

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P. No.4298-2018

Aamir Salim etc.

Vs.

Federation of Pakistan etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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11.02.2020

Mr. Awais Haider Malik, Advocate for petitioners.
 Raja Khalid Mahmood Khan, Deputy Attorney General with Amir Safdar, Superintendent for respondent No.1- 5.

The petitioners are civil servants and working at Immigration and Passport Office. They are aggrieved of maintenance of separate seniority lists qua their cadre/position of Upper Division Clerk; one seniority list is of Head Office and the other are of Regional Offices.

2. Learned counsel for the petitioners, *inter alia*, contended that maintenance of separate seniority lists is not tenable inasmuch as same amounts to discrimination. It was further contended that employees at Head Office and Regional Offices are Upper Division Clerks (BPS-11) and maintenance of separate seniority lists at Head Office and Regional Offices is nowhere provided and is not in accordance with relevant law and rules. Reliance was placed on cases reported as 'Mehmood Amjed Vs. Islamabad Capital Territory Police through I.G. Police, Islamabad and another' (2013 SCMR 717), 'Mian Mustafa Gul and 12-others Vs. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and 4-others' [2014 PLC (CS) 1234] and 'Rehmat Jan and 5-others Vs. Provincial

Government through Chief Secretary and 5-others' [2017 PLC (CS) 184].

3. Learned Deputy Attorney General, *inter alia*, contended that post of Upper Division Clerk has been upgraded and the meeting of Departmental Promotion Committee shall be convened shortly in order to consider the petitioners for promotion. It was contended that separate seniority lists at Head Office and Regional Offices are maintained under the relevant rules.

4. Arguments advanced by learned counsels for the parties have been heard and the documents placed on record examined with their able assistance.

5. Respondents have primarily relied upon Notification bearing SRO No.893(K)/70 dated 17.08.1970 regarding recruitment to Class-III posts to substantiate that separate seniority list of Upper Division Clerks is to be maintained. The bare perusal of referred Notification shows that no such provision exists regarding maintenance of separate seniority lists. Even-otherwise, the petitioner who are working at Regional Office at KPK, are the employees of Department of Director General of Immigration and Passport and maintenance of seniority list of referred Regional Office, separate of the Head Office, is without any justification or basis. In similar situation, the Hon'ble Supreme Court of Pakistan in case reported as 'Mehmood Amjed Vs. Islamabad Capital Territory Police through I.G. Police, Islamabad and another' (2013 SCMR 717), observed that no distinction could be made between the batches, as they all passed the examination and were inducted on the same day and the division of candidates in three

different batches is without any basis or justification. Similar view was taken in the decision Gilgit-Baltistan Chief Court in case titled 'Rehmat Jan and 5-others Vs. Provincial Government through Chief Secretary and 5-others' [2017 PLC (CS) 184], wherein it was held that separate seniority lists of petitioners and other offices of same rank is not tenable. Likewise, the Hon'ble Peshawar High Court in case reported as 'Mian Mustafa Gul and 12-others Vs. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and 4-others' [2014 PLC (CS) 1234] observed that maintenance of separate seniority lists amounts to discrimination. In view of referred position of law and facts, the maintenance of separate seniority lists by the respondents is without lawful authority and discriminatory.

7. In so far as grievance of petitioners regarding their promotion is concerned, it was submitted on behalf of respondents that meeting of Departmental Promotion Committee is likely to be convened for consideration of petitioners for promotion in a week's time.

8. In view of above, instant petition is allowed to the extent that maintenance of separate seniority lists of Upper Division Clerks, falling in the same batches/category but working at difference places (Head Office and Regional Offices), is held to be without lawful authority. Respondents are directed to do the needful in accordance with law and observations made hereinabove within a period of six weeks from the date of this order.

9. The other prayer sought in the instant petition by way of direction to the respondents for consideration of petitioners for promotion

has borne fruit in light of above mentioned statement of learned Deputy Attorney General, hence no adjudication is required.

(AAMER FAROOQ)
JUDGE

Zawar