

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI
Constitutional Petition No. D –4210 of 2018

Before:

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

Mumtaz Ahmed Shah

Versus

The Government of Sindh and 03 others

Date of hearing & order : 08.12.2020

Mr. A D Shah, advocate for the petitioner.

Mr. Waleed Khanzada, advocate for respondents 2 to 4.

Mr. Ali Safdar Debar, Asst. AG.

ORDER

ADNAN-UL-KARIM MEMON, J. Through the instant petition, petitioner claims actualization of his promotion as Sub Engineer (BPS-14) in Karachi Water and Sewerage Board HRDA Department (KW&SB), which was made vide office order dated 04.12.2012.

2. We asked learned counsel to satisfy this Court about the maintainability of this petition on the premise that he was initially appointed as Supervisor (BS-11) in the year 2007 and was purportedly promoted to the post of Sub Engineer (BS-14) in the year 2013, subsequently competent authority cancelled his promotion vide office order dated 05.07.2013 on the premise that the post of Sub Engineer is / was duly notified as 100% direct recruitment post. An excerpt of the recruitment rules notified in the month of December, 1990 is reproduced as under:

“No.SOI(KDA) II-9/84: In exercise of powers under rule 5(2) of the K.W.&S. Boards Employees (Appointment, Promotion & Transfer) Rules, 1984 Govt: of Sindh is pleased to accord approval to the following method of recruitment for

SR.NO.	NAME OF THE POST	BASIC PAY SCALE	QUALIFICATION & EXPERIENCE REQUIRED	AGE MIN	LIMIT MAX	METHOD OF APPOINTMENT	REMARKS
6.	Sub-Engineer (ESM)	BS-11	Diploma in Engg: (3 years Course) from an Institute recognized by the Govt.	18 years	28 years	By initial recruitment	

3. Mr. A D Shah, learned counsel for the petitioner, has argued that the case of the petitioner was recommended by the Departmental Promotion Committee-II for promotion from BS-11 Supervisor to BS-14 Sub Engineer under Rule 5(1)(a) and Rule 15(1) of the KW&SB Employees (Appointment, Promotion, and Transfer) Rules, 1987. We confronted him with the recruitment rules for the aforesaid post (available with the statement of petitioner) that the said post could only be filled by direct recruitment and not by way of promotion. Even no codal formalities were fulfilled i.e. advertisement, constitution of Selection Committee, test and interview, before filling up this post. He is unable to reply to the query.

4. Essentially in service jurisprudence, appointment, promotion is of utmost importance. If these are made on merit in accordance with definite rules, instructions, etc., and the same will rightly be considered and treated as part of the terms and conditions of service of a civil/government servant, which cannot be interfered with under the constitutional jurisdiction, under the service law, besides that the petitioner has no vested right to claim promotion against the post which was meant for initial appointment, therefore, the petitioner is precluded to ask for the actualization of his alleged promotion made by DPC-II which was rightly cancelled.

5. In view of the above, the petition being misconceived is hereby dismissed with no order as to costs.

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