

IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No.D-8004 of 2022

(Ms. Nasreen Sahito versus Province of Sindh and others)

Date

Order with signature of Judge(s)

Before:

Muhammad Karim Khan Agha, J.
Adnan-ul-Karim Memon, J.

Date of hearing and order: 16.09.2025

Mr. Faizan Hussain Memon, advocate for the petitioner
Mr. Ali Safdar Depar, AAG

ORDER

Adnan-ul-Karim Memon, J. Through this petition, the petitioner seeks the following relief(s):-

- (a) *To declare that the respondents are under a legal obligation to follow the Sindh Civil Servants (Probation, Confirmation & Seniority) Rules, 1975, notified vide Notification No.SO-IX-REG(S&GAD)-2/1/1-74 Karachi dated 2nd October, 1975. particularly Rule 9, 10 & 11 in letter and spirit for the purpose of maintaining a seniority list of the petitioner;*
- (b) *To declare that the criteria laid down by the respondents in their letter dated 05.03.2021 are void and ab initio illegal, unconstitutional, and in violation of the Sindh Civil Servants (Promotion, Confirmation and Seniority) Rules 1975 and a fraud on the statute, thus are of no legal effect;*
- (c) *To direct the respondents to strictly adhere to Rule 9, 10 & 11 of the Sindh Civil Servants (Probation, Confirmation & Seniority) Rules, 1975, notified vide Notification No.SO-IX-REG(S&GAD)-2/1/1-74 Karachi dated 2nd October, 1975, in letter and spirit.*
- (d) *To correct and rectify the seniority list of the petitioner and maintain a proper seniority list of the petitioner with care and caution strictly in accordance with law and the Rules of Sindh Civil Servants (Promotion, Confirmation and Seniority) Rules 1975;*
- (e) *To direct the respondents No.3 & 4 to ensure that no injustice be done to the petitioner for any extraneous consideration, whims and fancies may not evade the vested right of the petitioner in any manner;*
- (f) *To direct the respondent No.2 to decide the objection/representation of the petitioner over the provisional seniority list in accordance with law.*
- (g) *To restrain the Respondents from convening DPC until an accurate seniority list is prepared, published, and circulated, and objections are heard/settled;*
- (h) *Prohibit and permanently restrain the respondents from gender discrimination, humiliation and disgrace to the petitioner in any manner;*
- (i) *Further prohibit and permanently restrain the respondents from adopting any other practice or procedure for maintaining seniority of the petitioner which is not recognized by law and Rules which may*

affect the right of the petitioner in any manner save in accordance with law.

2. The petitioner was appointed as a Lecturer (BPS-17) through a competitive process conducted by the Sindh Public Service Commission (SPSC) in the Directorate of Teacher Training Institutes (TTIs), School Education and Literary Department (SELD), Government of Sindh, regularly. Based on the requisition of respondent No.2, the SPSC interviewed eligible candidates for the position of Lecturer / Instructor in Computer Science (Female) BPS-17 in the Bureau of Curriculum and Extension Wing, Government of Sindh, in September 2011. They found the petitioner and six other candidates suitable for appointment to this position, as confirmed by their letter dated 11.10.2011. The petitioner was listed at Serial No.6 on the rural seat. The recommended candidates from SPSC joined their positions on different dates from 28.11.2011 to 08.12.2015. The petitioner received an offer of appointment as a Lecturer in BPS-17 via letter dated 22.11.2011, and her appointment was officially notified on 16.1.2012 by respondent No.1. She assumed her duties as a Lecturer / Instructor of Computer Science in BPS- 17 in the SELD, Government of Sindh, Directorate of TTIs, on 17.7.2017, the respondents issued a seniority list of female Lecturers / Instructors; however, the names of female Lecturers, including the petitioner, appointed in response to advertisement No.11/2010, were omitted for malicious reasons and extraneous purposes, violating the seniority Rules. In 2019, the respondents published another seniority list, which incorrectly ranked individuals who joined the service seven months after the petitioner as senior to her, an act that was clearly illegal and lacked lawful authority. On 14.9.2022, the petitioner submitted a representation/appeal to the Secretary, SELD, Government of Sindh / respondent No.2, seeking to resolve the long-standing issue and to finalize the seniority list of Lecturers (BPS-17) under the administrative control of the Directorate of TTIs according to law. The petitioner alleges that the respondents have shown a lack of seriousness in resolving her objections and appeal and are intent on finalizing the tentative seniority list without properly considering her legitimate case and due process. This, she contends, infringes upon her vested rights. The respondents No.2 and 3 failed to consider her case for promotion from Lecturer BPS-17 to Associate Professor BPS-18 in TTI, basing their decision on seniority-cum-fitness and promoting much junior personnel based on a tentative seniority list that lacks finality and does not meet legal requirements.

