

ORDER SHEET  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
Constitution Petition No. D- 6195 of 2023

DATE

ORDER WITH SIGNATURE OF JUDGE

**Priority.**

1. For order on office objections.
2. For hearing of Misc. No. 28939/23.
3. For hearing of main case.

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**17.04.2024.**

Mr. Malik Altaf Hussain, Advocate along with M/s. Moin Khan Sandilo and Danish Ali, Advocates for Petitioner.  
Mr. Ali Safdar Depar, Assistant Advocate General along with Mr. Bhoro Mal, Law officer SGA&CD.

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**MUHAMMAD JUNAID GHAFFAR J.**- Through this Petition, the Petitioner has sought the following relief(s):-

“It is, therefore, humbly prayed on behalf of the Petitioner above named that this Hon’ble Court may very graciously be pleased to allow the instant petition and pass following orders:-

- i. To hold and declare that the failure of the Respondents to notify the factum of promotion of the Petitioner pursuant to the note dated 19.12.2022 is illegal, unlawful, unconstitutional, malafide and non-est; consequently, to direct the Respondent No.2 to notify the promotion of the Petitioner forthwith.
- ii. Pending adjudication of the instant petition, Respondents may be restrained from taking any adverse action against the Petitioner and from conducting the meeting of DPC.
- iii. Grant cost of this petition and any other relief(s) which this Hon’ble Court may deem fit for the disposal of instant case / petition.

Heard learned Counsel for the Petitioner as well as AAG along with Law Officer of the Respondent and perused the record. It appears that a meeting of the Departmental Promotion Committee of the Excise, Taxation & Narcotics Control Department was held on 30.11.2022; wherein, various officers working in BS-16 including the Petitioner were considered for promotion and admittedly, the Petitioner being at Serial No.3 of the List of the said Officers was cleared for promotion from AETOs (BS-16) / Superintendent to the post of ETO (BS-17) on regular basis. The said decision of the Departmental Promotion Committee was not

acted upon and was never notified. In the comments of Respondents, it is stated that it was so, because of an order of this Court dated 14.09.2023 passed in C.P No. D-296/2023 and other connected matters. However, on perusal of the said order, it reflects that the issue in that case was regarding a challenge to the Seniority List, whereas, it does not reflect that firstly, any such fact regarding decision of DPC was ever brought to the notice of the Court that promotions have already been recommended by the Departmental Promotion Committee on the basis of Seniority List in question. Secondly, the Court had never adjudicated any such issue except relying on the comments of the department; wherein, it was stated that they have decided to re-examine the objections received against the provisional seniority list of the officers in question dated 15.06.2021. In that case any reliance or shelter under the above order of the Court is of no relevance.

It is further admitted that the decision of DPC in respect of promotion of the Petitioner as above has never been challenged by any one; nor it has been declined or recalled in any manner by the competent / appointing authority; and therefore, the same still remains in field and has to be implemented.

In view of the above position, this Petition merits consideration and is allowed to the extent of present Petitioner. As a consequence, thereof, Respondents are directed to act upon the recommendation of DPC in accordance with law without being influenced by the order of this Court dated 14.09.2023 passed in CP No. D-296 of 2023.

Petition stands allowed in the above terms.

**J U D G E**

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