

**IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD.**

**Present:  
Mr. Justice Muhammad Iqbal Kalhoro.  
Mr. Justice Adnan-ul-Karim Memon.**

**C.P. No.D-94 of 2019**

Panjoo Mal & others	-----	Petitioners
VERSUS		
Province of Sindh & others	-----	Respondents

**C.P. No.D- 137 of 2019**

Ali Gohar Shah	-----	Petitioner
VERSUS		
Province of Sindh & others	-----	Respondents

**C.P. No.D- 138 of 2019**

Shabbir Ahmed Shaikh	-----	Petitioner
VERSUS		
Province of Sindh & others	-----	Respondents

**C.P. No.D- 139 of 2019**

Jahangir Bhatti	-----	Petitioner
VERSUS		
Province of Sindh & others	-----	Respondents

**C.P. No.D- 140 of 2019**

Riaz Ahmed Arain	-----	Petitioner
VERSUS		
Province of Sindh & others	-----	Respondents

**C.P. No.D- 141 of 2019**

Muhammad Bux Nohri	-----	Petitioner
VERSUS		
Province of Sindh & others	-----	Respondents

**C.P. No.D- 188 of 2019**

Asadullah Shaikh	-----	Petitioner
	VERSUS	
Province of Sindh & others	-----	Respondents

**C.P. No.D- 189 of 2019**

Ghulam Murtaza Kalhoro	-----	Petitioner
	VERSUS	
Province of Sindh & others	-----	Respondents

**Date of hearing: 07.3.2019**  
**Date of decision: 07 .3.2019**  
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Mr. Ishrat Ali Lohar, advocate for petitioner.  
 Mr. Allah Bachayo Soomro, Additional Advocate General, Sindh.  
 Mr. Muhammad Yousif Alvi, Law Officer, SPSC.  
 Mr. Nizam-ud-Din Shaikh, Chief Engineer, Education Works.  
 Mr. Mashooque Ali Gopang, Assistant, Litigation Branch, SPSC.

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**ORDER**

**ADNAN-UL-KARIM MEMON, J.-** Through the captioned petitions the petitioners have called into question the publication of Advertisement No.10/2018 dated 18.11.2018 issued by Sindh Public Service Commission (SPSC) whereby they have invited applications for the posts of Assistant Engineer BPS-17 (Civil).

2. On 29.01.2019 following order was passed by this Court:-

“5. We have heard, learned counsel for the petitioners on the issue of maintainability of instant petitions. Petitioners have agitated that the present matter pertains to promotion policy. Recruitment Rules have been amended to confer right of promotion to the petitioners against the posts of Assistant Engineer (Civil) in PBS-17.

6. To appreciate the aforesaid contention of the petitioners, let these matters be posted on 14.2.2019 for filling of the comments by the respondents. In the meanwhile, the posts of Assistant Engineer (Civil) in PBS-17 to the extent of Ratio as notified in the recruitment

*rules, if any, and claimed by the petitioners may not be finalized, till next date of hearing.”*

3. Today, learned Additional Advocate General, Sindh has informed that cases of petitioners have been sent to the Competent Authority for consideration of their promotion and the said process will be completed within a shortest possible time. In this regard he has placed on record a letter dated 06.03.2019 issued by Section Officer (EW) School Education & Literacy Department, Government of Sindh which explicitly shows that antecedents of the petitioners, including ACRs/PERs have been requisitioned by the competent authority.

4. Mr. Nizam-ud-Din Shaikh, Chief Engineer, Education Works who is present in court has endorsed the statement of learned AAG and submits that impugned advertisement is in respect of seats to be filled through direct recruitment, hence the petitioners are not in any manner going to be prejudiced by the process held in terms of said advertisement. He further states that promotion case of the petitioners in next rank is under consideration in accordance with law and will be completed as per relevant rules.

5. Learned counsel for the petitioners have shown satisfaction but have reservations regarding said process of promotion of petitioners on the ground that if such process is not completed before announcement of result of SPSC the petitioners would be made junior to new appointees. Be that as it may, since impugned advertisement is not in regard to the seats to be filled by way of promotion, no right of the petitioners seems to have been infringed to maintain this petition under Article 199 of the Constitution. The promotion criteria for the post of Assistant Engineer, who are holding the degree of Bachelor of Engineering (B.E) only in the respondent-department has already been settled by the Honorable Supreme Court of Pakistan in the case of Maula Bux Shaikh and others Versus Chief Minister Sindh and others (2018 S C M R 2098). An excerpt of the aforesaid judgment is reproduced as under:-

*“The net result of above discussion is that this petition fails. It is dismissed and leave refused, however with note of caution that government shall not allow or permit any person to perform professional engineering work as defined in the PEC Act, who does not possess accredited engineering qualification from the accredited engineering institution and his name is not registered as a registered engineer or professional engineer under the PEC Act”.*

6. In the light of above facts and circumstances of the case, by consent of the parties, the instant Petitions are hereby disposed of in the terms, whereby the competent authority/ Respondents is directed to consider the case of Petitioners for promotion if they qualify for the post in next rank, strictly in accordance with the relevant rules and the decision rendered by the Honorable Supreme Court in the case of Maula Bux Shaikh supra within a period of two months from the date of receipt of this order.

JUDGE

JUDGE

**Irfan Ali**