

Ph: 9220581.
Fax:9220406

REGISTERED
No. C.A. 636/2019-SCJ
Supreme Court of Pakistan.

Islamabad, 10/4, 2019.

c/o
22/1/18
From

The Registrar,
Supreme Court of Pakistan,
Islamabad.

To

The Registrar,
High Court of Sindh,
Karachi.

INWARD TO 5535
BRANCH R/O
DATE 13-04-19
HIGH COURT OF SINDH AT KARACHI

Subject:- Civil Appeal No. 636 of 2019.
Out of
Civil Petition No. 135 of 2018.
Ali Bux Shaikh.

VERSUS

Province of Sindh, through Chief Secretary,
Karachi and others.

On appeal from the Judgment and Order of the High Court of
Sindh, Karachi dated 21.12.2017, in Const. P. No.D-8265/17.

AR ulid
Dear Sir,

I am directed to forward herewith a certified copy of the Order
of this Court dated 14.02.2019 converting into appeal the above cited civil
petition and allowing the same, in the terms stated therein, is enclosed for
information and necessary action.

I am further directed to invite your attention to the directions
of this Court contained in the enclosed Order.

Please acknowledge receipt of this letter along with its
enclosure immediately.

Encl: Order:

Yours faithfully

[Signature]
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE UMAR ATA BANDIAL
MR. JUSTICE MUNIB AKHTAR
MR. JUSTICE YAHYA AFRIDI

33/18

Civil Petition No. 135 of 2018

(On appeal from the judgment/order dated 21.12.2017 of the Sindh High Court, Karachi passed in Const. P. no. D-8265 of 2017).

Ali Bux Shaikh

Petitioner(s)

Versus

Province of Sindh, Karachi and others

Respondent(s)

For the petitioner(s)

Agha Muhammad Ali, ASC
Ch. Akhtar Ali, AOR

For the respondents 1-2

Barrister Shabbir Shah, Addl. AG
Mr. Amanullah Zardari, Dy. Secy.
Mr. M. Nasir Khan, DIG

Respondent 4

Nemo

Date of hearing

14.02.2019

ORDER

UMAR ATA BANDIAL, J.— The learned High Court by its impugned judgment dated 21.12.2017 has set aside the notification dated 01.3.2017 promoting the petitioner. This relief has been granted in view of the prayer made by the respondent No.4 before us in the following terms:

“This Hon’ble Court may be pleased to direct and declare as under:

- i) Declare the impugned notification dated 01.3.2017 issued by Respondent No.2 illegal, against the Sindh Civil Servants (Probation, Confirmation & Seniority) Rules, 1975, judgment of learned Sindh Service Tribunal and Hon’ble Supreme Court of Pakistan, and set aside the same.
- ii) Direct the Respondent No.1, 2 & 3 to remove the name of Respondent No.4 from the final seniority list of Deputy Superintendents of Prison BPS-17 and place his name in the seniority list of Assistant Superintendents Prisons BPS-16.
- iii) Direct the Respondent No.1 & 2 to act strictly in accordance with the law and drop the name of the Respondent No.4 from considering his case for promotion against the post of Superintendent of

ATTESTED

Court Associate
Supreme Court of Pakistan
Islamabad

Jail BS-18 from the disputed meeting of departmental promotion committee.

- iv) Restrain the Respondents from causing harassment and taking any coercive action against the Petitioner on account of filing of the instant petition.
- v) Any other relief(s) this Honorable Court deem fit in the given circumstances and in the great interest of justice."

2. Having read the petition filed by the respondent No.4 as well as the impugned judgment of the learned High Court, we do not find that the jurisdiction of the learned High Court under Article 199(1)(b)(ii) of the Constitution could be invoked to decide any question raised in the writ petition filed by the respondent No.4 which wholly pertained to matters relating to the terms and conditions of his service against which Article 212(3) of the Constitution imposes a specific bar.

3. Consequently, the impugned judgment of the learned High Court is set aside. This petition is converted into appeal and the same is allowed in the terms noted above.

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Certified to be True Copy
10/4/2019
Court Associate
Supreme Court of Pakistan
Islamabad

Islamabad
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02/4/19

Not approved for reporting

