

IN THE HIGH COURT OF SINDH, AT KARACHI

CPD 4470 of year 2024

(Mir Rohail Khero Versus Province of Sindh & others)

PRESENT:

MR. JUSTICE MUHAMMAD KARIM KHAN AGHA

MR. JUSTICE NISAR AHMED BHANBHRO

Petitioner: Mr Malik Naeem Iqbal, Advocate

Respondents: Mr Ali Safdar Dejar Learned Assistant Advocate General
Sindh

Date of Hearing: 14.03.2025

Date of Order: 14.03.2025

ORDER

1. The case of the Petitioner is that he was appointed as Assistant Manager (I.T) as Technical Staff Project Management Unit Board of Revenue Sindh through Order dated 03.02.2014 pursuant to an advertisement published in widely circulated newspapers and after going through a competitive process, since then he was working there on Contract Basis.

2. Petitioner filed representations to the department for regularization but to no fruit. The Petitioner filed Constitution Petition No D-126 of 2020 before this Court which was disposed of by a Learned Division Bench of this Court vide Order dated 14.01.2022 with observations in Paragraph No 16 and 17 in the following manner, which are reproduced for sake of convenience:

“16. In view of the foregoing, we are of the considered view that the matter of the petitioners needs to be referred to the competent authority of SPSC to assess their eligibility/fitness/suitability afresh for the subject post by

conducting their interview under the recruitment rules within a reasonable time and send the recommendation of successful candidates to the Government of Sindh for appointment on regular posts of District Manager and Assistant Manager (LARMIS), The aforesaid exercise shall be conducted by SPSC within two months after due notice to the petitioners.

17. it is clarified that the cases of the Petitioners shall be sent to the respondent department, separately to the Sindh Public Service Commission and shall not be tagged with the direct recruits. In case any of Petitioners is not found suitable and fit for the subject post, by the Sindh Public Service Commission, he shall not be retained in service. Let a copy of this order be transmitted to the Chairman Sindh Public Service Commission and head of the department for compliance. “

3. In Compliance of the Orders passed by this Court, Sindh Public Services Commission called petitioner to appear for interview on 10.08.2023, in which Petitioner appeared. The Sindh Public Service Commission after conducting scrutiny of record and interview recommended the successful candidates who were found eligible and fit for regularization of service through press release dated 06.10.2023. The List did not contain the name of Petitioner, therefore he preferred an appeal before Commission under Recruitment and Management Regulations, which was declined vide order dated 06.08.2024 for the reasons that at the time of recruitment of Petitioner the Degree of Bachelor of Engineering in Electronics was not equivalent to the Bachelor of Science in Computer Science, operative Para is reproduced hereunder:

However, it is crystal clear that at the time of recruitment the degree of Bachelor of Engineering in Electronics was not equivalent to Bachelor of Science in Computer Science. The order has been dictated in the presence of Mr. Mir Rohail Khoro and read over to him.

4. Heard Learned Counsel for the parties and perused the material on record. Learned AAG has opposed this petition.

5. We have carefully examined the case of the Petitioner, earlier order passed by this Court and the impugned order dated 06.08.2024 passed by the member appeal of SPSC. We do not agree with the observations of Learned Member Appal of SPSC for the following reasons:

- i. The Petitioner was appointed in Board of Revenue in the said post under the same degree by the Department in year 2014 without any objections and he worked on the said post for almost 10 years.
- ii. The Government of Sindh pursuant to the decisions of Cabinet has prescribed the minimum qualification for the post of Assistant Manger IT which also includes a Bachelors Degree in Electronics.
- iii. The Regularization is always akin to the fresh appointment as held by the Honorable Supreme Court in the case of Vice Chancellor Agriculture University Peshawar and others versus Mohammed Shafiq and others .

5. Consequently this Petition is allowed, the impugned Order dated 06.08.2024 is set aside and matter is remanded back to SPSC. The appeal filed by the Petitioner shall be deemed to be pending and decided afresh, in view of the observations made hereinabove preferably within a period of 2 months from the date of this order.

This Petition stands *disposed of* in the above terms

Judge

Head of the Constitutional Bench

Jamil