

IN THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Naimatullah Phulpoto
Mr. Justice Adnan-ul-Karim Memon

Constitution Petition No.D-806 of 2022

(Samiullah Khan v. The Province of Sindh and 09 others)

Constitution Petition No.D-1867 of 2022

(Subhan Ali Shoro and another v. The Province of Sindh and 04 others)

Mr. Abdul Salam Memon, advocate alongwith Ms. Rabya Javed, advocate for the petitioners in CP No. D-806/2022

Mr. Mehfooz Yar Khan, advocate for the petitioners in CP No. D-1867/2022

Mr. Ali Safdar Depar, AAG alongwith Mr. Muhammad Saleem Rajput, Secretary (Services), Government of Sindh, Mr. Ghulam Ali Brahmani, Additional Secretary (Services-I), SGA&CD, Ms. Rabia Syed, SO-V, SGA&CD and Mr. Shahid A. Abro, Additional Secretary, Board of Revenue Sindh on behalf of Secretary Revenue

Mr. M.M. Aqil Awan, advocate alongwith Mr. Danish Rashid Khan, advocate for respondents No. 6 to 10 in CP No. D-806/2022

Mr. Fayaz Ahmed Memon, advocate for the applicant/intervener in CP No. D-806/2022

Dates of hearing : **12.04.2022 & 27.04.2022**
Date of order : **10.05.2022**

ORDER

Adnan-ul-Karim Memon, J. We intend to decide captioned petitions by a consolidated order having similar facts and law.

2. At the outset, learned counsel for the petitioners in CP No.D-806/2022 and CP No.D-1867/2022 submit that the purpose of filing these petitions has been served on the analogy that the respondent department has issued the Provisional Seniority List of officers of Ex-PCS (Executive Branch Service) (BS-17) of the Government of Sindh and seek disposal of these petitions in terms of the Provisional Seniority List discussed supra, which is in compliance with the order dated 19.1.2021 passed by the Hon'ble Supreme Court of Pakistan in Civil Appeals No.4189 to 491/2017 and 99-K to 104-K and Civil Petitions No.563-K to 565-K.

3. For the aforesaid proposal, learned AAG has no objection if these petitions are disposed of in the above terms.

4. Learned counsel representing the respondents No. 6 to 10 and intervener in CP No.D-806/2022 have objected to the disposal of these petitions in the terms as put forward by the learned counsel for the petitioners on the ground that the intervener is serving as regular Assistant Commissioner (BS-17) vide notification dated 18.9.2015 and his

name is appearing at Sr. No. 01 of the Seniority List of Assistant Commissioners (BPS-17) vide notification dated 21.1.2020, however, he agreed to the proposition that since the subject seniority up to Sr. No.41 is not disputed as such he will have no objection to that extent, however, headed that since the seniority list of Mukhtiarkars dated 8.4.2021 is pending adjudication before the learned Sindh Service Tribunal in Service Appeal No.32/2022 and the propriety demands that no observation shall be given to avoid prejudicing the case of appellants before the Sindh Service Tribunal.

5. Primarily, the matter has been set at naught by the Hon'ble Supreme Court of Pakistan vide order dated 19.1.2021 passed in Civil Appeals No.4189 to 491/2017 and 99-K to 104-K and Civil Petitions No.563-K to 565-K. As such, we are not in a position to modify the terms of the order of the Hon'ble Supreme Court since the respondents have submitted a compliance report of the order dated 19.1.2021 before the Hon'ble Supreme Court of Pakistan.

6. The Secretary, Services General Administration and Coordination Department, present in Court submits that there is no dispute so far as seniority up to Sr. No.41 is concerned and he requests for allowing the competent authority to convene the meeting of Provincial Selection Board to consider the cases of the ex-PCS officers (BPS-17) for promotion in BPS-18 up to the seniority list of 41. If this is the position of the case, let the Competent Authority convene the meeting of Provincial Selection Board to consider the cases of Mukhtiarkars for promotion up to seniority list of 41, subject to the final decision of Sindh Service Tribunal at Karachi.

7. In view of the consensus developed between the parties so far as Seniority List of Ex-PCS officers up to Sr. No.41, these petitions stand disposed of with a direction to the competent authority to convene the PSB-II meeting within the shortest possible time and consider the cases of ex-PCS officers for promotion strictly in accordance with law and dicta laid down by the Hon'ble Supreme Court of Pakistan vide order dated 19.1.2021 passed in Civil Appeals No.4189 to 491/2017 and 99-K to 104-K and Civil Petitions No.563-K to 565-K. However, it is made clear that no prejudice shall be caused to the case of appellants/private respondents in Service Appeal No.32/2022 pending before the learned Sindh Service Tribunal at Karachi.

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