

31/23

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE UMAR ATA BANDIAL, HCJ
MR. JUSTICE SYED MANSOOR ALI SHAH
MR. JUSTICE MUNIB AKHTAR

Civil Petition No. 1932 of 2022

CMA No.4046 of 2022 in CP NIL/2022

And CMA 4047 of 2022 in CP Nil of 2022

(On appeal from the judgment dated 10.5.2022 passed by the High Court of Sindh in Const.P.D-1406 of 2022)

Azeem Qadir and others

...

Petitioners

In CP 1932/2020

Farzana Parveen

In CMA 4046/2022

Humaira Qayum

In CMA 4047/2022

Versus

Maula Bux Sahito and others

...

Respondents

In all cases

For the petitioners : Mr. Farooq H. Naek, Sr. ASC
Mr. Mohsin Qadir Shahwani, ASC
Mr. Kasim Mirjat, ASC
For the Govt. of Sindh : Mr. Soulat Rizvi, Addl. A.G. Sindh

For the Respondents : Mr. Haider Waheed, ASC

Date of Hearing : 04.08.2022

ORDER

Umar Ata Bandial, CJ. – We have heard the submissions of the learned counsel for the petitioners, the respondents and the learned Additional Advocate General. There is a consensus amongst them that the notification dated 10.11.2021, upgrading 39 Assistant Superintendents of Prison to BS-16 retrospectively from 05.12.2010 be maintained. By the said notification the petitioners before us and three other officers falling in the same category were formally upgraded. However, the said notification is invalid to the extent that it purports to upgrade the beneficiaries there-under retrospectively. As a result the respondents who were inducted through initial recruitment on the recommendation of the SPSC in the year 2020

ATTESTED



Court Associate
Supreme Court of Pakistan
Islamabad

rank senior to the 39 officers upgraded by the afore-noted notification.

2. We may note that the legal complication arising in the case of the petitioners has resulted on account of the omission and default committed by the Provincial Government and not by the acts of the petitioners. Accordingly, the impugned judgment is modified to the extent of foregoing factual arrangement.

3. The foregoing arrangement is accepted by all the parties before us with respect to their rights *inter-se* in personam. With respect to the rule of law laid down in the impugned judgment by the learned Division Bench of the Sindh High Court dated 10.5.2022 the same is affirmed.

4. The petition is disposed of in the above-terms.

The above titled CMAs are allowed and disposed of accordingly.



Islamabad, the
8th August, 2022
Naveed/*

Not approved for reporting

Sd/- _____ HCT
Sd/- _____ J
Sd/- _____ J

Certified to be True Copy


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Islamabad


9/8/22