

IN THE HIGH COURT OF SINDH KARACHI

Before :

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Adnan-ul-Karim Memon

CPNo.D-6164 of 2022

Afaq Ahmad Qureshie

Petitioner:

In person.

Respondents:

Nemo.

Date of hearing

& Decision:

18.01.2023.

ORDER

Through this Constitutional Petition, the petitioner has called into question the legality of Notification dated 1.6.2022 issued by the Chief Secretary, Sindh, whereby the petitioner was promoted to the post of Senior Chief Design Officer (BS-19) with effect from 9.4.2014 i.e. one day before his retirement, inter-alia, on the ground that the aforesaid notification is not in line with the judgment dated 29.10.2018 passed in C P No.4666 of 2013 and different orders passed by this court, which portion of the judgment is extracted as under:-

“15. We are cognizant of the fact that the Petitioner could not meet the aforesaid criteria for the simple reason that he remained almost 13 years in surplus pool i.e. from 2000 to 2014, without any department to claim seniority and promotion. In this regard we leave it for Chief Secretary, Government of Sindh to look into the matter of the Petitioner and decide the same in accordance with law.

16. Record reflects that the Petitioner has received his pensionary dues, as he has served the Respondent department in the days of his ability and capacity and during the formers debility; the latter compensates him for the services so rendered.

17. In the foregoing legal position of the case, we are not convinced with contention of the learned AAG representing the Respondents that the Petitioner is not entitled to the relief claimed by the Petitioner in prayer clause (b) of the petition. We are of the view that the Petitioner cannot be held responsible to remain in surplus pool of the SGA&CD for the period with effect from 2000 to 2014, thus is entitled to claim seniority and promotion in the intervening period, without discrimination.

18. In the wake of above discussion, the aforementioned Constitution Petition is disposed of in the terms whereby the Chief Secretary, Sindh/Competent Authority is directed to pass an appropriate order, in the case of the Petitioner, without discrimination, in the light of observation made by this Court, in the preceding paragraphs as provided under Rule 9-A of Sindh Civil Servants (Appointment, Promotion and Transfer) Rules 1974, and the dicta laid down by the Honorable Supreme Court of Pakistan in the case of Ali Azhar Khan Baloch & others vs. Province of Sindh & others [2015 SCMR 456], after granting Petitioner a meaningful hearing within a period of two months from the date of receipt of the Judgment of this Court.

19. This Petition is disposed of in the above terms along with the listed application(s)”

2. Petitioner has been promoted to the post of Senior Chief Design Officer (BS-19) with effect from 9.4.2014 i.e. one day before his retirement, unfortunately, he is still not satisfied with his promotion, after his retirement in the year 2014.

3. The Chief Secretary, Government of Sindh vide judgment dated 29.10.2018 passed in C P No.4666 of 2013 was directed to look into the matter of the Petitioner and decide the aforesaid issue under the law; and now the decision has been made, whereby the petitioner has been considered for promotion to the post of Senior Chief Design Officer (BS-19) with retrospective effect.

4. Primarily, the Petitioner remained for almost 13 years in the surplus pool i.e. from 2000 to 2014, without posting in any department to claim seniority and promotion, however, the Chief Secretary, Government of Sindh has considered the case of the petitioner to the effect whether he is entitled to seniority and promotion and acceded the request of the petitioner by awarding him the service benefits of BS-19 vide notification dated 01.06.2022 with effect from 9.4.2014 i.e. one day before his retirement.

5. This is the third round of litigation on the part of the petitioner, his earlier petition bearing No.4468/2020 was disposed of on the aforesaid analogy with certain directions to the Chief Secretary and now the decision has been made, as such no case for further indulgence of this court is made out.

6. So far as objections on the impugned notification dated 002.06.2022 are concerned, prima facie, the compliance has been made, therefore, we are not inclined to go ahead on the captioned petition for the reasons discussed supra.

7. This petition is dismissed in *limine*.

JUDGE

JUDGE