

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI

**Constitutional Petition No. D-737 of 2026**  
(Zahid Hussain versus Province of Sindh & others)

Date	Order with signature of Judge
------	-------------------------------

Mr. Justice Adnan-ul-Karim Memon  
Mr. Justice Zulfiqar Ali Sangi

**Date of hearing and order: 21.4.2026**

M/s Malik Altaf Hussain, Moin Khan Sandilo and Rafiullah advocates for the petitioner

Mr. Abdul Jalil Zubedi, Assistant AG

Mr. Mamoon A.K. Shirwany advocate for respondent No.8

-----  
**ORDER**

**Adnan-ul-Karim Memon, J.** Petitioner has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 with the following prayer: -

- i. *To issue writ in the nature of certiorari and to quash the proceedings in Appeal No.1/2026 being illegal, unlawful, unconstitutional and non-est.*
- ii. *Pending adjudication of the instant petition, the operation of the Impugned Order dated 12.01.2026 be suspended and no coercive action be taken against the Petitioner on the basis of Impugned Order.*
- iii. *To call for record and proceedings of Appeal No.01 of 2026 and to transfer the same before any other forum for adjudication of the same in accordance with the law.*

2. The learned counsel for the Petitioner submits that the present petition has been filed to challenge the order dated 12.01.2026 passed by the learned Appellate Tribunal Local Councils Sindh, Karachi, whereby the operation of the Petitioner's promotion order dated 04.01.2022 has been suspended and the Petitioner has been restrained from performing his official duties. The impugned order is assailed as being illegal, without jurisdiction, unconstitutional, and non est, having been passed in a manner contrary to law and without proper appreciation of facts and procedural requirements. It is contended that the Petitioner is a senior government employee, duly promoted through a lawful Departmental Promotion Committee process after having rendered long and meritorious service since 1993, culminating in his promotion to BS-17 as Deputy Director (Education) in 2022. The Respondent No.8, who was initially appointed as Naib Qasid and later promoted through successive stages, has assailed the Petitioner's promotion after considerable delay by filing Appeal No.01/2026, which on the face of it is barred by limitation and otherwise not maintainable. It is further argued that the Tribunal failed to first determine the question of maintainability as required under the Sindh Councils (Appeal) Rules, 1982,

particularly Rule 4, and proceeded to grant interim relief without lawful jurisdiction. The learned counsel further submits that the Tribunal has exercised powers beyond its scope by granting a mandatory injunction and even invoking contempt jurisdiction, despite not being a “Court” within the meaning of the Contempt of Court Ordinance, 2003. It is also urged that the impugned interim order was passed without proper notice and without considering that the promotion order in question was part of a valid departmental process, and in some cases even in implementation of higher judicial orders. It is, therefore, prayed that the impugned order dated 12.01.2026 along with the entire proceedings in Appeal No.01/2026 be declared without lawful authority and set aside, the operation of the impugned order be suspended during pendency of the petition, and the matter be transferred to a competent forum for lawful adjudication in accordance with law. Learned counsel for the petitioner in support of his contentions has relied upon the cases of *Taimur Ali v. Continental Biscuits Ltd.* (2024 PLC287) and *Fazal Ahmed Samtio v. Province of Sindh & others* (2010 PLC (C,S.) 215). He prayed to allow this petition.

3. Learned counsel for the private respondents has supported the impugned order and prayed for dismissal of the petition.

4. It appears that the learned counsel for the private respondent before the learned Appellate Tribunal contended that the promotion of the respondent to the post of Deputy Director (Education) (BPS-17) was based on forged and fabricated documents. It was argued that the respondent was initially appointed as Assistant Teacher (BPS-07) in 1993 and was later granted successive upgradations and promotions, however, his final promotion dated 04.01.2022 was illegal and tainted with forgery. It was further submitted that essential documents required for promotion, including Performance Evaluation Reports, penalty clearance certificates, anti-corruption clearance, and other mandatory No Objection Certificates, were either non-existent at the time of promotion or issued subsequently under the same reference number, casting serious doubt on their authenticity. It was also contended that the note sheet for promotion was not duly signed by the competent authority and was merely endorsed “for” by an unauthorized person. The petitioner further relied upon a communication allegedly issued by the competent authority (Respondent No.5), stating that the impugned promotion record “seems scanned/fake.” It was also asserted that the relevant record was still in possession of the department and required protection to prevent tampering or concealment. On the basis of these assertions, the respondent sought interim relief, including restraint against the petitioner from performing duties as Deputy Director (BPS-17), initiation of criminal proceedings through the Anti-Corruption Establishment, and production of original record before the Tribunal. The learned Tribunal, after considering the material placed

