

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Constitutional Petition No. D-5659 of 2024
(Aijaz Ali Butto & others versus Province of Sindh & others)

Date	Order with signature of Judge(s)
	Before: Mr. Justice Muhammad Karim Khan Agha Mr. Justice Adnan-ul-Karim Memon

Date of hearing and order:- 27.10.2025
M/s. Talha Abbasi and Muhammad Nasir advocate for the petitioners
Ms. Saima Imdad, Assistant Advocate General
Ms. Humaira Jatoi, advocate

ORDER

Muhammad Karim Khan Agha, J: The petitioners have prayed
as under:

1. *To declare that the requisition sent by the Respondent No.2 for initial recruitment against 100% vacant posts of Assistant (BS-16) and advertisement issued by the Respondent No.4 is illegal, unlawful, unjust,, arbitrary, discriminatory, mala fide, unconstitutional and in violation of the recruitment rules and set aside the same to the extent of 50% posts reserved for promotion.*
2. *To direct the Respondents to consider the cases of the petitioners for promotion from the post of Senior Clerks (BPS-14) to the post of Assistant (BPS-16) fairly, justly, objectively, and in accordance with law forthwith.*
3. *To restrain the Respondents from making initial appointments to the post of Assistant (BPS-16) to the extent of 50% quota reserved for appointment by promotion till final adjudication of the captioned petition.*

2. The Petitioners are aggrieved by the Respondents’ act of advertising all vacant posts of Assistant (BPS-16) through initial recruitment, in violation of Rule 3(2) of the *Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974*, which mandates that 50% of the posts be filled by promotion from Senior Clerks (BPS-14) and the remaining 50% by initial recruitment. The Petitioners were appointed as Junior Clerks in 2010 and promoted to Senior Clerks (BPS-14) on 29.10.2020, presently serving under Respondents Nos. 2 & 3 with an unblemished record. Respondent No. 2, through Notifications dated 07.09.2021 and 20.03.2023, reaffirmed the 50/50 quota, while Respondent No. 3, via letter dated 25.07.2024, confirmed 252 vacant posts of Assistant (BPS-16). Despite Petitioners’ eligibility and submission of ACRs and service certificates (vide letter dated 10.05.2024), Respondent No. 4 issued Advertisement No. 07/2024 dated 25.09.2024, inviting applications for 251 posts through direct recruitment, effectively violating the promotion quota.

3. Learned counsel for the Petitioners contended that the entirety of vacant seats has been advertised for direct recruitment, contrary to the

prescribed rules, thereby depriving the Petitioners of their legitimate right to promotion. He submitted that the Respondents, being public functionaries, were bound to act fairly and in accordance with law, but failed to do so despite representations made by the Petitioners. He therefore prayed that the petition be allowed, and the impugned advertisement be set aside to the extent of 50% promotion quota.

4. The learned Assistant Advocate General contended the College Education Department has duly notified the *Recruitment Rules for the post of Assistant (BPS-16)* vide Notification dated 20th March, 2023 (Annexure-I), prescribing 50% quota for promotion and 50% for initial recruitment through the *Sindh Public Service Commission (SPSC)*. She added that the advertisement challenged by the Petitioners pertains only to 50% of posts reserved for direct recruitment as per the notified rules. Hence, the allegation of advertising 100% posts for direct recruitment is factually incorrect. She further submitted that the Petitioners are already serving as Senior Clerks (BPS-14) and will be considered for promotion strictly against the 50% quota reserved for promotion on a *seniority-cum-fitness* basis, after completion of all codal formalities. It is the prerogative of the Government to frame and amend recruitment rules from time to time. The present rules were framed in consultation with the Law Department, SGA&CD (Regulation Wing), Finance Department, and Administrative Department, and are therefore valid and binding. There are 635 sanctioned posts of Assistant (BPS-16) across all Regions, out of which 317 are reserved for promotion and 318 for direct recruitment. Presently, 274 officers are working against the promotion quota, leaving only 51 posts available for further promotion, whereas 274 posts under the direct quota remain vacant. The 251 posts advertised through SPSC represent the long-pending direct recruitment quota, intended to induct fresh and qualified youth into the public service after a long period. The College Education Department is ready to process all promotion cases for eligible Senior Clerks (BPS-14) against the available 50% promotion quota in accordance with the law. The Petitioners have neither been deprived of their right of consideration for promotion nor has any rule been violated. They will be considered for promotion as per law, and if otherwise qualified, they are also free to compete for the advertised posts through SPSC. In view of the above, she suggested that the petition is misconceived, premature, and devoid of merit. The Hon'ble Court is therefore prayed to dismiss the petition along with all pending applications, allowing the recruitment process to continue in the public interest and in accordance with the notified recruitment rules.

5. After examining the record, notifications, correspondence, and rival contentions, the central issue before the Court is whether the Respondents acted in violation of Rule 3(2) of the *Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974* and the *Recruitment Rules of 2021 & 2023* by advertising 100% of the vacant posts of Assistant (BPS-16) for initial recruitment instead of maintaining the 50% quota for promotion.

6. The Petitioners' stance is that all 251 vacant posts were advertised for direct recruitment, depriving them of their lawful right to be considered for promotion under the prescribed quota. The Respondents, on the other hand, assert that the advertisement pertains only to the 50% quota reserved for direct recruitment and that the promotion quota remains intact and will be processed accordingly.

7. Upon careful consideration, it appears that the Recruitment Rules (2021 & 2023) prescribe a 50% promotion and 50% direct recruitment quota for the post of Assistant (BPS-16). The respondents' own record confirms that promotions have been made in some regions under this quota. However, the impugned advertisement does not distinguish between the two quotas, creating ambiguity and justifying the petitioners' grievance.

8. To ensure transparency and compliance with the rules, the recruitment process should be limited to 50% of the posts for direct recruitment, while promotion cases of eligible Senior Clerks (BPS-14) should be processed for the remaining 50%. If the advertisement already pertains only to the direct quota and the promotional quota remains intact, in such circumstances, this petition is disposed of with directions to consider the petitioners for promotion in accordance with the Recruitment Rules as and when the promotion process takes place, which shall be culminated as per law and seniority cum fitness basis.

9. This petition stands disposed of in the above terms.

HEAD OF CONST. BENCHES

JUDGE

Shafi