3. The Assistant Advocate General (AAG) argued for the dismissal of the petition. The AAG's main points are that the petitioner has no right to appeal against the final seniority list and that her previous appeal to the Sindh Service Tribunal (SST) on the same matter had already been withdrawn.

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

5. The colleagues of the petitioner challenged her seniority and the promotion of her colleagues, arguing the 2013 seniority list was improperly prepared. The respondents (the department and other lecturers) defended the list, stating it followed a prior court order from 2009 and that the appeal was time-barred. The tribunal found the department's seniority list, which ignored merit assigned by the SPSC, was flawed. It set aside the 2013 list and ordered the creation of a new, combined seniority list based on the criteria in Rules 9(2), 11(a), and 11(d) of the 1975 Civil Servants Rules. While the existing promotions were not revoked, the tribunal ruled that if the appellant's new seniority position had made her eligible for promotion, she must be considered for promotion within 90 days of the judgment dated December 15, 2016.

6. However, in the present case, the petitioner applied on March 2, 2021, regarding the seniority list. The department responded that her objection was time-barred because she failed to object within 30 days of the list's circulation on January 21, 2020. The department further clarified that it was/is not authorized to issue seniority lists for officers in BS-16 and above; that authority rests with the Sindh SELD. They also stated that seniority was/is determined by subject and age, a standard practice. Finally, the department highlighted that the petitioner's seniority is determined on a separate female-only list. Promotions for male and female lecturers are done from separate seniority lists, with promotions based on the availability of seats in each category. The petitioner filed Service Appeal No.270/2021 with the Sindh Service Tribunal to challenge a letter dated March 5, 2021, and the criteria it used to determine seniority. The petitioner asked the tribunal to declare the letter and its criteria illegal and to order the correction of the seniority list. The appeal was later withdrawn and not pursued by the petitioner. After withdrawing the appeal, the petitioner filed a new appeal/representation on September 14, 2022, with the Secretary of the School Education & Literacy Department.

7. The seniority for civil servants is primarily governed by the Sindh Civil Servants (Probation, Confirmation and Seniority) Rules, 1975, which establish the principles of seniority for government employees. Seniority starts from the date of regular appointment. Temporary or ad-hoc service doesn't count. Seniority is based on merit from the selecting authority (e.g., SPSC). If merit is not a factor, seniority goes to the older person. Promoted employees keep their seniority from their previous post. Promoted staff are ranked senior to those hired through initial recruitment in the same batch. Seniority is determined by the date of regular promotion or regular appointment via transfer. However, in earlier round of

litigation, the learned SST ordered the department to prepare a new list using a specific set of rules (Rule 9(2) and Rule 11(a) and (d)) of the Sindh Civil Servants (Probation, Confirmation and Seniority) Rules, 1975, as discussed supra.

8. In view of the above facts and circumstances of the case this petition stands disposed of in the terms that the petitioner's pending appeal be decided by the competent authority within two months of the date of this order. The decision must be made in accordance with the established principles of seniority and after hearing all parties involved.

Judge

Head of Const. Benches