

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Constitutional Petition No. D-8075 of 2022
(*Shaikh Arshad Ali & others v Province of Sindh & others*)

Date	Order with signature of Judge(s)
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Before:

Mr. Justice Muhammad Karim Khan Agha

Mr. Justice Adnan-ul-Karim Memon

Date of hearing and order 25.08.2025

Mr. Javed Iqbal advocate for the petitioners

Mr. Ali Asadullah Bullo advocate for the respondent No.1

Mr. Ali Safdar Depar, AAG

ORDER

Adnan-ul-Karim Memon, J: The petitioners request this court to:

Set aside the office orders dated 01.02.2022, as they unlawfully deny the petitioners' right to promotion and are a result of departmental bias.

Declare the Sindh Building Control Authority (Recruitment) Regulations, 2016 as discriminatory because they provide an unequal ratio for the appointment and promotion of B. Tech (Hons) degree holders compared to those with BE/B. Arch/B. Town Planning degrees. They also want the regulations amended to include promotions to BS-19 and beyond for B. Tech holders and to include the name of the National Technology Council of Pakistan.

Declare the inaction of the respondents to consider the petitioners for promotion as Deputy Directors (Technical) in BS-18 in the Departmental Promotion Committee (DPC) meeting on March 18, 2017, as illegal and a sign of bad faith.

Restore the petitioners' seniority as per the lists dated 27.5.2012, 25.10.2016, and 18.01.2017, arguing that the seniority list from 24.02.2017 unlawfully disturbed their ranks.

Direct the respondents to schedule a DPC to consider the petitioners for promotion to Deputy Directors (Technical) in BS-18, effective from March 8, 2017, along with financial benefits.

Order the respondents to reserve 12 posts of Deputy Directors (Technical) BS-18 for the petitioners in the next DPC.

Restrain the respondents from taking any adverse action against the petitioners or disturbing their current postings.

2. This petition is filed by a group of individuals who believe they have been wrongfully denied promotions and seniority by their employer, in violation of both departmental rules and their constitutional rights.

3. The petitioners, Assistant Directors (Technical) at the Sindh Building Control Authority (SBCA), are challenging the Sindh Building Control Authority (Recruitment) Regulations, 2016. Their counsel argued

that the regulations are discriminatory because they favor engineers with B.E. degrees over those with B. Tech (Hons) degrees for promotions and appointments. The petitioners have repeatedly sought promotions since 2005 based on their enhanced qualifications, but were ignored. They allege that A 2012 promotion list, which they should have been on, was declared illegal. They were overlooked in a 2017 promotion list, despite being qualified, while others with "technical" skills were promoted. Numerous appeals and grievances filed between 2017 and 2022 to various authorities, including the Chief Minister and Governor, have been disregarded. The counsel asserted that the actions of the SBCA violate the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules 1974 and the Sindh Civil Servants (Probation, Confirmation & Seniority) Rules 1975, specifically regarding promotion procedures, seniority, and the regularization of ad hoc appointments. They contend that this has deprived the petitioners of their fundamental rights under the Constitution of Pakistan. With no other remedy available, the petitioners have filed this case, asking the court to grant their petition.

4. The learned Assistant Advocate General (AAG), assisted by the counsel for the respondent (SBCA), opposed the petition, arguing that the petitioners have no guaranteed right to promotion as they have no professional engineering-based degree. They asserted that the Secretary of the Local Government department is the sole authority to handle such matters, and the petitioners' case is hit by the judgment passed by the Supreme Court. They concluded by arguing that the petition is not valid and may be dismissed.

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

6. The petitioners' requests for promotion and seniority at the Sindh Building Control Authority (SBCA) were denied by the Secretary Local Government vide impugned order dated 1.2.2022. The denial was based on the court's upholding of the Sindh Building Control Authority (Recruitment) Regulations, 2016, which were found to be non-discriminatory. He further opined that Promotions to higher positions (BS-19 and above) require specific degrees (B.E./B.Arch.) and professional registration, which B. Tech holders do not possess. He emphasized that the petitioners were not promoted to Deputy Director (BS-18) in 2017 because the 7% promotion quota for B. Tech holders was already filled; that the 2012 seniority list was deemed illegal for not following the regulations. The challenged 2017 seniority list was found to be legally correct; the request for promotions retroactive to 2017 was denied, with a new

promotion committee to consider future cases; the request to reserve 12 posts for the petitioners was denied, as promotions must adhere to the established ratios in the regulations. The secretary noted "shortcomings" in the petitioners' service records, stating that their promotions and appointments will be reviewed according to the law.

7. A recent Supreme Court judgment clarified that while a B.Tech (Hons) degree can be considered equivalent to a BE/BSc Engineering degree for purposes such as pay and promotions, the two are not identical. This distinction is based on a longstanding history of policy and committee decisions. Although several earlier resolutions from the University Grants Commission (UGC) sometimes treated the degrees as equivalent for specific benefits, a consistent pattern has emerged: they are regarded as separate disciplines. The Pakistan Engineering Council (PEC), which oversees the engineering profession, does not accredit or register B.Tech (Hons) degree holders. Instead, the National Technology Council (NTC) was established to regulate the field of Engineering Technology. This is because Engineering and Engineering Technology are internationally recognized as distinct professions, with their own global agreements.

8. Primarily, the promotion in next rank is to be made based on senior cum fitness coupled with availability of vacancy under the Recruitment Rules and if those rules do not equate positions to BPS-19, the same cannot be granted based solely on the analogy put forward by the petitioners. However, it is for the respondent department to deal with the service issues of the employees in accordance with law in terms of the decision of the Supreme court in the case of *Moula Bux Shaikh* (2018 SCMR 2098), and a similar matter is currently under consideration by the Supreme Court reported as 2024 SCMR 673, to see the legality of the aforesaid judgment rendered in *Moula Bux Shaikh* case. Consequently, this Court cannot examine the petitioner's eligibility for promotion in next rank based on their B.Tech degree, as the Supreme Court has already provided a definitive ruling on this matter. However the decision of the secretary Local Government is subject to final out of the supreme court.

9. In view of the aforesaid legal position of the case, this petition is dismissed with pending application(s)

JUDGE

Head of Constitutional Benches