

# IN THE HIGH COURT OF SINDH KARACHI

Before :

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Adnan-ul-Karim Memon

## **Constitutional Petition No.D-5779 of 2018**

(Nizamuddin Larik and 52 others v. the Province of Sindh and 03 others)

Mr. Abdul Samad Memon, advocate for the  
petitioners

Mr. Abdul Jalil Zubedi, AAG

Date of hearing  
& decision : 16.03.2023.

## **ORDER**

1. Petitioners seek up-gradation of the post of Accounts Clerk from BPS-9 to BPS-16 with retrospective effect i.e. from 01.7.2016.

2. At the outset, learned counsel for the petitioners has submitted that case of the petitioners is akin to the case decided by this court vide order dated 26.10.2020 in CP No.D-7077/2015 and connected petition and prayed that this petition may be disposed of in terms of the ratio of the order discussed supra. An excerpt whereof is reproduced as under:

“7. In the light of the above discussion, we hereby dispose of these petitions in the terms of the Summary approved by the worthy Chief Minister Sindh on 25.10.2020 with direction to include the learned Advocate General Sindh in the committee proposed in the Summary as a member, with further direction to the said committee to complete the entire above-said exercise WITHIN SIX (06) MONTHS in consonance with the dictum laid down by the Hon’ble Supreme Court of Pakistan and the relevant provisions of law ; and, if the committee finds it necessary to propose amendment(s) in the relevant laws and/or rules, it may do so, and the amendments, if any, shall also be made within the period stipulated above. Till the completion of the aforesaid exercise, no fresh recruitment shall be made against the post of Sub-Registrar.

8. By consent, both these petitions and all applications pending therein stand disposed of in the above terms with no order as to costs.”

3. Learned AAG has opposed this petition on the ground that the petitioners seek upgradation of the post of Accounts Clerk from BPS-9 to BPS-11 with effect from 02.07.2007 and further upgradation of the post of Accounts Clerk

from BPS-11 to BPS-15 with effect from 01.07.2016. As per learned AAG, the Government of Sindh has allowed service structure/incentive of a higher grade based on a time scale to the incumbent of Accounts Clerks (BPS-9) of Works and Services Department vide Finance Department's Circular dated 13.07.2018 which reads as under:

S#	Name of Isolated post	BPS	No. of Service years required for Higher Grade in the present scale	Higher grade
01	Accounts Clerk	09	After 05 years After 10 years After 20 years	BPS-11 BPS-14 BPS-15

4. Learned AAG referred to the statement dated 15.3.2023 and submitted that the respondent department vide letter dated 22.02.2023 awarded time scale to the Accounts Clerk (BPS-09) as per their length of service, therefore, no further indulgence of this Court is required in terms of the policy decision made by the Government of Sindh Finance Department vide letter dated 13.7.2018.

5. To the aforesaid proposition, learned counsel for the petitioners has submitted that the competent authority may be directed to upgrade the post of the petitioner with effect from the date when their right accrued and their promotion shall be made as per recruitment rules framed by the respondent-department. He further submitted that the post of Accounts Clerk which is always to be promoted from Senior Clerk as per recruitment rules on seniority basis. Learned counsel cited various instances wherein in different departments the same practice was adopted, however, in the case of petitioners they have been left in the lurch. Learned counsel submitted that some of the petitioners have retired and some of them are at the verge of retirement, therefore, the department needs to restructure the service of the petitioner to provide avenues for promotion to higher pay scales.

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

6. With regard to upgradation, the Hon'ble Supreme Court. has laid down a complete mechanism on the subject as such there is no further deliberation on our part.

7. Since this is a policy matter, therefore, we intend to dispose of this petition with a direction to the competent authority of respondents to look into the matter of petitioners in terms of the ratio of the order dated 26.10.2020

passed by this court and resolve the issue raised hereinabove at their end within six months.

Petition stands disposed of in the above terms.

**JUDGE**

**JUDGE**

Nadir\*