HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.D-1145 of 2026

[Soban Lund and others vs. Federation of Pakistan and others]

Before:

JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE MUHAMMAD JAFFER RAZA

Petitioners:	Through Mr. Ishrat Ali Lohar, Advocate
Respondent No.1	Through Mr. Ghulam Abbas Sangi, Assistant Attorney General
Respondents 2to4:	Through Mr. Muhammad Siddique Soomro, Advocate
Date of hearing & Decision:	03.11.2026

O R D E R

ADNAN-UL-KARIM MEMON J The Petitioners have filed this Constitutional Petition challenging the circular dated 01.06.2026, whereby the Respondents restored the earlier seniority list dated 04.12.2020 in the cadre of Assistant Registrar (PEC Scale-17), superseding the final seniority list dated 13.06.2024.

2. Learned counsel for the Petitioners contended that the petitioners were appointed as Assistant Registrars after successfully qualifying the recruitment process initiated in 2018, joined their duties pursuant to Office Order dated 03.07.2019. The Selection Board, in its meeting dated 23.02.2019, had resolved that their inter-se seniority would be determined according to the merit secured by them. Subsequently, objections to the seniority list were examined by duly constituted Anomaly Committee, which recommended determination of seniority according to merit under Rule 21(c), Chapter-II of the PEC Employees Service Rules, 1999. Consequently, the final seniority list dated 13.06.2024 was issued, placing the Petitioners at Serial Nos. 2, 3 and 9 respectively; that the impugned circular dated 01.06.2026, restoring the earlier seniority list without notice or opportunity of hearing, is arbitrary, unlawful and contrary to the applicable Service Rules, Selection Board's recommendations and Anomaly Committee's decision; that the Respondents have unlawfully substituted merit-based seniority with the dates of acceptance of offer letters, thereby placing candidates having lower merit above the Petitioners and adversely affecting their seniority and promotional prospects. He also disputes the Respondents' interpretation of the judgment passed by the Islamabad High Court in W.P. No.1953 of 2024, maintaining that the said judgment did not itself set aside the seniority list dated 13.06.2024. He further

contends that despite notice of the pending petition, the Respondents proceeded with the Promotion Board on 03.07.2026 and issued consequential promotion orders. Accordingly, the petitioners seek declaration against the impugned circular and restoration of the seniority list dated 13.06.2024, along with consequential service benefits.

3. Learned counsel for the Respondents opposed the petition and contended that Pakistan Engineering Council is a statutory body established under the Pakistan Engineering Council Act, 1976, whereas its employees are governed by non-statutory service rules. Relying upon Pakistan Defence Officers Housing Authority v. Lt. Col. Syed Jawaid Ahmed (2013 SCMR 1707) and Pakistan International Airlines v. Tanweer-ur-Rehman (PLD 2010 SC 676), he argued that disputes arising out of non-statutory service rules are not amenable to constitutional jurisdiction under Article 199 of the Constitution. On merits, he contended that the seniority of the Petitioners is governed by Rule 21 of the PEC Employees Service Rules, 1999, applicable at the time of their appointment. According to them, Rule 21(a) determines seniority from the date of appointment on probation, i.e. the date of joining, whereas Rule 21(c) makes merit relevant only where two or more employees join on the same date. They maintain that the Second Anomaly Committee's recommendation dated 22.01.2024, which determined seniority solely on merit irrespective of joining dates, was contrary to the Rules and could not create any legal right. He further asserted that the seniority list dated 13.06.2024 was void ab initio and that, pursuant to Islamabad High Court's order dated 15.12.2025 in W.P. No.1953 of 2024, they passed a speaking order withdrawing the said list and confirming the seniority list dated 19.07.2021 as the lawful and final list. Consequently, the impugned circular dated 01.06.2026 merely restored the lawful date-of-joining seniority and required no fresh notice or hearing. He also contended that the Petition is defective for non-joinder of officers whose seniority would be affected, that the Petitioners have already been granted the higher pay scale of PEC-18 on time-scale basis vide Office Order No.27/2026 dated 03.07.2026, and that no vested right accrues from a seniority list subsequently declared void. They further raised objections of alternative remedy, estoppel, acquiescence, laches, suppression of material facts and maintainability, relying also upon the judgment in W.P. No.406 of 2025, whereby the challenge to the PEC service framework was dismissed. Accordingly, the Respondents maintained that the impugned circular is lawful, the Petitioners have suffered no legally cognizable prejudice, and the petition is liable to be dismissed with costs.

