

**BEFORE THE SINDH SERVICE TRIBUNAL KARACHI**

**PRESENT:-**

**MR. JUSTICE (R) SADIQ HUSSAIN BHATTI, CHAIRMAN**

**TARIQ MEMHOOD KHOSO, MEMBER**

**SHAHID ABDUL SALAM KHAN, MEMBER**

**APPEAL NO.432 OF 2023**

Abdullah Ghunio  
S/o Hadi Bux Ghunio  
Msulim, Adult,  
IT/Computer Science Teacher,  
Govt (N) Hamidia High School Jacobabad  
School, Education & Literacy Department,  
R/o Nazro Football stadium,  
Muhallah Shahafi Colony, Jacobabad.....APPELLANT

**V E R S U S**

1. Province of Sindh through its Chief Secretary,  
New Sindh Secretariat, Karachi.
2. Secretary School, Education & Literacy  
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5. Nadeem Memon  
IT/Computer Science Teacher  
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8. Fazalullah Kalwar  
IT/Computer Science Teacher

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9. Khalid-ur-Rehman  
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21. Abdul Jabbar Lakhan  
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93. Kamran Hassan

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102. Ghulam Ali Khushk  
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103. Muhammad Nawaz  
IT/Computer Science Teacher  
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Lakhmir, Sakrand, Nawab Shah.....RESPONDENTS

Mr. Iftikhar Ahmed Shah, advocate for the appellant.

Mr. Asif Hussain Mangi, Addl: A.G. alongwith Mr. Abdul Fatah, Focal Person, Schools Education & Literacy Department for the respondents.

Ms. Sherien Tabbasum, advocate for the respondent Nos.23, 26, 38, 48 & 90.

Date of Hearing: 11.04.2025  
Date of Judgment: 22.04.2025

### **J U D G M E N T**

**SHAHID ABDUL SALAM KHAN, MEMBER:-** The above mentioned service appeal has been preferred under Section 4 of the Sindh Service Tribunal Act, 1973 by the appellant.

2. The facts leading to instant appeal, as per memo of the appeal, are that the appellant was appointed as IT/Computer Science Teacher (BPS-15) against the project Matching Program with the Govt. of Sindh on contract basis for the period of two years vide order dated 20.04.2006. Thereafter he was transferred from Development to Non-Development wing of the Government of Sindh Education & Literacy Department for the financial year 2008-09 and regularized in his respective pay scale i.e. BPS-15 vide order dated 28.10.2008.

3. The Govt. of Pakistan Ministry of Information Technology Pakistan Computer Bureau vide letter dated 23<sup>rd</sup> May, 2008 addressed to the Project Director, Govt. of Sindh Education & Literacy Department rendered a view that since the appellant has acquired the degree of Master in Information Technology on 26.07.2005, so he is entitled for BPS-17 instead of BPS-15. Thereafter vide notification dated 28.03.2009 the appellant was allowed BPS-17 on acquiring higher qualification.

4. After getting BPS-17, the appellant filed application requesting therein that his seniority in BPS-17 may be treated with effect from 03.05.2006 and his name may be inserted at the proper

position in the seniority list of IT/Computer Science Teachers. Thereafter the final seniority list of IT/Computer Science Teacher BS-17 (Male) Sindh as stood on 01.01.2012 circulated vide letter dated 09.10.2012. The position of the appellant in the final seniority list is reproduced hereunder:-

S.#	Name in Full	Father's Name	BPS	Date of Birth (DD-MM-YY)	Qualification	Date of 1 <sup>st</sup> entry into Govt. Service (DD-MM-YY)	Date of Appointment as Regular Grade BS-17 (DD-MM-YY)	Place of Posting
55	ABDULLAH	HADI BUX GHUNIO	17	1/1/1980	MCS	3/5/2006	28/10/2008	GOVT. (N) HAMIDIA HGIH SCHOOL JACOBABAD

5. Thereafter the department issued impugned seniority list dated 21<sup>st</sup> November, 2022 in pursuance of Rule 9 of the Sindh Civil Servants (Probation, Confirmation & Seniority) Rules, 1975 wherein the name of the appellant was appearing at Sr. No.102 treating his date of appointment in BPS-17 as 28.03.2009. He filed departmental appeal before the Chief Secretary Sindh on 19.12.2022 which remained undecided, he filed instant appeal on 28.03.2023.

