

IN THE HIGH COURT OF SINDH AT KARACHI

Present:
Muhammad Junaid Ghaffar, J.
Agha Faisal, J.

C P D 13 of 2022 : Rafia Naz Memon vs.
Province of Sindh & Others

For the Petitioner : Mr. Rafiq Ahmed Kalwar, Advocate
Mr. Muhammad Yasir, Advocate

For the Respondents : Mr. Muhammad Rizwan Saeed
Advocate

Mr. Ali Safdar Depar,
Assistant Advocate General

Date/s of hearing : 22.09.2022

Date of announcement : 22.09.2022

ORDER

Agha Faisal, J. The petitioner seeks seniority in service on the basis of tenure, admittedly temporary in nature, prior to regularization.

2. The entire basis of the petitioner's case is that the pertinent regulations, being the Sind Employees' Social Security Institution Service Regulations 1976 ("Regulations"), were amended in 2006 to specify that the seniority of a member of service shall be reckoned from the date of regular appointment; however, it was asserted that the contrary was the case prior thereto; hence, the petitioner was entitled to have her seniority reckoned from the period prior to her regularization in service.

The respondents' counsel adverted to the record to demonstrate that the petitioner was given due seniority, reckoned from the date of her regularization and the same was in accordance with the law. The counsel controverted the petitioner's interpretation of the pre 2006 Regulations and submitted that the same did not merit the petitioner's case.

3. Heard and perused. It is an admitted position that the petitioner has been accorded due seniority, reckoned from the effective date of her regularization in service. The only issue to be addressed is whether any case

had been made out to consider the earlier period of *locum* employment for purposes of determination of seniority.

4. Per the record, the petitioner was hired on temporary basis in 1992 in BS-17 and her services were regularized in the said grade in 1996. Petitioner's counsel was queried as to how such appointment in BS-17 was undertaken devoid of any competitive process, however, he submitted that the answer thereto was not in his knowledge and that his brief was confined to the issue of seniority. It is considered prudent to restrict ourselves herein to the *lis* agitated before us and we leave this issue to be agitated in an appropriate case.

5. The law with regard to determination of seniority is well settled. The Supreme Court has recently maintained in *Bashir Badini*¹ that seniority is to take effect from the date of regular appointment and service rendered prior to regularization would have no impact on the issue of seniority.

6. It is our deliberated view that even if the pre 2006 amendment Regulations are considered in isolation they provide no benefit to the petitioner, as the reliance is upon a provision contemplating seniority of persons *selected* for service earlier. As noted supra, the petitioner never went through any selection process and happened to be directly regularized into BS-17. Even otherwise the seniority under consideration is in respect of *regular* employees and no case could be set forth before us to consider any period of service before the petitioner became a regular employee.

7. In view hereof, we find this petition to be devoid of merit, hence, the same, along with pending application/s, is hereby dismissed.

JUDGE

JUDGE

¹ Per Muhammad Ali Mazhar J in *Bashir Ahmed Badini vs. High Court of Balochistan & Others* reported as 2022 SCMR 448.