

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D-3095 of 2010
(Syed Shoukat Ali Shah & others v Province of Sindh & others)
Constitutional Petition No. D-3063 of 2010
(Syed Mehbood Ali Shah & others v Province of Sindh & others)
Constitutional Petition No. D-3600 of 2010
(Ghulam Nabi & others v Province of Sindh & others)
Constitutional Petition No. D-1731 of 2011
(Raheel Ahmed & others v Province of Sindh & others)

Date	Order with signature of Judge(s)
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Date of hearing and order 10.4.2025

Mr. Muhammad Arshad Khan Tanoli advocate for the petitioners in CP Nos. D-3095/2010, 3600/2010 and 1731/2011
Mr. Danish Rashid Khan advocate for the petitioners in CP No. D-3063/2010
Mr. Ali Safdar Depar, Assistant AG

ORDER

Adnan-ul-Karim Memon, J: These petitions have been filed by several individuals concerning the appointments of Secretaries of Union Councils (BPS-07). Petitioners averred that they were initially appointed as Junior Clerks (BPS-05) in different Union Councils (UCs) in District Badin on various dates starting from 1995 and 1997. Their appointment orders were issued by the Administrator or Secretary of the respective UCs. The post of Junior Clerk was upgraded to BPS-07 effective from 17.08.2007. Following the Sindh Local Government Ordinance 2002, some BPS-07 Secretary posts became vacant in the UCs. The Petitioners were appointed to officiate as Secretaries in these UCs, with some officiating since 2001, 2005, and 2006. In April 2005, the Secretary UC posts were advertised for regular appointments, and some of the petitioners appeared for the selection process in February 2006, but the results were not announced. It is averred that the Sindh Local Government Board advertised Secretary UC (BPS-7 & 8) and Town Officer (BPS-11) posts in July 2008. The Petitioners applied for the Secretary UC posts and appeared for a written test on 14.04.2009. Despite the written test, the results were not declared. However, the Local Government Department issued notifications in 2009 directing the repatriation of officiating secretaries to their original departments. The petitioners challenged these notifications in previous petitions (CP No D-2568/2010 and others), which were disposed of in their favor by a judgment dated 04.09.2010. The Petitioners allege that the Respondents, without announcing the results of the written test, had started making illegal "back door" appointments to the Secretary UC (BPS-07) posts, even without adherence to the posts of 526 Ucs secretaries, in the advertisement, violating legal procedures and the

Petitioners' right to know their respective results. They fear being replaced by these illegal appointees/respondents, undermining the previous court judgment as such the entire recruitment process is liable to be annulled.

2. Learned counsel for the petitioners submitted that the appointments of private Respondents are illegal and void ab initio due to misuse of power and violation of established recruitment procedures. Appointments were made without proper advertisement, selection committee recommendations, or a competent authority's valid approval. The official Respondents are making appointments while the Petitioners are awaiting the results of a selection process they participated in. The probation clause in the appointment orders of private Respondents suggests these are being treated as permanent appointments without following due process. The actions of the Respondents demonstrate favoritism, nepotism, and discrimination. He prayed for a declaration to the effect that the appointments of Respondent No. 5 to Respondent No. 14 as illegal and void. He also seeks to direct the official Respondents to declare the results of the Petitioners' written test and complete their selection process for Secretary UC (BPS-07). If qualified, issue them appointment letters and maintain their current postings until regular selections are made. Alternatively, learned Counsel argues that the private respondents' appointments violate the Sindh Councils Unified Grades Rules, 1982, and be declared without lawful authority.

3. Learned AAG submits that this court cannot go beyond the prayer of the petitioners in the memo of petitions and further submits that the Secretary, Union Councils (BPS-07) positions within the Sindh Councils Unified Grade service were advertised in major newspapers on July 15, 2008. Nominated officers conducted written tests for all eligible candidates across Sindh's districts, and the District Officer (Monitoring & Evaluation) of, the Local Government Department, reviewed the answer sheets. Following the consolidation and thorough review of these test results, and based on the recommendations of both the Selection Committee and the Sindh Local Government Board, the individuals listed in the statement/report were appointed to the BPS-07 Secretary Union Council (Administrative Branch) positions within the SCUG service, therefore he seeks dismissal of the petitions, the aforesaid stance has been refuted by the learned counsel for the petitioners by referring the advertisement published in newspapers which disclosed only 526 vacant positions of secretary Union Council, whereas the respondent's submitted statement disclosing details of 714 appointees which is anomaly needs to be corrected by directing them to reprocess the recruitment on the subject posts.

4. We have heard the learned counsel for the parties and perused the record with their assistance.

5. The petitioners' legal representative argues that the recruitment of the private respondents contravenes Rule 4(2) of the Sindh Councils Unified Grades Rules, 1982, as the appointments were made by an individual lacking the necessary authority according to Rules of the same regulations. Additionally, the counsel points out that the petitioners themselves applied for the same position and underwent the required tests, for which the results have not yet been announced. At this point, this court drew the counsel's attention to the petitioners' prayer clauses and the principle established by the Supreme Court judgment reported as **2021 SCMR 7**, which restricts the court's purview to the reliefs specifically requested in the prayer clauses. These prayer clauses are as follows:

(a) To declare the appointments of Respondents No. 5 through 14 as unlawful, null, and void from the outset, and without legal effect.

(b) To instruct the official Respondents to announce the results of the petitioners' written test and finalize the selection process for the Secretary UC (BPS-07) post within a timeframe deemed reasonable by this Honorable Court. Furthermore, if the petitioners are successful, they should be issued appointment letters for the said post, and they should not be removed from their current positions until permanent appointments are made.

(c) To prohibit the official Respondents from making further unlawful appointments in the manner of the challenged appointments, both during the ongoing proceedings of this petition and before the completion of the selection process initiated in 2008/2010.

(d) To grant any other relief that this Honorable Court deems just and appropriate given the circumstances of this case.

(e) That the costs associated with this petition be paid by the Respondents.

6. Without addressing the substantive arguments of these cases and merits, these petitions are now considered concluded and are hereby disposed of in the terms that much water has flown under the bridge since 2008 and we are now in 2025 besides petitioners have not asked for the issuance of writ of quo warranto against the individual who were purportedly appointed in violation of the rules as no record has been produced to infer adverse against them at this stage in a case of writ of mandamus. However, if the cause of action for these petitions still exists, the petitioners retain the right to initiate appropriate legal action, including proceedings under a writ of quo warranto, if they believe the appointments of the private respondents are contrary to law and if such legal recourse is

permissible. These petitions are disposed of along with the pending application(s) in the above terms.

JUDGE

Head of Constitutional Benches

Shafi