

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No. D-801/2016

Date Order with signature of Judge

Present:
Muhammad Ali Mazhar, J
Adnan-ul-Karim Memon, J

Syed Nadeem Shah and others Petitioners
Versus
Province of Sindh and others Respondents

20.12.2016

Mr. Naeem Iqbal, Advocate for the Petitioners
Mr. Abdul Jalil Zubaidi, AAG

Muhammad Ali Mazhar, J. In terms of minutes of meeting of Provincial Selection Board-II held on 12.02.2015, petitioners were cleared for promotion in BS-19 and their names are mentioned at serial No. 5, 6, 7 & 8 in the minutes of meeting dated 12.02.2015, available at page-15 to 25. The names of the petitioners are reflected at page-25, who are employed in Water Management, Agriculture, Bureau and Supply Department, Government of Sindh. Learned Counsel for the petitioners produced a copy of notification dated 06.10.2016, through which, the petitioners have been promoted on the recommendations of Provincial Selection Board-II but with immediate effect and not from the date of recommendations made by Provincial Selection Board. The petitioners have prayed for notification of their promotions as Director (BS-19) w.e.f. 12.02.2015.

Learned AAG argued that after issuing notification with regard to promotions of the petitioners, the purpose of filing of instant petition has been served and no further cause of action is available to continue this petition.

On the contrary, learned Counsel for the petitioner pointed out the prayer clause in which promotions were claimed from the date of recommendations of Provincial Selection Board. Learned AAG further submits that in view of said notification, posting orders of the petitioners have already been issued.

Be that as it may, the issue, at this stage is with regard to date of notification through which the promotions have been accorded to but it is not with effect from

the date of recommendations made by Provincial Selection Board on 12.02.2015. No justification has been placed by learned AAG as to why the notification has not been issued from the date of recommendations made by provincial Selection Board and what is the purpose of issuance of notification with immediate effect. Once the persons have been recommended by the Provincial Selection Board-II then in all fairness, the notification must have been issued from the date of such recommendations otherwise the purpose of constituting the selection board and their recommendations would become redundant, which is also against the spirit of Rule 7-A of Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974. If the department is found fail in performance of its duties, the petitioner cannot be victimized or to suffer on account of their inefficiency. As a result of our above discussion, this petition is disposed of with direction to the Respondents to issue fresh notification w.e.f. 12.02.2015 or to issue corrigendum to rectify the effective date of Notification.

Copy of this order be facsimiled to learned AAG for information and compliance.

JUDGE

JUDGE

Faisal Mumtaz/PS