

*Order Sheet*  
**IN THE HIGH COURT OF SINDH KARACHI**  
**Constitutional Petition No. D –2692 of 2020**

Before:

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

Shahnawaz and 43 others

*Versus*

Province of Sindh and 04 others

Date of hearing & order : 25.11.2020

Malik Naeem Iqbal, advocate for the petitioners.

Mr. Ali Safdar Depar, Assistant Advocate General Sindh along with Raza Mian, DSP (Legal) on behalf of CPO, Muhammad Habib Khan, AIG Legal-II (CPO), Syed Dilshad, SIP Legal (KPO), and Ayaz Rajpar, P.I Legal (KPO).

**ORDER**

**ADNAN-UL-KARIM MEMON, J.** Through the instant petition, petitioners have impugned the office order dated 19.03.2020 issued by Additional Inspector General of Police, Karachi Range, whereby seniority of the petitioners / police constables of Sindh Reserve Police (SRP) was ordered to be fixed and maintained by their parent unit/ District of Domicile. They further seek promotion in the next rank i.e. Head Constable in Karachi Range, which has been denied to them in the light of policy decision dated 03.01.2018 issued by the competent authority of Police Department.

2. In short, the case of petitioners is that they are serving as Police Constables in (SRP) and posted at Rapid Response Force (RRF) Sindh Karachi, their cases for promotion to the rank of Head Constable (HC) was considered by the Departmental Promotion Committee (DPC) of Karachi Range and deferred vide notification dated 01.10.2019 on the ground that their seniority was / is liable to be maintained by their concerned unit/District of domicile vide policy decision dated 03.01.2018, which was made in pursuance of the judgment passed by the Honorable Supreme Court in the case of *Gul Hassan Jatoi and others vs. Faqeer Muhammad Jatoi and others*, **2016 SCMR 1254**. They being aggrieved by and dissatisfied with the aforesaid deferment of their promotions filed statutory appeals to the Inspector General of Police, Sindh, Karachi (IGP), but no response was given. In the meanwhile, respondents constituted a committee vide notification dated 25.09.2019 to identify the Police Personnel who were transferred from other regions/units to Karachi range after 27.05.2016 and subsequently merged in the seniority list of Karachi range police as well as promoted to the next higher rank and, upon recommendations of the committee the impugned office order dated 19.03.2020 was issued. The petitioners are all

deeply concerned with, and aggrieved by the aforesaid office order have filed the present petition before this Court.

3. During arguments, we inquired from the learned counsel for the petitioners that the Police is one force, then why the seniority of the petitioners/police constables can be disturbed upon their transfer from one region/unit to another range under Rule 12.2 of the Police Rules 1934. He replied that most of the petitioners came on transfer from the other regions/units to Karachi range upon exigency of service, before the cutoff date i.e. 27.05.2016 as set forth under the policy, thereafter they merged into Karachi range, therefore, their seniority could not be affected as the same has been maintained in Karachi range, thus the respondents are precluded to disturb their seniority and impugned office order for transferring their seniority to be maintained by concerned District of their Domicile was / is a nullity in the eyes of law, thus liable to be reversed. We again asked him that when the seniority of the Constable and Head Constable is maintained in the District level, then how they are aggrieved by the decision of respondents, he relied upon the decision of Honorable Supreme Court in the case of Gul Hassan Jatoi supra and argued that the seniority of ASI, SI is maintained by the Range/regional DIG and the seniority of the Inspector in Police is maintained by the Central Police Office (CPO). He averred that there should be a common seniority list of the Police Personnel serving in different ranges/regions/units including the constables and head constables. Therefore, the impugned decision for transferring their seniority to their respective Districts of Domicile is irrational, erroneous, and against the dicta laid down by the Honorable Supreme Court in the aforesaid case. He further argued that the petitioners had been deprived of their vested right of consideration for promotion on flimsy grounds, whereas their colleagues, as well as juniors having domicile of other districts, were promoted in the Karachi range. He emphasized that as per practice in vogue the seniority of constable is fixed in the place of their appointment/posting and since the petitioners were appointed in Karachi range as such their seniority is to be placed in Karachi range and not any other unit. He added that the respondents had wrongly withdrawn the promotion of petitioners 3 and 4 under the misconception of law, which was / is an arbitrary and discriminatory attitude on the part of respondents. He lastly prayed for a direction to the respondents to consider the case of petitioners for promotion from Constables to Head Constable from the date of promotion of similarly placed police personnel.

