

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

***Constitution Petition No. D- 1470 of 2024***  
(Ihsan Ali Bhanbhro and others Vs P.O Sindh & others)

**Before;**  
**Mr. Justice Adnan-ul-Karim Memon,**  
**Mr. Justice Abdul Hamid Bhurgri,**

**Date of hearing and Order: 15.06.2026.**

Mr. Sarfraz Ali Akhund, Advocate for petitioners.

Syed Israr Ahmed Shah, Assistant Advocate General Sindh

**ORDER**

**Adnan-ul-Karim Memon J:-** The petitioners have filed this petition under Article 199 of Constitution of Islamic Republic of Pakistan, 1973 seeking following relief(s):-

- (a) To declare that the Advertisement No.07/2024 dated 25.09.2024 with regard to initial appointment of Assistant BPS-16 on all vacant posts including the posts to be filled up through promotion are illegal to the extent of posts of 50 percent posts for appoint through promotion.
- (b) To restrain the respondents from initially appointing Assistant on the vacant posts reserved for appointment by way of promotion.
- (c) To direct the respondents Nos.1 to 5 to complete the promotion proceedings of the petitioners as per law.

2. Learned counsel for the petitioners submitted that the petitioners are serving as Senior Clerks (BPS-14) in the College Education Department and are eligible for promotion to the post of Assistant (BPS-16). He argued that under the relevant recruitment rules, 50% of the posts of Assistant (BPS-16) are reserved for promotion from amongst Senior Clerks, while the remaining 50% are to be filled through direct recruitment via the Sindh Public Service Commission (SPSC). According to him, despite repeated correspondence, the Department failed to finalize the promotion process and subsequently advertised all vacant posts of Assistant (BPS-16), including those earmarked for promotion, through

Advertisement No. 07/2024. He contended that such action is contrary to the recruitment rules and would deprive the petitioners of their lawful right of consideration for promotion. He, therefore, prayed that the advertisement be declared illegal to the extent of the promotional quota, the respondents be restrained from filling those posts through direct recruitment, and the Department be directed to complete the promotion process in accordance with law.

3. Learned Assistant Advocate General submitted that SPSC merely acts upon requisitions received from the administrative department and has no authority to alter, increase, reduce, or otherwise modify the recruitment rules. He stated that the Commission received a requisition for 251 posts of Assistant (BPS-16) and Assistant Accounts Officer (BPS-16) from the College Education Department and advertised the same strictly in accordance with the requisition and applicable rules. It was contended that no illegality or violation of the recruitment rules could be attributed to SPSC being examining and recommending agency. He submitted that the petitioners' apprehension was misconceived, as the 50% quota reserved for promotion remained intact and had not been referred to SPSC. He explained that out of the sanctioned strength of 635 posts of Assistant (BPS-16), 317 posts are reserved for promotion and 318 for direct recruitment. At present, 274 promotional posts are already occupied and 53 promotional posts remain available for further promotions, whereas a substantial number of posts falling within the direct recruitment quota are lying vacant. He further pointed out that in certain regions, including Hyderabad and Sukkur, employees had already been promoted against posts in excess of the prescribed quota. According to him, the requisition sent to SPSC related only to vacant posts available within the direct recruitment quota and did not affect the promotional quota. He maintained that the advertisement was issued after a long interval to fill vacancies through direct recruitment and to induct qualified candidates into the Department. Consequently, he argued that the petitioners' grievance was/is unfounded and the petition is liable to be dismissed.

4. We have considered the submissions advanced by the learned counsel for the parties and examined the material available on record on the subject issue.

5. The principal grievance of the petitioners is that the respondents intended to fill, through direct recruitment, those posts of Assistant (BPS-16) which, under the applicable Recruitment Rules, are reserved for promotion from amongst Senior Clerks (BPS-14). However, from the comments filed on behalf of the College Education Department and the submissions made by the learned Assistant Advocate General, it transpires that the requisition forwarded to the Sindh Public Service Commission related only to the vacancies falling within the direct recruitment quota and that the promotional quota has neither been abolished nor diverted. The respondents have categorically maintained that separate posts remain available for promotion and that the petitioners' cases shall be considered by the Departmental Promotion Committee in accordance with law.

6. It is a settled principle of service jurisprudence that although a civil servant does not possess a vested right to promotion, he does have a legal right to fair and lawful consideration for promotion whenever his case falls within the zone of consideration. The right enforceable through constitutional jurisdiction is, therefore, not promotion itself but consideration of the employee's claim strictly in accordance with the governing recruitment rules and policy. In the present matter, no material has been placed before this Court to establish that the respondents have permanently deprived the petitioners of their promotional quota or have acted in violation of the Recruitment Rules by converting promotional posts into posts meant for direct recruitment, in absence of such material no conclusive opinion could be formed against any party at this stage.

7. Furthermore, the learned Assistant Advocate General has stated that the recruitment process initiated through Advertisement No.07/2024 has already been concluded and the advertised posts have been filled. In such circumstances, the relief sought by the petitioners for declaring the advertisement illegal and restraining appointments thereunder has substantially lost its efficacy and has become infructuous. At the same time, the petitioners' legitimate expectation of consideration for promotion deserves protection so that their cases may not remain pending indefinitely.

8. In view of the statement made on behalf of the respondents that the petitioners shall be considered by the Departmental Promotion Committee against the promotional quota, and since the controversy can adequately be resolved by ensuring consideration of their cases in accordance with law, no useful purpose would be served by keeping the present petition pending. Accordingly, by consent of the learned counsel for the parties, the captioned petition is disposed of with the direction that as and when the petitioners' cases are placed before the competent Departmental Promotion Committee, the same shall be considered strictly on merits, in accordance with the applicable Recruitment Rules, seniority-cum-fitness criteria and other relevant provisions of law, preferably within a period of three weeks from the date of receipt of this order. Needless to observe that if any of the petitioners is found eligible, his case shall be decided without being influenced by the observation of this Court.

9. The petition, along with pending applications, stands disposed of in the above terms.

JUDGE

JUDGE

Irfan

