

IN THE HIGH COURT OF SINDH AT KARACHI

CP. No. D-5911 of 2024

(Muhammad Nasir Khan & others v Province of Sindh & others)

Date

Order with signature of Judge

Before:

Mr. Justice Muhammad Karim Khan Agha

Mr. Justice Adnan-ul_Karim Memon

Date of hearing and Order: 10.12.2024

Mr. Ghulam Sarwar Chandio advocate for the Petitioners.

O R D E R

Muhammad Karim Khan Agha, J: The petitioners filed a constitutional petition challenging the notifications issued on 05.05.2009 and 17.09.2008 regarding appointments and promotions to various posts in Sindh's Labour Courts. They argue that these notifications are illegal and violate the Constitution.

2. The petitioners are civil servants working in the Sindh Labour Appellate Tribunal and Sindh Labour Courts. These institutions are under the administrative control of the Labour & Human Resource Department. There is one Labour Appellate Tribunal and eight Labour Courts in Sindh. Initially, recruitment rules for Labour Courts were amended periodically to accommodate promotions for senior employees. However, the notifications issued on 05.05.2009 and 17.09.2008 changed the rules. Additionally, the Sindh Labour Appellate Tribunal was abolished and then revived. After the revival of the Sindh Labour Appellate Tribunal, new recruitment rules were needed. Proposals were prepared and sent for approval, but the notifications issued on 17.12.2011 and 27.10.2011 were different from the ones finalized after consultation. The petitioners submitted revised recruitment rules for the SLAT and SLCS in October 2023, but the administrative department prepared another set of rules in February 2024. The respondents did not consider the proposed rules prepared by the SLAT, Labour Courts, or the Administrative Department. Instead, they issued a notification that was prejudicial to the petitioners' promotion prospects.

3. The petitioner's lawyer argues that the requirement of a law degree for the Registrar (BPS-18) post is unfair, especially for experienced employees with 20-25 years of service. They believe this condition should only apply to initial appointments, not promotions; that the Sindh Labour Appellate Tribunal was abolished and then revived. When it was revived, new recruitment rules were needed. The respondent issued a notification that the petitioner claims is unfair, as it blocks promotions for many employees. The petitioners believe that the proposed rules, which would allow promotions for senior employees, are more equitable. The

petitioner's counsel argues that the requirement of a law degree for the Deputy Registrar (BPS-17) post is unfair, especially for senior employees with 15-20 years of experience. They believe it is difficult for government employees to pursue a law degree while working full-time. This condition is considered unjustified and a way to deprive senior employees of promotions. The petitioner's counsel further argued that the proposed methods for appointing a Registrar, Deputy Registrar, Administrative Officer, Reader, and Assistant are unfair. They believe these methods will limit promotion opportunities for senior employees. The petitioner suggests alternative methods that would provide more opportunities for experienced staff.

4. We have heard learned counsel for the petitioners on the maintainability of the petition and have perused the material available on record.

5. This petition seeking reconsideration of Rules framed by the respondent department vide notification dated 23.9.2024 cannot be entertained as this Court lacks the jurisdiction under Article 199 of the Constitution for the reasons that it lacks the expertise to dictate policy decisions/framing the rules and that such decisions are required to be made by experts in the field.

6. This petition is found to be not maintainable and is dismissed accordingly with pending application (s).

Head of Constitutional Benches

JUDGE