

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No. D-59 of 2025

[Ameer Ali and another vs. Province of Sindh and Others]

C.P. No. D-70 of 2025

[Ameer Ali and another vs. Province of Sindh and Others]

BEFORE:

JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE RIAZAT ALI SAHAR

Petitioners: Through M/s Muhammad Zakria and Lala Imtiaz Pathan, Advocates

Official respondents: Through Mr. Rafique Ahmed Dahri Assistant A.G Sindh a/w D.G PITE Shuhabuddin

Private respondent(s): Through Mr. Muhammad Jamil, Advocate

Date of hearing & Decision: 22.12.2025

O R D E R

ADNAN-UL-KARIM MEMON, J. - Through the captioned petitions, the petitioners have challenged the Notification dated 06.01.2023, whereby the private respondent, Nusrat Fatima Kalhoro in CP No. D- 59 of 2025, was posted as Director General of the Provincial Institute of Teacher Education, Nawabshah, as well as the Notification dated 18.05.2023, whereby the private respondent, Allah Ditto Khoso in CP No. D- 70 of 2025, was posted as Assistant Director, PITE Nawabshah. Since a common question of law and facts is involved in both these petitions, they are being decided through this common order.

2. Learned counsel for the petitioners contends that respondent Nusrat Fatima Kalhoro was admittedly serving as Chief Head Mistress; however, vide impugned Notification dated 06.01.2023, she was posted as Director General, PITE Nawabshah, in BS-20; that respondent Allah Ditto Khoso was initially appointed as Lab Attendant in PITE, and his services were regularized on 31.10.2004. Thereafter, on 18.08.2011, he was directly promoted to the post of Assistant (BS-16) and subsequently to the post of Superintendent (BS-17) vide order dated 29.04.2015. Not only this, but vide impugned Notification dated 18.05.2023, respondent Allah Ditto Khoso has been posted against the post of Assistant Director (BS-17). Learned counsel submits that the aforesaid actions on the part of respondent PITE are illegal, violative of the applicable rules, and

contrary to the principles laid down by the Hon'ble Supreme Court from time to time. He prayed to allow these petitions.

3. At the very outset learned AAG and counsel representing the respondent Nusrat Fatima Kalhoro placed on record photocopy of Notification dated 17.10.2024 and states that said respondent stood retired from service, therefore, C.P No.D-59 of 2025 has become infructuous and liable to be disposed of accordingly as no writ of quo-warranto lies against retired civil servant.

4. So far as C.P No. D-70 of 2025 is concerned, learned AAG, assisted by the counsel for private respondent Allah Ditto Khoso, submits that the petitioners, who are teachers by profession, have already been repatriated to their parent department, namely School Education Department. It is contended that the petitioners have been filing frivolous litigation merely to pressurize the Department/PITE. It is further submitted that the petitioners are facing trial before the Federal Ombudsman in connection with a harassment complaint lodged by a female teacher; therefore, the present petitions are nothing but a pressure tactic. Learned counsel further submits that the petitioners are government servants, yet they have filed the present petitions without obtaining prior permission from their parent department, rendering them liable to disciplinary action. It is also contended that respondent Allah Ditto Khoso is an original employee of PITE and was promoted strictly in accordance with law and the Recruitment Rules of PITE, 2011. It is submitted that respondent Allah Ditto Khoso was promoted to the post of Superintendent (BS-16), which was subsequently upgraded to BS-17 across all government departments, including PITE; consequently, the said benefit was also extended to him. It is further contended that the promotion of respondent Allah Ditto Khoso up to the post of Superintendent (BS-17) was made strictly in accordance with law and the applicable rules, and that there is no illegality in the said process. The learned counsel maintains that the present petitions have been filed on account of personal animosity. It is lastly submitted that since respondent Allah Ditto Khoso was already serving in BS-17, he was assigned the post of Assistant Director, which carries the same pay scale; however, vide Notification dated 10.10.2025, respondent Allah Ditto Khoso has now been allowed to work as Litigation Officer (Judicial Wing). Consequently, the petition bearing No. D-70 of 2025 has become infructuous and is liable to be dismissed accordingly.

5. We have heard the learned counsel for the parties and perused the material available on record.

6. In the present matters, it is a settled legal principle that appointments, promotions, postings and related administrative actions must strictly conform to the law, service rules and principles of merit, seniority, transparency and good governance. Appointments made in violation of the prescribed rules or without lawful authority have repeatedly been held to be illegal, void and of no legal effect.

7. The Supreme Court of Pakistan has expressly held that promotion is not a vested right, and ordinarily falls within the domain of the competent authority; however, it is subject to strict compliance with relevant laws, rules and the constitutional mandate. This court can interfere where promotions or appointments are in excess of jurisdiction, without lawful authority, discriminatory, arbitrary or violative of established law and rules.

8. The Supreme Court emphasized that promotions and appointments must be made on merit in accordance with law and the Constitution and that deviation from these principles undermines the integrity of the civil service.

9. It is also a well-established proposition that appointments without compliance with service rules, or where eligibility criteria are ignored, must be declared void as they violate the fundamental right to equality before the law and equal protection of the law under Articles 4 and 25 of the Constitution of Pakistan.

10. The superior courts reiterated that post-based appointments and promotions cannot be perpetuated on stop-gap, OPS, acting-charge or irregular basis and departments must make regular appointments strictly under recruitment rules within the shortest possible time.

11. Applying the above legal principles to the instant petitions, the posting of respondent Nusrat Fatima Kalhoro as Director General PITE Nawabshah (BS-20) without following the prescribed service/selection criteria appears *prima facie* irregular and contrary to law, however, since she has retired from service no further action is required but at the same time the department must realize that the mistake which they committed perpetuated and allowed the respondent to continue to serve in BS-20 without recruitment Rules, length of service, seniority and merit. Similarly, the promotions, up-gradations, and posting of respondent Allah Ditto Khoso require scrutiny to ensure compliance with PITE recruitment rules. Mere assignment of a pay scale or duties in the same grade does not legitimize an otherwise irregular promotion. Since the petitioners' grievances

indicate a plausible violation of such rules needs to be taken care of by the Chief Secretary Sindh and remedial measures shall be taken if he finds such irregularity in transfer posting and appointments in higher grade without adherence to the recruitment rules; however, it is made clear that posting on OPS, acting charge has already been declared nullity by the Supreme Court and this Court expect from the Chief Secretary to comply the directives of the Supreme Court of Pakistan on the subject issue and shall not allow any department of the government of Sindh to continue such practice which shall be discontinued forthwith.

12. In view of the foregoing, and after hearing the learned counsel for the parties and perusing the material on record, it is observed that the impugned notifications and actions require departmental examination in accordance with law and established principles of the Supreme Court as discussed in the preceding paragraphs.

13. Accordingly, these petitions are remitted to the competent authority for reconsideration of their decisions in the light of the Supreme Court's pronouncements, to be completed within two months after hearing the parties.

These petitions are disposed of in the above terms.

JUDGE

JUDGE

Karar_Hussain/PS*