4. Mr. Ali Safdar Depar, learned Assistant Advocate General Sindh, has raised the question of maintainability of the instant petition with the assertion that every action has been taken in accord with the decision of the Honorable

Supreme Court; that if the petitioners are at all aggrieved, they may approach the Honorable Supreme Court for redressal of their grievances if any.

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

6. Admittedly, petitioners were appointed as Police Constables in Sindh Reserve Police (SRP) and then they were transferred and posted at Rapid Response Force (RRF) Sindh Karachi by the administrative order issued by the Inspector General of Police Sindh to meet the exigency of service and in pursuance of the order of Hon'ble Supreme Court passed in the case of Gul Hassan Jatoi supra, Sindh Reserve Police, Special Branch, and Training Branch were barred from maintaining separate seniority. Thus as far as promotion of police constable to the next rank is concerned, they are required to complete courses A, B, and C as prescribed under Rule 19.25 of the Police Rules 1934, as there are six (06) promotion lists maintained in the Police Department as per seniority and qualification (Training and Promotional Courses) of the personnel in various ranks i.e.: -

- i. List-A maintained in the District for Constables having 3 years' successful completion of the probationary period and found fit for promotion to the List-B. (Rule 13.6).
- ii. List-B is maintained in the District for Constables, who are present in List-A and found eligible to be sent to Lower School Course, which is a promotional training for promotion to the rank of HC. (Rule 13.7).
- iii. List-C maintained in the District for Constables, who have qualified Lower School Course and are eligible for promotion to the rank of Head Constable. (Rule 13.8).
- iv. List-D, prepared in the District and forwarded to the Range DIGP for approval and maintenance of seniority list. This list includes Head Constables eligible for the promotion to the rank of ASI after successful completion of Intermediate School Course. (Rule 13.9).
- v. List-E, maintained by the Range DIGPs, containing confirmed ASIs, who are eligible for promotion to the rank of Sub-Inspectors. (Rule 13.10).
- vi. List-F, prepared by CPO on the recommendation of Range DIGPs and maintained by Central Police Office (CPO) on a centralized basis, containing confirmed Sub-Inspectors, who have qualified Upper School Course and are eligible for the promotion to the rank of Inspectors. (Rules 13.15).

7. From the aforesaid rule position, it is crystal clear that the seniority of the Constable and Head Constable is maintained in the District concerned, whereas seniority of ASI and SI is maintained by the Range/regional DIG. The seniority of the Inspector in Police is maintained by the Central Police Office (CPO). On the aforesaid proposition, the judgment passed by the Honorable Supreme Court in the case of Gul Hassan Jatoi supra is providing a guiding principle.

8. To elaborate further on the subject, it appears from the record that in pursuance of policy guidelines issued on 27.05.2016, the seniority of those constables, who belonged to Sindh Reserve Police, Special Branch, and Training Branch, had already been settled/fixed as per their concerned district of domicile and those constables who came by transfer from other regions/units of police to Karachi range after 27.05.2016 were declared not eligible for assignment of seniority and promotion in Karachi Range. However, the policy decision as discussed supra elucidated that the seniority of the transferred employee could not be shifted from one region/unit of the police to another range which decision prima-facie was / is in accord with the judgment of the Hon'ble Supreme Court in the case of *Gul Hassan Jatoi* supra need no further deliberation. So far as their matter for promotion to the next higher rank i.e. HC is concerned, which is required to be considered by the competent authority in accordance with dicta laid down by the Hon'ble Supreme Court in the aforesaid case within a reasonable time.

9. Adverting to the point raised by learned counsel for the petitioners that they were appointed in SRP Karachi and posted in RRF Karachi since 2009, thus their seniority is liable to be maintained in Karachi range, suffice it to say that prima-facie, the RRF was / is not part of the Karachi range, but is a combination of different regions/units of the Sindh police, merely their appointment in SRP Karachi and posting in RRF Karachi does not support their case to the effect that they belonged to Karachi Range Police, for the reason that they never remained posted in the Karachi range police, therefore, their seniority cannot be ordered to be mixed with Karachi range police. The record further reflects that their recommendations for initial appointments by their regional head were made based on their respective place of domicile. Petitioners have failed to point out that their appointment was / is based on Karachi domicile, therefore they are precluded to claim vested right for seniority and promotion at Karachi Range on the aforesaid analogy.

10. In view of the above, no case is made out for indulgence of this Court. Resultantly, this petition is dismissed along with the pending application(s) with no order as to costs.

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