

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P.No.D-2657 of 2016

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar

Mr. Justice Abdul Ghani Soomro

Naveed Ahmed Awan Petitioner

V/s

Province of Sindh & others Respondent

09.09.2016

M/s.Malik Naeem Iqbal, Faizan Memon, Advocate for the Appellant.

Mr.Abdul Jalil Zubedi, AAG

Muhammad Ali Mazhar,J: The petitioner has approached this court for the declaration that his deferment for promotion without assigning any reason is illegal, unlawful and unconstitutional. He further sought directions against the respondents to immediately consider the case of the petitioner for promotion from BS-19 to BS-20 strictly in accordance with law. The respondent No.2 has filed the comments. Paragraph 5 of the comments is reproduced as under :-

“5. For the contents of para-5, it is respectfully submitted that the Provincial Selection Board-I considered the promotion cases of PSS Officers from BS-19 to BS-20 against three (03) vacant posts and against one (01) resultant vacancy. The name of the Petitioner was at Sr. No.2 of the penal. During the proceedings of the Board, some of the Board Members under whom the Petitioner has worked observed that he did not possess the required

capability or efficiency to hold a higher independent post of BS-20. Board, therefore, did not give him required marks. However, upon discussion between Board Members it was decided that not giving required numbers will cause Petitioner to be superseded. However, taking lenient view it was decided that instead of superseding him, he should be deferred and given chance to improve himself. Also his ACRs for the period from 01.04.2007 to 31.12.2007, 2012 and 01.08.2013 to 31.12.2013 are not available.

The Board, therefore, unanimously decided to defer him or promotion giving him time to improve his efficiency. The minutes of the meeting are submitted at Annexure-II”.

2. Learned counsel argued that the most of the previous ACRs of the petitioner has been rated as very good and excellent and so far as non-availability of some ACRs is concerned, the petitioner cannot be held responsible but it is the responsibility of the department to arrange the ACRs before the DPC for consideration by the Provincial Selection Board. He further argued that deferment is on the basis of personal opinion of some of the Board Members as alleged in this reply, therefore, such type of personal opinions should not have been considered while considering the case of the petitioner's promotion. On the contrary, the learned AAG argued that due to some performance issue, the promotion of the petitioner was deferred. As and when the petitioner will improve his efficiency his name will be placed before the Provincial Selection Board for promotion in the forthcoming DPC.

3. The working paper of the petitioner ACRs is available at page-33 which is commencing from 1999 to 2015. We have seen that mostly the performance of the petitioner is rated good and at one place it is excellent. However, in the same working paper

two ACRs are not available for the year 2007 and 2012, but in the reply of the respondent No.2 three ACRs are said to be missing. We have also seen the reply, the main reason for the deferment is opinion of some Board Members that the petitioner did not possess the required capability or efficiency to hold a higher independent post of BS-20. Nothing is mentioned in the reply to substantiate this type of allegation in the Provincial Selection Board meeting while the case of promotion is considered on the basis of ACRs and not on the basis of personal opinion of members otherwise the purpose of ACR would be redundant.

4. Since the learned AAG submits that the case of the petitioner will be considered in the next Provincial Selection Board meeting, therefore, this petition is disposed of with the directions to the respondents to consider the promotion case of the petitioner from BS-19 to BS-20 in the forthcoming meeting of Provincial Selection Board which shall be convened within six months. Copy of this order shall be transmitted to the Chief Secretary Sindh and Secretary, Service, General Administration and Coordination Department, Government of Sindh for compliance.

Judge

Judge

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