on record, observed that the contentions raised by the respondent/appellant required further inquiry. Holding that the available record prima facie supported the respondent's stance, the Tribunal suspended the operation of the impugned promotion order dated 04.01.2022 and restrained the petitioner from performing official duties. The Tribunal also directed production of the original record and fixed the matter for hearing on 26.01.2026.

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

6. From a combined reading of the pleadings, submissions of learned counsel for the Petitioner, and the impugned order dated 12.01.2026, it becomes evident that the core issue before this Court is not merely the merits of the allegations levelled against the Petitioner, but the legality, propriety, and jurisdictional competence of the learned Appellate Tribunal in passing the impugned interim order.

7. At the threshold, the record reveals that the Tribunal proceeded to suspend a duly notified and operative promotion order dated 04.01.2022 and restrained the Petitioner from performing his official functions, without first determining the maintainability of the appeal as mandated under the relevant statutory framework. The question of limitation under Rule 4 of the Sindh Councils (Appeal) Rules, 1982 is not a procedural formality but a jurisdictional prerequisite. An appeal filed beyond the prescribed period, absent any lawful condonation of delay, is not maintainable in the eyes of law. The omission on part of the Tribunal to adjudicate this foundational issue renders the assumption of jurisdiction itself doubtful, thereby vitiating subsequent proceedings.

8. Furthermore, the impugned order reflects an overreach of jurisdiction at the interlocutory stage. The Tribunal has ventured into adjudicating disputed questions of fact relating to alleged forgery and authenticity of official record, without recording evidence or conducting a proper inquiry. It is a settled principle of administrative and service jurisprudence that allegations requiring forensic examination of documents and service record integrity cannot be determined on mere prima facie assertions, particularly when such determination results in civil consequences affecting status, reputation, and livelihood of a public servant.

9. Equally important is the fact that the impugned order was passed without adherence to the fundamental principles of natural justice. The Petitioner, despite holding a prima facie promotion order issued through a departmental process, has been subjected to restraint from performing duties in a manner which effectively amounts to penal consequences at an interim stage. Such an action, in absence of

full hearing and evidence, offends the settled doctrine that no adverse civil consequences should be imposed without due process.

10. Moreover, the Tribunal appears to have exercised powers beyond its statutory remit by passing orders having the effect of mandatory injunction and attempting to invoke ancillary coercive jurisdiction, which is neither contemplated under the Sindh Local Government legal framework nor permissible under the Contempt of Court Ordinance, 2003. A tribunal, being a creature of statute, must strictly operate within the confines of its enabling law and cannot assume inherent or plenary jurisdiction.

11. It is also a settled principle of law that an order of promotion issued through a lawful departmental process carries a presumption of legality and validity unless it is lawfully set aside by a competent authority after due process. Interim interference with such an order, particularly without strong and legally sustainable reasons, not only disturbs settled service rights but also causes irreparable prejudice to the employee concerned.

12. Viewed in its entirety, the impugned order dated 12.01.2026 suffers from jurisdictional defects, procedural irregularity, and legal impropriety. The Tribunal has failed to exercise its discretion in accordance with settled judicial principles governing grant of interim relief, resulting in a manifest miscarriage of justice.

13. Accordingly, it is concluded that the impugned order and the consequent proceedings are without lawful authority, coram non iudice, and is set aside. The Petitioner, therefore, is entitled to restoration of his lawful status, along with protection from any coercive action, pending final adjudication of the matter in accordance with law.

14. This petition along with pending application(s) is disposed of in the above terms.

JUDGE

JUDGE