

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI
Constitutional Petition No. D –3454 of 2017

Before:

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

Attaullah Bhutto

Versus

Province of Sindh and another

Date of hearing & order : 03.12.2020

Mr. Faizan Hussain Memon, advocate for the petitioner.

Mr. Ali Safdar Depar, Assistant Advocate General Sindh.

ORDER

ADNAN-UL-KARIM MEMON, J. The main grievance of the petitioner is that the respondent-Education Department, Government of Sindh, is not considering his case for proforma promotion in BPS-20.

2. Brief facts of the case are that petitioner was appointed as Head Master (BPS-17) in Education and Literacy Department, Government of Sindh, and was subsequently promoted to the post of Deputy District Officer (DDO) in BPS-18 and lastly promoted as District Education Officer (DEO) in BPS-19. Per petitioner, his promotion was due in BPS-20, however, due to the lethargic attitude of the respondents, the same could not be materialized. Finally, he stood retired from the government service on attaining the age of superannuation on 12.07.2017.

3. We asked learned counsel to satisfy this Court about maintainability of this petition on the ground that he stood retired from the government service in the year 2017, on attaining the age of superannuation, as District Education Officer in BPS-19 and during his service he was facing disciplinary proceedings, which finally stood abated due to his retirement from service and his case for promotion was placed before the Provincial Selection Board-I, but the same was deferred for the aforesaid reason.

4. Mr. Faizan Hussain Memon, learned counsel for the petitioner, has argued that the petitioner has been acquitted from the charges leveled against him in NAB Reference No.15/2016 and since he stood retired from service on attaining the age of superannuation on 12.7.2017, he was / is entitled to regular promotion now proforma promotion.

5. We are not impressed with the analogy as put forward by him for the reasons that departmental action against the petitioner having been initiated

during his service independently of a criminal case registered against him. Merely obtaining an acquittal order in a criminal case would not nullify the departmental proceedings at this stage after his retirement. Since PSB-I did not consider his case for promotion and in the meanwhile, he stood retired from service, no benefit of Rule 7-A of The Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, could be given to him after he retired from service in the year 2017.

6. In the given circumstances, we hold that this petition is not maintainable, which is accordingly dismissed along with pending applications with no order as to costs.

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