

IN THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Aftab Ahmed Gorar
Mr. Justice Adnan-ul-Karim Memon

Constitutional Petition No.D-659 of 2022

(Pervez Ahmed Bhatti v. Province of Sindh and 03 others)

Constitutional Petition No.D-742 of 2022

(Syed Adeel Haider and another v. Province of Sindh and 03 others)

Mr. Muhammad Faheem Zia, advocate for the petitioner in CP No.D-659/2022

Mr. Amel Khan Kasi, advocate for the petitioner No.2 in CP No.D-742 of 2022

Mr. Ali Safdar Depar, AAG along with Ghulam Ali Birhmani, Additional Secretary (Services-1), SGA&CD and Najam Ahmed Shah, Secretary, Local Government & Housing and Town Planning Department.

Date of hearing
& order : **17.02.2022**

ORDER

At the outset, learned AAG has filed a concise statement of respondent No.3 and submitted that in compliance with the order passed by this court, respondent No.4 Muhammad Zafar Khan Baloch has been relieved from the post of Project Director, Local Government Project, and in his place, one Prem Kumar, an officer of SCUG Service B.E. (Engineering branch/Civil) BS-19 has been posted. Per learned AAG, the competent authority i.e. Chief Minister Sindh has promoted him from BS-19 to BS-20 on regular basis vide notification dated 04.02.2022.

We have gone through the notification dated 11.02.2022, whereby Prem Kumar an officer of SCUG service (BS-19), has been assigned to look after the charge of project director, Local Government Project, Karachi for execution and implementation of the mega and ADP scheme, as stopgap arrangement till further orders.

At this juncture, learned counsel for the petitioners raised their voice of concern that though notification dated 11.02.2022, the officer of SCUG service of BS-19 has been assigned to look after the charge of subject project post, which is against the law laid down by the Hon'ble Supreme Court of Pakistan.

To this assertion, the learned AAG has referred to the notification dated 14.02.2022 and submitted that on the recommendations of the Local Government Board held on 29.6.2021 and with the approval of the competent authority / Chief Minister Sindh, he has been promoted from BS-19 to BS-20 on

regular basis, thus no further grievance of the petitioners is in the field, therefore, both the petitions are liable to be disposed of in terms of the statement of Secretary, Local Government & Housing, and Town Planning Department.

Prima-facie the contention of the petitioners is tenable for the simple reason that notification dated 11.02.2022 issued by the Secretary, Local Government Department, falls within the ambit of term OPS, which does not align with the dicta laid down by the Honorable Supreme Court in the cases of *Province of Sindh & others v. Ghulam Fareed & others* [2014 SCMR 1189] and *Khan Muhammad vs. Chief Secretary Baluchistan and others* (2018 SCMR 1411). We have been informed that the competent authority has promoted the officer in BS-20 on regular basis. If this is the position of the case, let notification dated 11.02.2022 be modified to remove the anomaly as discussed supra accordingly.

The respondent Secretary present in court has submitted that he will do so during the day. Let him do so in line with the ratio of the judgments passed by the Hon'ble Supreme Court of Pakistan as discussed supra.

These petitions stand disposed of in the terms of the undertaking of the Secretary, Local Government & Housing, and Town Planning Department of the respondents.

JUDGE

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