6. The respondent No.01 has adopted the written statement of respondent No.02. Whereas the respondent No.02 in his written statement has submitted that the appellant was appointed as IT/Computer Science Teacher/Lab in charge (BS-15) vide order dated 20.04.2006. Later on, in pursuance of recommendation of Pakistan Computer Bureau, Islamabad and Ministry of Information Technology and as per advice of regulation of wing SGA&CD dated 26.03.2009, the appellant was allowed BS-17 vide his department's order dated 28.03.2009. The seniority list dated 09.10.2012 was showing the seniority of employees on the basis of their date of birth which is not covered under the Rules. The appellant was allowed BS-17 vide order dated 28.03.2009 and his name was placed with his batchmates at

Sr. No.102 in the final seniority list as stood on 01.01.2002 circulated on 21.11.2022. The first seniority list dated 09.10.2012 was contradictory to the Rule 11 (a) of the Sindh Civil Servants (Probation, Confirmation & Seniority) Rules, 1975.

7. The private respondent No.06 in his written statement has submitted that the seniority published in 2012 by the competent authority on the basis of instructions in the advertisement and clause (d) of Rule 11 of part-III of the Sindh Civil Servants (Probation, Confirmation & Seniority) Rules, 1975 the persons older in age shall rank senior to persons younger in age. It will be injustice with all other IT/Computer Science Teachers in BS-17 who awaited for their promotion on the basis of the first seniority list issued by the competent authority and will face an irreparable loss of consecutive promotions due to their seniority position in the new seniority list issued in 2022.

8. The private respondent Nos.23, 38, 48 & 90 have taken the same grounds as of respondent No.02.

9. The remaining private respondents were declared ex-parte vide order dated 04.09.2024.

10. The learned counsel for the appellant has contended that the appellant is entitled to the seniority from the date of his appointment as he was enrolled in BPS-15 as a mistake as his degree of masters was not considered at that time. He was upgraded in BPS-17 on the account that he will not claim arrears that means that he is entitled for seniority. The seniority list dated 09.10.2012 shown that the appellant was at Sr. No.55 whereas in the impugned seniority issued after 10 years, the appellant was shown at Sr. No.102 which is illegal and void ab-initio. He has further contended that the right of the appellant is protected under the principle of locus poenitentiae.

11. The Addl: A.G. has contended that the appellant was initially appointed in BPS-15 on contract basis and later regularized in the same scale. Thereafter he got the upgradation in BPS-17 vide order dated 28.03.2009. His seniority has been placed at his right place considering him to be in BPS-17 on 28.03.2009 and the earlier seniority was issued on the basis of their date of birth which is not covered under the Rules.

12. We have heard the parties at length and perused the record. The appellant was initially appointed on contract basis for two years in BPS-15 under the project titled IT/Computer Science Teachers, Lab Incharges and Computer Labs, Project Matching program with the Govt. of Sindh vide order dated 20.04.2006 and was later regularized in BPS-15 vide order dated 28.10.2008. He got upgradation in BPS-17 vide order dated 28.03.2009. Thereafter the seniority list of IT/Computer Science Teacher BS-17 dated 09.10.2012 was issued wherein the name of the appellant was shown at Sr. No.55. But when another seniority list dated 21.11.2022, impugned through instant appeal, was issued the name of the appellant appeared at Sr. No.102. He has challenged that seniority list through instant appeal praying for grant of seniority from the date of his appointment.

13. Admittedly the seniority of the appellant is to be considered from the date of his regularization in his respective pay scale wherein he was regularized. The appellant was regularized in BPS-15 vide order dated 28.10.2008. He got upgradation in BPS-17 on 28.03.2009 which he accepted. The position of the appellant in the seniority list dated 09.10.2012 reveals that he was shown to be regularly appointed in BPS-17 on 28.10.2008 instead of 28.03.2009. But when another seniority list dated 21.11.2022 was issued the appellant was shown to have obtained BPS-17 on 28.03.2009. The

learned counsel for the appellant did not dispute the fact that the appellant obtained BPS-17 on 28.03.2009. The appellant's claim of seniority in BPS-17 from the date of his regularization is neither sustainable nor permissible under the law/rules.

14. Lastly, it was argued by the learned counsel for the appellant that the right of the appellant is protected under the principle of locus poenitentiae. The law has been developed on the principle. Recent chain of decisions of Honourable Supreme Court of Pakistan says that no perpetual rights can be gained on the basis of illegal orders. In this regard, 2013 SCMR 1867, 2002 SCMR 907, 1999 SCMR and 2010 PLC (C.S.) 924 can be referred to in support of this proposition.

15. For the reasons discussed above, the instant service appeal is hereby dismissed being devoid of merits.

Pronounced this on 22<sup>nd</sup> day of April, 2025.

Sd/-  
(JUSTICE (R) SADIQ HUSSAIN BHATTI)  
CHAIRMAN

Sd/-  
(TARIQ MEHMOOD KHOSO)  
MEMBER

Sd/-  
(SHAHID ABDUL SALAM KHAN)  
MEMBER