

IN THE HIGH COURT OF SINDH, KARACHI
Constitutional Petition No.D-5281 of 2023
(Dr. Dilshad Ahmed versus The Province of Sindh and another)

Before:
Justice Mohammad Karim Khan Agha
Justice Adnan-ul-Karim Memon

Dates of hearing & Order: 24.09.2025

M/s Ahmed Ali Ghumro and Abdul Samee, advocates for the petitioner.
 Mr. Ghulam Muhammad, advocate for Intervener.
 Ms. Saima Imdad, Assistant Advocate General, Sindh.

ORDER

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

- i. *Hold that the act of the respondents not considering the petitioner for the promotion to the post of Director Technical/Research and development BPS-19, as recommended by the respondent NO.2 against the vacant posts, as such, the act of the respondents is illegal, unlawful, and has no legal effect.*
- ii. *Hold that the petitioner qualified for the promotion as director, Technical/research and development BPS-19, as the petitioner qualified length of service in BPS-18 and also completed the mandatory training from the National Institute of Management Karachi, which is required for promotion.*
- iii. *Direct the Respondents to consider the petitioner for promotion against the sanctioned and vacant post of Director Technical/Research and development BPS-19, which has been vacant since January 2023 was already forwarded the same in the past for the colleagues of the petitioner.*
- iv. *Restrain the respondents from taking any coercive action against the petitioner.*

2. Petitioner is a Civil Servant and claiming that he was initially appointed in 2003 through a competitive process, and was subsequently deputed to the Sindh Environmental Protection Agency (SEPA) in 2007. He was appointed as an Assistant Director (BPS-17) in 2008 and later appointed to the post of Deputy Director Technical (BPS-18) in 2013, where he was ranked fourth on the merit list. It is urged that despite his high qualifications and experience, and being assigned significant tasks, he was repeatedly overlooked for promotion to the post of Director Technical/Research and development BPS-19. However, in the intervening period, two of his colleagues, ranked at serial No. 1 and No. 2, were promoted to Director (BPS-19) positions. The petitioner completed a crucial Mid-Career Management Course necessary for promotion. His working papers for the promotion were prepared and sent to the Provincial Selection Board-II. Petitioner alleges that he was not considered for promotion due to "political influence," and/or for want of Recruitment Rules for the post of Director Technical/Research and development BPS-19 and he was not provided with the meeting minutes. In the intervening period, the recruitment rules for the subject post have been framed in 2025.

3. The petitioner's counsel argued that the petitioner's non-promotion to Director (Technical) (BPS-19) in terms of recruitment rules 2020 is illegal and discriminatory. The counsel stated that the petitioner, a Deputy Director (BPS-18), is fully qualified and has met all promotion requirements, including completing the mandatory Mid-Career Management Course. Despite vacant BPS-19 posts and the working papers for his promotion being submitted, he was not considered. The counsel highlighted that the petitioner's colleagues, some with less service or different qualifications, were promoted, demonstrating a "pick and choose" policy that violates the principles of natural justice and Article 25 of the Constitution of Pakistan. The counsel requested that this court allow the petition and order his promotion consideration in terms of working papers of the petitioner as well as under the recruitment rules.

4. The Learned Assistant Advocate General (AAG) opposed the petition, arguing that the Selection Board repeatedly deferred the promotions because the recruitment rules for these specific posts were either not framed or were unclear. She further submitted that while a post of Director (Technical) BS-19 was vacant, however, the Board observed that no specific recruitment rules were available. They also found that officers from a single seniority list were being moved into different director positions, which violated the existing recruitment rules for those specific seats. So, for the position of Director (Technical / Research & Development) is concerned, she argued that the Board again found that the recruitment rules for this post were not available. They also noted that only "Director (BS-19) (Research and Development)" was mentioned in the budget, not "Director (Technical)," creating a discrepancy which anomaly needed to be resolved. In all three categories, the Board deferred the promotion items and advised the Administrative Department to frame the correct recruitment rules before resubmitting the working papers of the candidates. However, she agreed to the extent that the subject post is a selection/promotion post that must be filled on merit/seniority cum fitness basis as per recruitment rules and not otherwise. The counsel for the intervenor is of the same view; however, he insisted that the post of Director (Technical) be filled according to recruitment rules.

5. We have heard learned counsel for the parties and considered the record.

6. We have been informed that the recruitment rules for the subject post has now been notified and placed on record. The notification dated 10.9.2025 details the method, qualifications, and conditions for appointing the officers to specific posts. The promotion rules highlighted two key requirements, i.e., Seniority and Experience. For promotion to the post of Director (Research & Development) (BPS-19), a candidate must be a Deputy Director (Laboratories) (BPS-18) with a minimum of 12 years of service in BPS-17 or above. Additionally, the candidate must have completed the Mid-Career Management Course (MCMC). However, the promotion is based on seniority and fitness.

7. According to the promotion rules for BPS-19 posts in the Sindh Environmental Protection Agency, as per the "NOTIFICATION", the required length of service for promotion from Deputy Director (Technical) (BPS-18) is: A minimum of 12 years of service in BPS-17 and above. As per the breakdown of the petitioner's service record, and to assess his eligibility, it is urged by the petitioner that in 2003, he was appointed to the Sindh Forest Department. In 2008, he was appointed as Assistant Director (Technical) (BPS-17) at SEPA. In 2013, he was reappointed to the post of Deputy Director (BPS-18) at SEPA through SPSC vide press release dated 01.07.2013. The petitioner's service in BPS-18 began in 2003. From 2009 to 2023, the working papers for his promotion were prepared 2023, and he would have accumulated approximately sufficient years of service in BPS-17 and above to claim promotion in BS-19. Therefore, based on the requirements, the petitioner case has to be assessed by the competent authority whether he has requisite length of service for the subject post of Director (Research & Development) / Technical (BPS-19) as per new recruitment rules and whether he meets the criteria of having "at least twelve (12) years of service in BPS-17 or above, if yes his candidature must be considered as per his length of service for the subject post.

8. In service jurisprudence, a civil servant has a right to be considered for promotion, but not an automatic right to the promotion itself. This right to consideration is a fundamental part of a fair civil service and is often guaranteed by service rules, such as the Civil Servants Act 1973. To be considered, a civil servant must meet all established criteria, like qualifications, experience, and performance. However, the final promotion decision is not an absolute right; it involves a subjective evaluation of the individual's competence and is subject to the discretion of the authorities and government, who act in the interest of service efficiency. Thus, we are inclined to entertain the request of the petitioner in this matter for promotion in the next rank, subject to the exceptions provided hereinabove. On the aforesaid proposition, we are fortified by the decisions of the Supreme Court rendered in the cases of Dr. Syed Sabir Ali v. Government of Punjab through Secretary Health Punjab and others, **2008 SCMR 1535**, Federation of Pakistan and others v. Amir Zaman Shinwari, Superintending Engineer, **2008 SCMR 1138**, and Dr. Muhammad Amjad v. Dr. Israr Ahmed, **2010 SCMR 1466**.

9. We, for the aforesaid reasons, allow this constitutional petition along with pending application(s) and direct the competent authority/respondents to reconsider the case of the petitioner along with all eligible candidates for promotion in BS-19, in the next PSB meeting, subject to all just exceptions as provided under the law/recruitment rules.

JUDGE

HEAD OF CONST. BENCHES

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