

# THE HIGH COURT OF SINDH KARACHI

C.P. No. D - 3212 of 2023

[Mahmood Zamir Farooqui vs. Federation of Pakistan & others]

Petitioner : Mahmood Zamir Farooqui son of  
Zamir Uddin Farooqui, through  
Mr. Faizan Hussain Memon,  
Advocate.

Date of hearing : 04-07-2023

Date of order : 04-07-2023

## **ORDER**

**Adnan Iqbal Chaudhry J.** - The Petitioner is designated as Secretary, Port Qasim Authority in BS-19. He is aggrieved of the decision of the Selection Board dated 16-05-2023 which has recommended the Respondent No.10 for promotion to Director (HRM) in BS-20 out of three candidates under consideration which included the Petitioner. Per learned counsel, the decision of the Selection Board discriminates against the Petitioner. Apart from that, the Petitioner has also challenged appointments, promotions and postings of the Respondents No.6 to 9 and 11 made by the Port Qasim Authority from time to time.

2. Heard the learned counsel and perused the record.

3. The decision of the Selection Board records that as between the Petitioner and the Respondent No.10, the Respondent No.10 was senior with an experience of more than 30 years, he had completed the mandatory training, and his PERs were complete; on the other hand, the Petitioner was junior with an experience of 14 years, he had not undergone the mandatory training, and his PERs were incomplete.

4. When confronted with the aforesaid reasons cited by the Selection Board, learned counsel for the Petitioner submits that the PERs of the Petitioner were in fact complete; however, he acknowledges that the Petitioner had not undergone the required

training *albeit* submits that it was for the department to provide such training. As regards the fact that the Respondent No.10 was senior to the Petitioner and far more experienced, learned counsel relies upon Regulation 26(2) of the Port Qasim Authority Employees Service Regulations, 2011 to submit that promotion to a selection post in BS-20 is on the basis of merit and not on the basis of seniority-cum-fitness. He highlights the fact that the Respondent No.10 has been promoted on the last date of his service before retirement.

5. For promoting the Respondent No.10 on the eve of retirement, the Selection Board has given a plausible reason, *viz.* that his promotion had been deferred in the last meeting held on 04-06-2021 and no further meeting had been held thereafter to his detriment. Regards the submission that the criteria for promotion was merit and not seniority-cum-fitness, there is nothing before us to suggest that the promotion of the Respondent No.10 was not on merit. In fact, the Selection Board has noted that he received high grades in his PERs and ACRs. Even assuming that the Petitioner was of equal merit, then as held in the case of *Fazli Rehmani v. Chief Minister N.W.F.P.* (PLD 2008 SC 769) the Respondent No.10 would have preference given his seniority and experience. The other challenge made by the Petitioner to the appointments, promotions and postings of the Respondents 6 to 9 and 11, appears to have been made only to bolster the allegation of discrimination, which fails, and in any case such challenge suffers from laches.

6. In circumstances where we do not see a violation of the Port Qasim Authority Employees Service Regulations, 2011, we are not inclined to interfere in the impugned decision of the Selection Board. The petition is therefore dismissed in *limine* alongwith pending applications.

JUDGE

JUDGE

SHABAN\*