

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No. D-6848 of 2018

Date Order with signature of Judge

01. **For hearing of Misc. No. 29981/18.**
02. **For order on office objection No. 11,15 &19.**
03. **For order on Msc. No. 29982/2018.**
04. **For order on Misc. No. 29983/2018.**
05. **For hearing of main case.**

01.10.2018

Mr. Nazir Ahmed Advocate for the Petitioner.

1. Granted.
2. Deferred for the time being.
3. Granted subject to all just exceptions.
- 4&5. It is inter alia contended by the learned counsel for the Petitioner that the Petitioner's Association has called in question the very promotion of the private Respondents, who are holding the promotion posts without lawful authority; that the private Respondents have been promoted from BS-05 and 07 to BS-17 with malafide intention in violation of recruitment rules for the aforesaid posts; that the case of private Respondents falls within the ambit of the term "out of turn promotion", thus attracts the decision rendered by the Hon'ble Supreme Court of Pakistan in the case of Ali Azhar Khan Baloch Vs. Province of Sindh (2015 SCMR 456). Learned counsel has further contended that the post of Assistant Secretary / Assistant Controller of Examination in BPS-17 can only be filled amongst the officials, who have Master's degree or Bachelor's degree with B.ED with five years teaching and administrative experience in BPS-16 whereas the private Respondents do not have such academic qualification as well as experience for the aforesaid posts; that the official Respondents have favored the private Respondents and bypassed the recruitment rules for the aforesaid posts; that the promotion committee in an unlawful manner bypassed the ratio of the aforesaid appointments as provided under the recruitment rules. Petitioner further added that the seniority has been ignored; that

impugned promotion of the private Respondents is violative of the basic right employees of the Board of Secondary Education Karachi. He lastly prayed for suspension of the impugned promotion of the private Respondents.

During the course of arguments we asked from the learned counsel as to how the instant petition is maintainable. In reply to the query, learned counsel for the Petitioner has argued that the case of the Petitioner and Respondents does not fall within the ambit of Article 212 of Constitution and the Petitioner's Association is aggrieved and falls within the ambit of "Aggrieved person" person as provided under Article 199 of the Constitution. Be that as it may, prima facie the case of the Petitioner falls within the ambit of Article 199 (1) (b) (ii) of the Constitution against the private Respondents, who are holding the public office, which permits the High Court to issue a "Writ of Quo-warranto" requiring a person within its territorial jurisdiction of the Court holding or purporting to hold a Public Office to show under what authority of law he claims to hold that Office.

To appreciate as to whether the private Respondents are holding the aforesaid posts without lawful authority or otherwise, let notice be issued to the Respondents as well as AAG for a date to be fixed by the office.

JUDGE

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