4. We have heard learned counsel for the parties and examined the available record.

5. The controversy essentially revolves around the determination of inter-se seniority of the Petitioners in the cadre of Assistant Registrar (PEC Scale-17),

particularly whether the same is to be determined according to the date of joining or the order of merit assigned by the Selection Board under Rule 21 of the PEC Employees Service Rules, 1999.

6. It is an established principle of service jurisprudence that seniority is to be determined strictly in accordance with the applicable service rules and not on the basis of administrative discretion, subsequent interpretations or considerations extraneous to the prescribed criteria.

7. Ordinarily, where the rules provide seniority from the date of regular appointment, the same criterion shall prevail; however, where two or more candidates are appointed or join on the same date, their inter-se seniority must be determined in accordance with the prescribed merit criterion, if so provided by the relevant rules. An administrative authority cannot disregard one part of the rule while applying another.

8. In the present case, the Respondents themselves rely upon Rule 21(a) and (c) of the PEC Employees Service Rules, 1999, asserting that the date of joining is the primary criterion, whereas merit becomes relevant where candidates join on the same date. However, the Petitioners specifically assert that all the selected Assistant Registrars joined on the same date, i.e. 08.07.2019. In such circumstances, if this factual position is borne out from the appointment orders and joining reports, subject to seniority by their competent authority afresh the distinction drawn by the Respondents between the date of joining and merit prima facie would not sustain, as the inter-se seniority would necessarily fall to be determined by applying the merit criterion contemplated under Rule 21(c). The dates of acceptance of offer letters, by themselves, cannot be substituted for the prescribed criterion of seniority, particularly when the actual dates of joining are identical.

9. It is also significant that the Selection Board had approved the merit order of the selected candidates and the Anomaly Committee subsequently examined the controversy, resulting in issuance of the final seniority list dated 13.06.2024. Although a seniority list is not immutable and may be corrected in accordance with the applicable rules, its subsequent withdrawal or alteration must be founded upon a lawful interpretation of the governing rules and supported by cogent reasons which factual position is missing. The mere assertion that the earlier list was void ab initio cannot, by itself, dispense with the obligation to establish the illegality underlying its preparation.

10. The Respondents have further relied upon the order passed by the Islamabad High Court in W.P. No.1953 of 2024 and the consequential speaking order dated 15.12.2025. However, the precise effect of the said judicial order, particularly whether the seniority list dated 13.06.2024 was expressly set aside or the

Respondents were merely directed to decide the representation through a speaking order after hearing the affected parties, requires re-consideration by the competent authority from the actual terms of the order and consequential order. In either eventuality, the Respondents were required to act strictly in accordance with the applicable Service Rules and the directions of the Court, as discussed supra.

11. Furthermore, alteration of an existing seniority position, particularly where it adversely affects the accrued service position and promotional prospects of employees, entails civil consequences. Therefore, the affected employees ought to have been afforded a meaningful opportunity of hearing before such adverse determination. However, such exercise could not be done. The principle of audi alteram partem cannot be excluded merely by describing the earlier seniority list as void, unless its legal invalidity and the authority's power to recall it are independently established, which factum requires reconsideration of the impugned decision by the competent authority.

12. In view of the foregoing, we are of the considered view that the legality of the impugned circular dated 01.06.2026 cannot be determined merely on the basis of competing assertions of the parties. The decisive consideration is the actual date of joining of the concerned Assistant Registrars and the proper construction of Rule 21(a) and (c) of the PEC Employees Service Rules, 1999. Therefore, the matter needs to be remitted to the competent authority for fresh decision subject to hearing all concerned employees in accordance with law and Rules of Seniority as discussed supra. However it is made clear that if all the selected candidates joined on the same date, their inter-se seniority must be determined according to the order of merit, subject to the precise language of the applicable rule for which the competent authority must examine the case of the parties a fresh by hearing all concerned. However if the competent authority finds that their dates of joining are different, seniority shall ordinarily follow the date of joining, subject to any other applicable provision. However, the proposition is subject to final say by the competent authority.

13. Without touching the merits of the case, the decision is to be made on the subject issue of seniority as per law by the competent authority. This petition stands disposed of by remitting the matter to the competent authority to reexamine the case of the parties afresh as discussed in the preceding paragraphs as per law and policy. The aforesaid exercise shall be undertaken within three weeks, meanwhile the impugned circular shall remain in abeyance.

JUDGE

JUDGE

Karar_Hussain/PS*