

**IN THE HIGH COURT OF SINDH BENCH AT
SUKKUR**

Const. Petition No.D-68 of 2025
(*Abdul Ghaffar Soomro v. P.O. Sindh and others*)

Before:

Mr. Justice Zulfiqar Ali Sangi

Mr. Justice Riazat Ali Sahar

Petitioner Abdul Ghaffar Soomro present in person.

Mr. Mutahir Hussain Khichi, Advocate for respondents No.4 to 6.

Mr. Ali Raza Baloch, Additional A.G Sindh.

Asad Ahmed Khan Afridi, Deputy Director (S&P), STEVTA, Headquarter, Karachi, Furqanullah Abbasi, Deputy Director/incharge Legal, STEVTA Headquarter, Karachi and Aijaz Hussain Assistant Director, STEVTA Region, Sukkur are present.

Date of Hearing: **09-10-2025**

Date of Decision: **09-10-2025**

O R D E R

RIAZAT ALI SAHAR J.,- The case of the petitioner is that he, being aggrieved and dissatisfied with the decision taken by the Members of the Provincial Selection Board-II in its meeting held from 29.02.2024 to 08.03.2024, challenges the same on the ground that it is arbitrary, unjust, and contrary to the directions issued by this Court in its order dated 18.01.2023 passed in earlier Petition No.D-219 of 2020, filed by the petitioner himself. The petitioner submits that despite the categorical directions of this Court for consideration of his case for **proforma promotion** to the post of Associate Professor (BPS-19), STEVTA, the Board, without proper appreciation of the record and in violation of the principles of natural justice, declined to recommend his promotion on the pretext that no clear post was available at the

time when the petitioner attained the age of **superannuation**. Consequently, the Board observed that no right to promotion had accrued in his favour at the time of his retirement and, therefore, decided not to recommend him for proforma promotion to the said post. The petitioner further submits that being aggrieved by the said unjust and discriminatory decision of the Provincial Selection Board-II, he preferred a departmental appeal before the Chief Minister, Sindh, on 26.06.2024, seeking redressal of his grievance and reconsideration of his case in accordance with law. However, despite the lapse of considerable time, no response has been received from the competent authority, nor has his appeal been decided, leaving the petitioner remediless and constrained to approach this Hon'ble Court for appropriate relief. Therefore, by means of instant petition, the petitioner has prayed for the following relief(s):

- (a) That this Honourable Court may pleased be declare an act of Respondents regarding delaying not giving the Promotions to next higher grades timely, thereafter not allowing the Inter-se-Seniority and Promotion to next higher scale and Proforma Promotion from BS-17 to BS-18 and BS-18 to BS-19, as their delay was an illegal act on the part of respondents, void and abinitio and created hurdle in the way of service carrier as well as in life of Petitioner yet.
- (b) That the Secretary Education & Literacy Department may pleased be directed to call the report of above stated DPC for Promotion with seniority list which was applied in such promotions of Instructors / Sr. Instructors / Lecturers/Chief Trade Instructors, which was held on 28-11-2005 and such Promotion Notification, vide, NO.SO(HE-IV)MISC-69/2001(P-1) Dated: 31-08-2006 for verification of Petitioners matter.
- (c) That this Honourable Court may pleased be to award the Proforma Promotion from the date when vacancy made available as well as the right of Petitioner occurred for promotion as well as the right of Petitioner

occurred for promotion BS-17 to B5-18 with effect from 31-08-2006 as Notification of promotion stated above.

- (d) That the name of Petitioner may pleased be allowed imaginary List Seniority in the Seniority / Inter-se-Seniority of BS-18 as per Rules w.e.f. 16-08-2006, as (Annex "J-II").
- (e) That this Honourable Court may pleased be awarded /allowed the proforma promotion since the juniors / batch mates have been promoted from BS-18 to BS-19, since 21-07-2017, vide, Notification Dated: 21-07-2017 in the Electrical Discipline in compliance to Order of this Honourable Court Date: 18-01-2023 of this Honourable Court.
- (f) That to award the cost of petitioner and other relief deemed fit and proper in the Supreme Interest of justice and equity”.

2. On the other hand, counsel appearing on behalf of the respondents–STEVTA argued that pursuant to notices issued by this Court, the Secretary (Services), respondent No.2, as well as respondent No.1, filed their comments, wherein it has been categorically stated that this Court, in earlier Petition No.D-219 of 2020 filed by the present petitioner, vide order dated 23.11.2023, had directed the respondents to consider the case of the petitioner strictly in accordance with law. In compliance with the said directions, the case of the petitioner for proforma promotion to the post of Associate Professor (BPS-19) was accordingly placed before the Provincial Selection Board-II (PSB-II) in its meeting held on 29.02.2024, on the basis of the working papers submitted by respondent No.3, i.e., the Universities & Boards Department. However, after due scrutiny of the service record and consideration of all relevant material, the Board observed that at the time when the petitioner attained the age of superannuation, i.e., on 28.02.2018, no clear or sanctioned post was

available in the relevant cadre. Consequently, it was concluded by the forum that the petitioner's right to promotion to the next higher grade had not matured or accrued prior to his retirement, and therefore, the Board declined to recommend his proforma promotion. Learned counsel, therefore, contended that since the matter has already been adjudicated upon by this Court in the earlier petition filed by the petitioner and has been duly considered and decided by the competent forum in compliance with the Court's directions, the instant petition is misconceived, not maintainable, and devoid of merits, hence liable to be dismissed.

