

THE HIGH COURT OF SINDH, KARACHI

Before:

Justice Mohammad Karim Khan Agha

Justice Adnan-ul-Karim Memon

CP No D-4446 of 2021

(Syed Farhat Abbas Zaidi v. Province of Sindh & others)

Petitioner : through Mr. Ahmed Ali Ghumro, advocate.
Respondents No. 1 : Mr. Ali Safdar Depar, along with Masroor Ahmed for KW&SB
Dates of hearing : 13-05-2025
Date of order : 13-05-2025

ORDER

Adnan-ul-Karim Memon, J., The Petitioner asks this Court to declare the Revenue Department's retirement order of 6-5-2019 illegal due to his Finance Department repatriation as per Supreme Court directives. He also seeks a declaration that the Respondents' failure to promote him post-repatriation (while his junior got a BS-20) was mala fide. The Petitioner requests the Court to direct his promotion to BS-20 in the Finance Department (effective from his junior's promotion date) and to set aside the existing retirement order, with a new one issued after his promotion.

2. Appointed Accountant (BPS-11) in KW&SB on 28-10-1989, Petitioner rose to BPS-16 and retired as Assistant Director Revenue on 23-5-2019. Petitioner submitted that Respondent No. 6, his junior, was promoted to BS-19. Petitioner's initial appointments and seniority in Accountant and Divisional Accountant roles are detailed (Annexures A, B, C). His cadre changed to Assistant Director, Taxes (BPS-16) in 1998 (Annexure D). Juniors, including Respondent No. 6, were promoted to Director (BS-19) with Govt approval in 2017 (Annexure E). Following a Supreme Court order, his cadre change was reversed in 2018, and he rejoined his parent Finance Department on 1-8-2018 (Annexure F), after a delay of several months. Discovering juniors promoted to BS-20, he sought promotion (Annexure G). Despite his Finance Department, Respondent No. 5 issued his retirement order (6-5-2019) as Assistant Director Taxes (BPS-17) (Annexure H). Petitioner protested this, requesting withdrawal due to his repatriation (Annexure I shows reminders).

3. The Petitioner's counsel contends his retirement from the Revenue Department, despite repatriation to Finance, is mala fide, depriving him of pension benefits from the Finance Department in BS 20 as per his seniority with

bachmates in terms of Supreme Court decisions. He seeks relief due to these illegal actions.

4. learned counsel for the Respondents disputes his seniority claim over Respondent No. 6, outlining No. 6's separate career path in the Finance department. Respondent's counsel states that the petitioner's 2018 transfer back to Finance was not actively pursued by him, and he remained in the Revenue Department, drawing salary there until retirement in 2019. Thus, he argued that the retirement order correctly reflects his last working department and that he should seek pension benefits through them. He asserts compliance with repatriation orders but cites the petitioner's inaction as making his specific transfer infructuous.

5. We have heard the learned counsel for the parties and perused the record with their assistance.

6. The petitioner's service history in KW&SB's Tax Department began on 04-04-1985 as a BS-1 employee (Service Book Part-1, p. 4). A graduate, he was promoted to Clerk (BS-5) on 01-07-1986 (Service Book Part-1, p. 6). Recommended by Selection Committee II, he became Accountant (BS-11) on 28-10-1989, joining the Director Taxes office (Service Book Part-II, p. 4). The Accountant post was upgraded to BS-14 (12-06-1995) and then re-designated/upgraded to Divisional Accountant (BS-16) (13-09-1995) within the Tax Department (Service Book Part-II, pp. 6, 8, 12, 14, 16, 22). His cadre changed to Assistant Director Taxes (BS-16) on 07-03-1998, and he joined the Director Taxes office in this capacity (Service Book Part-II, p. 24). He received an accelerated promotion to Deputy Director Taxes (BS-17) on 21-08-1998 (Service Book Part-II, p. 26), but this was withdrawn on 22-02-1999 (Service Book Part-II, p. 27). He was later allowed re-designation/up-gradation as Assistant District Officer (BS-17) multiple times (2008, 2010, 2013) with subsequent pay fixations and withdrawals (Service Book Part-II, p. 28; Part-III, pp. 4, 5, 6, 8, 10, 12). Finally, he retired from KW&SB service on 23-05-2019 as Assistant Director Taxes / Assistant District Officer (Revenue) (BS-17) from the Revenue Department (Service Book Part-III, p. 14) upon reaching 60 years of age (DOB 23-05-1959 as per Matric Certificate, confirmed in all Service Book parts). These facts demonstrate that his initial appointment and retirement were within the Tax (Revenue) Department. His continued appeals to the Revenue Department for retirement order withdrawal further indicate his perception of it as his parent department.

7. Considering the Petitioner's 2019 retirement and his inaction until now (2025), reversing the retirement notification is not possible. His failure to

diligently pursue the case since 2019 means this court cannot order his retirement in BS-20 as he claims. He may still seek other legal remedies if he believes his rights were violated.

8. In light of the Petitioner's service history as detailed above, this Court is compelled to dismiss this petition and any associated pending applications.

JUDGE

HEAD OF CONST. BENCHES

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