

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD

C.P. No.D-251 of 2021

| DATE | ORDER WITH SIGNATURE OF JUDGE |
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| | 1. For orders on office objections. |
| | 2. For hearing of M.A. No.2295/2021. |
| | 3. For hearing of main case. |

12.04.2022

Syed Jawaid Saleem, Advocate for the petitioner.
Mr. Fayaz Ahmed Laghari, Advocate for respondents HESCO.
Mr. Ashfaque Nabi Qazi, Assistant Attorney General for
Pakistan.

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The facts in brief necessary for disposal of instant constitutional petition are that the petitioners and nine others being lower division clerks (BS-07) with Hyderabad Electric Supply Company were promoted as Steno-II (BS-14). Their promotion was cancelled and such cancellation of their promotion they impugned by filing a grievance application before learned Labour Court at Hyderabad, it was dismissed vide order dated 07.09.2015, it was impugned by them before Sindh Labour Appellate Tribunal, Karachi, by preferring an appeal but it was withdrawn on 09.02.2017. Subsequently they filed another grievance application before Labour Court at Hyderabad it was dismissed vide Judgment dated 16.05.2018, such dismissal of their grievance application was impugned by them by preferring an appeal before Sindh Labour Appellate Tribunal, Karachi, it was also dismissed on 29.01.2019. Subsequently they filed constitutional petition No.D-374 of 2019 before this Court, it was withdrawn on 19.01.2019 with permission

to file the same afresh, if law permits so. It was filed afresh. Nothing has been referred which could have permitted the petitioners to file the second petition on same cause of action.

It is contended by learned counsel for the petitioners that the petitioners were promoted in accordance with law, their promotion was cancelled without lawful justification and such fact has not been taken into consideration by learned Labour Court and learned Labour Appellate Tribunal by dismissing their grievance application and appeal by way of impugned orders those are liable to be set-aside with direction to the respondents to restore the promotion of the petitioners as Steno-II (BS-14) with all back benefits.

Learned Assistant Attorney General for Pakistan and learned counsel for the respondents have sought for dismissal of the instant constitutional petition by contending that the very promotion of the petitioners was illegal, therefore, it was rightly recalled and such fact has rightly been considered by learned Labour Court at Hyderabad and Sindh Labour Appellate Tribunal at Karachi by dismissing their grievance application and appeal.

Heard arguments and perused the record.

Initially 15 Lower Division Clerks (BS-07) were promoted as Steno-II (BS-14). Out of them only 09 filed grievance application, it was dismissed by learned Labour Court at Hyderabad. Out of 09 only 06 preferred an appeal, against the dismissal of their grievance application. Apparently before making subject promotions, no test in respect of eligibility of petitioners and others was held. As a deceptive device a fake test was conducted whereby 14 out of 15

promotees were called upon and were asked to write an Essay in English. All the 15 promotees failed in a test which was conducted by the Committee of their choice, which prima facie suggests that they were wrongly promoted. In these circumstances, learned Labour Court at Hyderabad and learned Sindh Appellate Labour Tribunal at Karachi were right to dismiss the grievance application and appeal of the petitioners, those orders being concurrent are not calling for any interference by this Court in exercise of its constitutional jurisdiction; consequently the instant constitutional petition is dismissed with no order as to costs which even otherwise is second in series.

J U D G E

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*Muhammad Danish**