

THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Muhammad Ali Mazhar
Mr. Justice Athar Minallah
Mr. Justice Salahuddin Panhwar

CIVIL APPEALS NO.53-K TO 58-K/2024

(Against order dated 2.06.2022 passed by Sindh Service Tribunal, Karachi in Appeal No.736, 737 and 738 of 2019)

The Province of Sindh through
Chief Secretary Government of
Sindh & others
Abdullah Burero

(In CAs.53-K to 55-K/2024)
(In CAs.56-K to 58-K/2024)
...Appellants

Versus

Raj Kumar Lohana & others
Mushtaq Ali Shah & others
Noor Nabi & others

(In CAs.53-K & 56-K/2024)
(In CAs.54-K & 58-K/2024)
(In CAs.55-K & 57-K/2024)
...Respondents

For the Appellant(s) : Mr. Kafeel Ahmad Abbasi, Addl. A.G.
Mr. Mushtaq Abbasi, AIG (Legal)
(In C.A.53-K to 55-K/2024)

Mr. Imtiaz Solangi, AHC
(with permission of Court)
(in C.A.56-K/2024 to 58-K/2024)

For the Respondent(s) : Syed Ghulam Shabbir Shah, ASC
(in all cases)

Date of hearing : 3rd September, 2025

Judgment

Muhammad Ali Mazhar, J:- The aforesaid Civil Appeals with the leave of this Court are directed against the consolidated Judgment dated 02.06.2022 passed by Sindh Service Tribunal, (SST) Karachi in Appeal No.736, 737 and 738 of 2019.

2. The crux of the matter is that the respondents were appointed as Assistant Inspector of Police (**ASI**) in Sindh Police (Hyderabad, Sukkur & Larkana Range) in the month of March 1990 with some other contenders. However on 24.02.1991, the aforesaid appointees were discharged from service vide office order dated 24.02.1991 on the ground that their appointments were politically motivated. In the month of November, 1991 & January/February 1992, some of the discharged ASIs were re-appointed by means of fresh appointment orders. After fresh appointment, all such appointees were making hectic efforts for seeking continuity in the length of service for the purpose of seniority only on the basis of initial appointment made in the year of 1990. The Inspector General of Police, (**IGP**) Sindh on 03.01.1994 issued an office order/notification whereby 130 ASIs were reinstated in service with effect from joining earlier in 1990 with the order that such reinstated ASIs will not be entitled for any financial benefits but will be accommodated to their original seniority carried by them in the year 1990. However, on the basis of a judgment rendered by this Court in the case of Gul Hassan Jatoi & others (Civil Petitions No.493,494, 505 to 508, 529 to 532, 533, 601, 906 & 911 to 917 of 2015), the police authorities prepared combined seniority list of the Inspectors which was finally issued in July, 2016. Some police officials were aggrieved by the seniority list, hence they submitted complaints, thereafter, the IGP, Sindh made certain changes and issued another seniority list on 12.04.2019 which in effect upset the seniority position of the respondents by changing their initial date of appointment from March, 1990 to November, 1991 & January/February, 1992 and while doing so, the earlier Orders of IGP, Sindh dated 19.08.1996 & 12.12.1998 were disregarded. Although, the respondents submitted their representations but no response was conveyed to them, therefore, they filed their service appeals before the learned SST, Karachi which were allowed vide consolidated impugned judgment.

3. Leave to appeal was granted on 08.08.2024 to consider the fate of police officers who were initially appointed on 06.03.1990 but they were discharged from the service on 24.02.1991. Indeed the elementary question in view of leave granting order (LGO) is whether their seniority will be reckoned from the date of their initial appointment or from the date of alleged fresh appointment which was made subsequent to the period of discharge from the service; furthermore, the final seniority list was compiled in 1996 whereby the seniority of many police officials was reckoned from the date of their initial appointment and whether this aspect has been rightly considered by the Tribunal and what the effect is of non-challenging the seniority list of 1996 by the aggrieved officials.

4. The learned Addl. A.G. argued that the learned SST failed to consider that after accepting the orders of reappointments/fresh appointments, the respondents could not claim seniority from the date of their initial appointment but he could not refute the order/notification issued by IGP, guarding the seniority. He further contended that learned SST also failed to consider that the case of present respondents was different from their other batch-mates as they were discharged from service during probation, whereas respondents in the present case accepted their fresh appointments, hence under no law they could be treated to be appointed from the first date of appointment. So far as the seniority issue is concerned, the learned Addl. A.G. argued that the SST did not appreciate a crucial fact that the seniority could only be reckoned from the date of fresh appointment as the respondents were appointed in the year 1990; they were discharged from service in the year 1991; later on, they were re-appointed in the year 1991/1992. It was further averred that there is no provision in Police Rule for modification of date of appointment, hence all departmental appeals submitted for modification of appointment dates were rejected and if any order was issued by any authority, it was also treated as cancelled. It was further averred that in the year 2019, some Inspectors filed

objections against revised dates of promotions, hence the Departmental Committee recommended that the original dates of promotion/confirmation as ASI/Sub-Inspector/Inspector may be mentioned in the final seniority list of Inspectors instead of antedated/revised seniority dates in that ranks.

