

**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- 138 of 2019

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

Date of decision: 21 .3.2019

Mr. Ishrat Ali Lohar, advocate for petitioners/applicants.

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ORDER

ADNAN-UL-KARIM MEMON, J.- The captioned Petition was disposed of by this Court vide judgment dated 07.03.2019, with the following observations:-

“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.”

2. On 21.3.2019 the applicants filed applications under Order 47 read with Section 114 of Civil Procedure Code bearing MA No. 3008/2019 & 3006/2019 for review of the judgment/order dated 07.03.2019 passed by this Court. We queried from the learned counsel for the applicants as to how the instant review applications are maintainable, when the applicants consented for disposal of the instant petitions. Mr. Ishrat Ali Lohar, learned counsel for petitioners/applicants has argued that the satisfaction shown in the aforesaid order was that if the next promotion of the petitioners would be considered prior to announcement of the result of Sindh Public Service Commission; that the respondent/SPSC have started the process of conducting interview of the candidates and there is grave apprehension that the posts of petitioners will be filled by the department, which are meant for promotion of the petitioners, therefore, if the result would be announced, the third party interest would be created that’s why the order dated 07.03.2019 passed by this court needs to be reviewed; that the observation made by this Court in the impugned judgment is erroneous which requires reconsideration. He next submitted that on the aforesaid submissions, the petitioners have a good case for review of the judgment passed by this Court. He lastly prayed for allowing the listed applications and the matter may be decided on merit.

3. At this stage, learned counsel for the petitioners in his abortive attempt has tried to re-argue the matter on merit, which we cannot allow, as we are only concerned with the grounds of review as to whether the order dated 07.03.2019 passed by this Court needs to be reviewed?

4. We have heard the learned counsel for the Applicants on the listed applications and have perused the material available on record and the grounds taken by him.

5. We have noticed that the review of the judgment can only be made by the party, if there is mistake or error apparent on the face of the record, as provided under Order XLVII (Section 114 CPC).

6. Upon perusal of the order dated 07.03.2019 passed by this Court, which explicitly shows that we disposed of the matters by consent of the parties for reconsideration of the case of the petitioners for promotion if they qualify for the post in next rank strictly in accordance with rules and judgment rendered by the Honorable Supreme Court in the case of Moula Bux Shaikh (2018 SCMR 2098).

7. We have also noticed that the Petitioners through the instant Review Applications have attempted to call in question the validity of the order passed by this court. The grounds taken by the Petitioners in the aforesaid petitions were considered and the request of the Petitioners was recorded vide order dated 07.03.2019; therefore, the question of reviewing the order does not merit consideration.

8. For the aforesaid reasons, we are not persuaded by the contention of the learned counsel for the Applicants that a case of Review is made out. This review applications, therefore, merits dismissal as, in our view, our order dated 07.03.2019 was based on correct factual as well as legal position of the case and we do not find any inherent flaw floating on the surface of the record requiring our interference, therefore, the question of calling in question the order by invoking the review jurisdiction is misconceived.

9. In the light of above facts and circumstances of the case, no case for review is made out, the listed applications bearing MA No. 3008/2019 & 3006/2019 are dismissed with no order as to cost.

JUDGE

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