

IN THE HIGH COURT OF SINDH, KARACHI  
C.P No.6694 of 2020

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Order with signature of Judge(s)

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For orders as to maintainability of petition.

**Dated : 04.05.2021**

Dr. Raana Khan, advocate along with petitioner.

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Through the captioned petition, the petitioner is seeking the declaration to the effect that he is/was entitled to proforma promotion against the post in BS-20 with effect from 28.3.2014 and his seniority be fixed retrospectively in the light of order dated 25.05.2015 passed by the learned Sindh Service Tribunal at Karachi (SST) in Service Appeal No.123/2015.

At the outset, we asked the learned counsel to satisfy this Court about the maintainability of this petition on the ground of laches.

Dr. Raana Khan, learned counsel for the petitioner, on the question of maintainability, argued that since petitioner stood retired from Civil Service; and, he is no more a civil servant, this constitutional petition is maintainable. To reply to the query as discussed supra, it is contended *inter-alia* by learned counsel for the petitioner that petitioner was appointed as Subject Specialist in Education & Literacy Department, Government of Sindh, on ad-hoc basis for six months till such time the recommendation of Sindh Public Service Commission (SPSC) vide notification dated 08.11.1990 (page 83). Per learned counsel, his services were later on regularized and he was subsequently promoted to the post of Subject Specialist (BS-17) with effect from the date of taking over the charge of the post vide notification dated 15.02.1992 (page 93), however, his case was deferred for the post of Headmaster (BPS-17) vide minutes of the meeting of Departmental Promotion Committee held on 16.12.1992 on the premise that his case was not found in order of seniority and also his record was incomplete. Per learned counsel, the petitioner was allowed move over to BPS-18 on the premise that he has reached the maximum of his pay scale in BPS-17, vide notification dated 25.9.1993 (page 125). He being aggrieved by and dissatisfied with the aforesaid decision filed a review application before the Secretary Education Government of Sindh for promotion from the post of Principal vide letter

dated 24.6.1993 (page 133). However the petitioner was informed that promotions were made in order of seniority vide letter dated 13.9.1993 (page 149). He then filed a departmental appeal before the Chief Secretary, Government of Sindh, with the grounds that he was fully qualified and has fulfilled all the requirements for promotion to the post in BPS-18, with effect from the date of DPC held on 16.12.1992. However his appeal was dismissed. He then preferred Service Appeal No.75/1994 before the learned Sindh Service Tribunal at Karachi. The petitioner then also filed C.P. No.D-3363/2011 before this Court, which was transferred to the learned Sindh Service Tribunal at Karachi, which was treated as Service Appeal No.123/2015 and was disposed of as not maintainable. Now he has filed this petition on 23.12.2020 with the prayer to direct the respondents to finalize his promotion case in BPS-20 in the light of the order dated 25.5.2015 of the learned Sindh Service Tribunal.

To appreciate whether the case of the petitioner for proforma promotion with retrospective could be allowed in the light of the decision rendered by the Hon'ble Supreme Court in the case of Hameed Akhtar Niazi v. The Federation of Pakistan and others (PLD 2003 S.C 110), let notice be issued to the respondents as well to AAG for **24.05.2021** with directions to submit a comprehensive report in the matter.

JUDGE

JUDGE