5. The learned counsel for the respondents argued that in line with the same notification issued by the I.G.P. Sindh in 1994, another Office Order was issued on 03rd August 2023 with the concurrence of the departmental committee and same I.G.P. has issued similar notification in 2023 for reckoning the seniority, therefore, at this stage, the earlier notification of 1994 cannot be challenged by the same I.G.P. It was further argued that after 1996 seniority list five more seniority lists have been compiled and issued, which were never challenged. It was further averred that even the order of the I.G.P was never challenged by any person in any court of law including the SST.

6. Heard the arguments. The bone of contention between the parties was the fixation of inter-se-seniority. It has been observed by the learned Tribunal that the appellants who approached the SST were enjoying seniority with effect from 1990 (the date of original appointments) till 2019 under the valid order of I.G.P, Sindh but withdrawal of seniority without issuing any show cause notice cannot be treated lawful. The learned SST also reproduced the Office Order of the I.G.P Sindh dated 03rd January 1994. The aforementioned Notification/Order was parenthetically concerning the reinstatement of services of 167 ASIs who were discharged from service in February, 1991 on the ground that their appointments were made on political consideration in February, 1990. It is further explicated in the same notification that the subcommittee recommended the reinstatement after due scrutiny as no legal procedure was followed for termination of service rather, the ASIs were initially appointed after fulfilling all codal formalities, therefore, discharge from service of such recruiters was not found safe and sound hence they were reinstated accordingly in service from the date of

initial joining. Insofar as, the question or predictable claim of back benefit is concerned, it was already clarified that the ASIs who were reinstated in service will not claim any financial benefit but their original seniority will be reckoned from the date of their initial appointment, which precondition of restoring the seniority was accepted by the ASIs who were granted reinstatement in service from the date of joining rather than envisioning engagement by means of fresh appointment. What's more decrypted from the Office Order/Notification that it was issued with the concurrence of the Chief Minister, Sindh and in Paragraph No.4, the respective SSP was advised to issue formal orders for reinstatement in service immediately under intimation to CPO. Seemingly, in order to cure and rectify the defect, the beneficial notification was issued to redress the grievance of the police officials but again the seniority was withdrawn without issuing any show cause notice or providing any opportunity of hearing.

7. In actuality, seniority plays an essential role in the career progression and future prospects. It signifies the span of time an employee has worked within an institution, organization or enterprise. Civil Service Seniority Rules are primarily turned out to be a ground rule for the progression of government employees seminal for career trajectories and promotion while confirming the criteria of merit-cum-fitness. This legal scaffold is meant to ensure impartiality, fair-mindedness and transparency in the process not only for determining the seniority but also a pathway for fostering promotion and consistency along with the right and remedies to resolve seniority disputes within the employees. By and large, the seniority and/or inter-se-seniority is in fact determined on the basis of total length of service and for judicious resolution of this question, the actual period of service must be kept in mind.

8. All the more so, the Sindh Civil Servant Seniority Rules give precedence to initial appointment determined on the date of

regular appointment and if recruited in the same batch, then seniority is classified according to the date of regular appointment. According to Rule 11 of the Sind Civil Servants (Probation, Confirmation & Seniority) Rules, 1975, framed pursuant to Section 26 of the Sindh Civil Servants Act, 1973, the inter-se-seniority of civil servants appointed in a batch or on the same date is determined (a) in the case of persons appointed by initial recruitment, in the order of merit assigned by the selection authority, and if such authority is either not competent to assign such order of merit or has omitted to do so and is unable to overcome the omission for reasons beyond its control, the seniority shall be determined by the appointing authority; (b) in the case of persons appointed by promotion on the basis of their inter-se-seniority in the lower Post; (c) in the case of persons appointed by initial recruitment vis-à-vis persons appointed by promotion on the basis that the persons appointed by promotion shall rank senior to the persons appointed by initial recruitment and (d) in the case of persons not covered by clauses (a) to (c), on the basis that persons older in age shall rank senior to persons younger in age.

