

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C. P. No. D-4468 of 2020
Afaq A. Qureshi..Vs.. Chief Secretary, Government of Sindh & others.

Date	Order with signature of Judge
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*BEFORE: Justice Irfan Saadat Khan,
Justice Agha Faisal, JJ*

For hearing of Main Case

08.12.2021

Mr. Afaq A. Qurershi, Petitioner is present in person.
Mr. Ali Safdar Deepar, A.A.G. Sindh.

Irfan Saadat Khan, J. The instant petition was filed against the order dated 13.5.2019 passed by the Chief Secretary, Government of Sindh.

Briefly stated the facts of the case are that previously the petitioner filed a petition bearing CP No.D-4666/2013 claiming his pensionary benefits on the ground that he has served the Respondent Department and has due benefits including promotion, which were not given to him. The said petition was disposed of vide order dated 29.10.2018 by giving directions to the Chief Secretary, to consider the case of the petitioner and thereafter decide the same in accordance with law. The matter thereafter was taken up by the Chief Secretary and vide order dated 13.5.2019, which is impugned in the instant petition, the claim of the petitioner was rejected. Thereafter the instant petition has been filed. The petitioner who is appearing in person stated that the order of the Chief Secretary is not in accordance with law as the Chief Secretary has not considered the various aspects going to the roots of the case.

Learned A.A.G. on the other hand states that since the petitioner falls in the surplus pool, hence, as per Rule 9-A of the Sindh Civil Servant (APT) Rules 1974 the petitioner is not entitled for the benefit and the promotion, since he was placed in surplus pool.

Matter has been heard and record has been perused.

It was categorically noted by this Court vide order dated 09.08.2021 passed in CP No.D-4666/2013, which is reproduced as follows:-

“Petitioner’s further assertion is that the Respondents have miserably failed to implement the aforesaid law in letter and spirit in time, thus grave loss to his career was caused by the Respondents, for no fault on his part. Petitioner added that he being eligible was allowed move over from BPS-18 to BPS-19 with effect from 1.2.1996 vide office order dated 26.8.2003 issued by SSIC, which was withdrawn unilaterally, and thus he was reverted back in BPS-18, in violation of law available on the subject. Per Petitioner the aforesaid act of the Respondents was also illegal and he remained more than 13 year in the surplus pool without posting till his retirement in BPS-18 (2000 to 2014); that discriminatory treatment was meted out with him, when 11 employees of SSIC, who were declared surplus employees along with the Petitioner or even after him had been posted/absorbed in different departments of the Government of Sindh, whereas the Petitioner was singled out. At this stage Petitioner referred para 4 of the ground of Memo of Petition to substantiate his claim of discrimination; that during his service tenure, he was deprived of seniority and promotion, which caused colossal loss to his career and huge financial loss to him and this discriminatory attitude of the Respondents is against basic spirit of Article 4, 25, 37 and 38 of the Constitution of the Islamic Republic of Pakistan, 1973. In support of his contention he has placed reliance on the cases reported as Mst. Ghousia Naz Vs. Deputy Education Officer (1997 PLC (C.S) 666), Zahida Bano Vs. Government of Punjab and others (1997 PLC (CS) 662), Muhammad Ismail Solangi Vs. Deputy Inspector General, Pakistan Railways and another (2002 PLC (C.S) 255), Ahmed Ali Vs. District Education Officer (EEM) Okara (PLJ 2002 Lah 2011) and Sughra Begum Vs. Metropolitan Corporation of Lahore, etc. (NLR 1995 SC 186). Petitioner further submitted that the seniority and promotion of the Petitioner had been blocked, due to remaining in surplus pool for 13 years, which act of the Respondents is against the principles of natural justice.

It may be noted that the order of the Chief Secretary, Government of Sindh was not found to be in accordance with law and was set aside with the directions that he shall pass afresh order in the light of the judgment dated 23.10.2018 and submit compliance report within one months’ time, which has not been complied with.

We, under the circumstances, direct the Chief Secretary, to act as per directions issued already by this Court on 09.08.2021 and

furnish compliance report within 15 days' time from the date of receipt of this order, after giving an opportunity of hearing to the petitioner.

With these directions the instant petition stands disposed of. Let a copy of this order be sent to the Chief Secretary, Government of Sindh for information and compliance.

JUDGE

JUDGE

SM