3. Learned Additional Advocate General, Sindh, while adopting the arguments advanced on behalf of the respondents—STEVTA, further submitted that the present petition is not maintainable as the earlier petition filed by the petitioner on the same cause of action was finally disposed of by this Court with specific directions to the respondents—STEVTA to place the petitioner's representation for proforma promotion before the competent Board for appropriate decision. It is asserted that the said directions have already been complied with in letter and spirit by the Board, and therefore, the petitioner cannot be permitted to re-agitate the same matter under the garb of the instant petition.

4. Heard the petitioner in person as well as learned counsel for respondents—STEVTA and learned Additional Advocate General, Sindh, and perused the material available on record. The grievance of the petitioner, as noted hereinabove, pertains to his claim for

proforma promotion to the post of Associate Professor (BPS-19) under STEVTA, which, according to him, was unjustly declined by the Provincial Selection Board-II in its meeting held from 29.02.2024 to 08.03.2024. The record, however, clearly reflects that the case of the petitioner for proforma promotion had already been considered by the competent forum, i.e., the Provincial Selection Board-II, strictly in compliance with the directions of this Court contained in order dated 18.01.2023, passed in earlier Petition No.D-219 of 2020, filed by the petitioner. The said forum, after examining the entire service record of the petitioner, observed that at the time of attaining the age of superannuation on 28.02.2018, no clear or sanctioned post in the relevant cadre was available; hence, the petitioner's right to promotion had not accrued prior to his retirement.

5. It further appears from the record that in earlier petition filed by the petitioner, clear direction were issued to the respondents to consider the case of petitioner for proforma promotion in accordance with law. The said directions have been fully complied with by the respondents—STEVTA and the Provincial Selection Board-II, and the petitioner's case was duly evaluated. Once the competent authority has acted in compliance with the Court's order and has exercised its discretion based on objective criteria, this Court cannot sit as an appellate forum over the decision of the Selection Board merely because the outcome is not favorable to the petitioner.

6. Moreover, when confronted with the office objection regarding the maintainability of the instant second petition, particularly in view

of the fact that the earlier Petition No. D-219 of 2020, filed by the same petitioner, had already been disposed of by this Court vide order dated 23.11.2023, and the contempt application (CMA No.1490 of 2024) filed therein was also disposed of vide order dated 30.05.2024, the petitioner has failed to furnish any plausible or satisfactory explanation. Instead, he merely reiterated the same grounds and grievances which had already been examined, considered, and decided upon by the competent forum, namely, the Provincial Selection Board-II, in compliance with the directions of this Court. The petitioner repeatedly emphasized that he has not been granted proforma promotion; however, he could not demonstrate any new cause of action, illegality, or violation of law subsequent to the earlier adjudication. It thus appears that, under the garb of the present proceedings, the petitioner seeks to re-agitate a matter which has already attained finality. Such repeated invocation of the constitutional jurisdiction of this Court on the same set of facts and for identical reliefs is impermissible in law and amounts to an abuse of the process of the Court. Having already exhausted the remedy by filing earlier petition No.D-219 of 2020, the petitioner cannot now be permitted to reopen the same service dispute before this Court, particularly in the absence of any exceptional circumstances such as mala fides, lack of jurisdiction, or violation of fundamental rights. Therefore, the instant second petition, being based on the same cause of action, is clearly hit by the principle of res judicata. In the case of *Muhammad Sharif and others v. Settlement Commissioner, Bahawalpur and others* (1981 SCMR 1048), the Hon'ble Supreme

Court has been pleased to hold that a second writ petition filed on the same cause of action is barred by the rule of res judicata.

7. In view of the above discussion, it is evident that the directions of this Court in the earlier proceedings have been duly complied with; the case of the petitioner has been considered strictly in accordance with law; and no illegality, procedural defect, or element of malice can be attributed to the respondents in the process adopted by them. Accordingly, the instant petition, having no substance and being not maintainable, particularly in view of the fact that the petitioner has already availed his remedy and his case has been duly examined and decided by the competent forum in compliance with the earlier directions of this Court, is found to be devoid of any merit. The petitioner has failed to point out any violation of law, procedural irregularity, or mala fide action on the part of the respondents that may warrant interference by this Court in its constitutional jurisdiction. Consequently, by means of a short order dated 09.10.2025, instant petition was **dismissed**, along with all pending application(s), if any, being misconceived and devoid of merit. These are the reasons in support of our short order.

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