Departmental Promotion Committee was not constituted to consider their cases in accordance with their seniority-cum-fitness. The learned counsel further pointed

out that one junior to the petitioners namely Mubarak Rehmani was promoted to grade-14 by the respondent No.1 w.e.f. 18.12.1998 and he was placed at Sr. No.18 of seniority list. They have also complained for some discriminatory treatment with them. The comments of the respondent No.2 are on record in which the status of the petitioners being employee of Marketing Committee, Karachi has not been disputed which is a body incorporated under Section 14 of Agricultural Produce Markets Act, 1939. It is further stated that the petitioners were promoted from BPS-8 to BPS-10. So far as the case of Mubarak Rehmani is concerned, it is clearly stated in the comments that he filed an application before the Mohtasib for promotion and in compliance of the Mohtasib's order he was promoted by the Administrative Department but his promotion order was not issued as the matter is under inquiry against him who was allowed BPS-14 without recommendation of Departmental Promotion Committee. It is further stated in the comments that the petitioners will be considered on seniority-cum-fitness basis for promotion as per Rules, however, at one place it has been stated that the petitioners have failed to implead Administrator, Market Committee, Karachi, so the petition is hit by the non-joinder of the necessary party.

2. When this matter was called in the first round in the presence of concerned officials of the department, the learned A.A.G. sought time to seek instructions and in the second round after discussing the matter with the Additional Director, Agricultural Marketing, Agricultural Department, Government of Sindh he has given the clear statement that the Departmental Promotion Committee will be constituted and against the available vacant posts, the Departmental Promotion Committee will consider the cases of the petitioners for the next promotion in accordance with the Rules. However, he further submits that the cases of employees, who are already performing their duties in BPS-11 will be considered first so that they may move in BPS-12 thereafter some vacant positions would be available for considering the cases of promotion in BPS-11. The learned A.A.G. has also pointed

out a copy of notification regarding nomenclature and grades issued by Section Officer (PMP), Agriculture, Supply & Prices Department, Government of Sindh.

3. We have also gone through Sindh Market Committee Unified Grade Service Rules, 1983 in which the appointing authority in relation to a post below grade 17 is the Director General and in relation to a post in grade 17, the Secretary Industries and Minerals Development Department. In terms of these Rules, the promotion committee is to be constituted by the respondents as admittedly the Rules have been framed under the provision of Agricultural Produce Market Act, 1939.

4. As a result of above discussion, the respondents are directed to constitute the Departmental Promotion Committee in terms of the Agricultural Produce Market Act, 1939 as well as Market Committee Unified Grade Service Rules, 1983 and consider the cases of the petitioners for promotion within a period of sixty days.

The petitions are disposed of accordingly with pending applications.

Judge

Judge

Asif