9. On level pegging, the glimpse of Rule 12.2 (3) of the Police Rules, 1934, demonstrates that the seniority in the case of upper subordinates, is reckoned in the first instance from date of first appointment, officers promoted from a lower rank are considered senior to persons appointed direct on the same date, and the seniority of officers appointed direct on the same date is reckoned according to age. However, the seniority is finally settled by dates of confirmation, whereas the inter se seniority of several officers confirmed on the same date being that allotted to them on first appointment. While the seniority of lower subordinates is reckoned from dates of appointment, subject to the conditions of Rule 12.24 and provided that a promoted officer shall rank senior to an officer appointed direct to the same rank on the same date. While determining the issue of seniority, predominance should have been given to the statutory provisions

that are in vogue including the provisions set out for the alleviation of grievances vis-à-vis the determination of seniority. Of course, the expression "seniority", in the labour and service laws, exemplifies the precedence or preference in the standing of an employee over other similarly placed employees with the philosophy that if service of an employee is lengthier or on top of one another employee, then he is designated senior to the other. Since seniority bequeaths a valuable right and the whole future career and prospects of an employee time and again hinge on such seniority, therefore, its determination must be in accordance with relevant laws and rules

10. In unison, a quick look to the glossary of the expression "Reinstatement" communicates the meaning of restoring something to a former, original, normal, or unimpaired condition. If we gaze it into the framework of employment, it characteristically ensues when a terminated, dismissed or laid off employee is sent back to his former occupation status which includes the reestablishing and protection of his seniority rights, privileges or other benefits that were previously lost. The doctrine of reinstatement also affirms a legal precept that allows a party to bring back a contract or agreement to its original terms after it has been terminated or breached. For all intent and purposes, this doctrine applies with diversity and miscellany that includes different situations including the reinstatement of an employee in the labour and/or civil service laws to his job after an unjust/wrongful termination or dismissal from service and also the renaissance or reactivation of a contract/agreement etc. Furthermore, this also facilitates to rectify errors, settle disputes, and make sure that person concerned is not unjustifiably penalized which is in fact a fundamental perception of guaranteeing justice and upholding unprejudiced relationship in the legal and contractual agreements or terms and conditions of employment/service.

11. If the seniority list was to be revised, revisited or upset come what may, it was an onerous obligation of the competent authority/concerned department to confront the issue to all persons who were likely to be affected and deprived of their seniority but without following due process, it was sheer contravention of Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973 (**Constitution**). The principles of natural justice requires that the delinquent should be afforded a fair opportunity to converge, explain, and contest the allegation against him before he is found guilty, condemned or any adversarial action. It is incumbent that all judicial, quasi-judicial, and administrative authorities should carry out their powers with a judicious and evenhanded approach to ensure justice according to the tenor of law and without any violation of the principles of natural justice. The predominant purpose of a show cause notice is to seek out a response explicating why a disciplinary or departmental action should not be taken. If any action is taken without due process of law or in violation of natural justice/fair trial then the whole/entire infrastructure built thereupon deserves demolition and desolation. Further reference is also provided through some judgments authored by one of us in the cases of Faisal Ali Versus District Police Officer, Gujrat and another (2025 SCMR 92= 2025 PLC (C.S) 337); Government of Balochistan, through Secretary Energy Department, Quetta and another Versus Muhammad Yasir (2025 SCMR 367= PLJ 2025 SC 113); Junaid Wazir v. Superintendent of Police (2024 SCMR 181), Federation of Pakistan v. Zahid Malik (2023 SCMR 603); Usman Ghani v. Chief Post Master, GPO Karachi (2022 SCMR 745); Capital Development Authority v. Shabir Hussain (2022 SCMR 627); Raja Muhammad Shahid v. Inspector General of Police (2023 SCMR 1135); Muhammad Yaseen v. Province of Sindh (2024 PLC(CS) 111), Government of Balochistan v. Ghulam Rasool (2024 SCMR 1155), Inspector General of Police, Quetta v. Fida Muhammad (2022 SCMR 1583).

12. In our considered view, the learned SST in paragraph 20 rightly issued directions to the respondents/appellants to restore the seniority of the aggrieved persons which they were enjoying prior to the issuance of seniority list dated 12.04.2019 and consider them for promotion from the time when due in

accordance with law and rules. We are sanguine that issue before us is not in a straight line correlated to the mere seniority and probation at the time of appointment or direct appointment of Inspectors, Sub-Inspectors and Asst. Sub-Inspectors but the case squarely is germane to the fixation of the seniority on the occasion of reinstatement and not on the basis of fresh appointment. The Notification/Order was issued by the I.G.P. Sindh with the concurrence of the Chief Minister Sindh, factum of which was neither denied nor was any logical or sound justification placed before us as to why in the case of reinstatement, the original seniority should not be reckoned and restored.

13. As a result of above discussion, we do not find any justification to cause any interference in the impugned judgment. As a consequence thereof, the Civil Appeals C.A.53-K/2024 to 55-K/2024 are dismissed. In view of the fact that, the Civil Appeals filed by the Government of Sindh are dismissed, therefore, Mr. Imtiaz Solangi, AHC appearing in C.A.56-K/2024 to 58-K/2024, articulated that apparently the case of his clients is not at par but distinguishable, henceforth, subject to all just exceptions, his clients will avail appropriate remedy in accordance with law. Bearing in mind his statement, the Civil Appeals 56-K/2024 to 58-K/2024 are also disposed of accordingly.

Judge

Judge

Judge

Karachi
03.09.2025
Khalid
Approved for reporting.