

**IN THE SUPREME COURT OF PAKISTAN**

(Appellate Jurisdiction)

**PRESENT:**

MR. JUSTICE MUHAMMAD ALI MAZHAR  
MR. JUSTICE SYED HASAN AZHAR RIZVI

**CIVIL APPEALS NO.52-K TO 71-K OF 2022**

(Against the judgment dated 03.12.2021 passed by the Sindh Service Tribunal at Karachi in Appeals No. 508 to 526/2020 and Appeal No. 08 of 2021)

The Province of Sindh through Chief Secretary & others      ...Appellants

**VERSUS**

Ghulam Shabbir	(In CA.52-K/22)
Asadullah Khoso	(In CA.53-K/22)
Zulfiqar Ali Nizamani	(In CA.54-K/22)
Asif Mehmood Malik	(In CA.55-K/22)
Sohail Anwer Arain	(In CA.56-K/22)
Prem Chand Meghwar	(In CA.57-K/22)
Imran Rajput	(In CA.58-K/22)
Liaqat Ali Lund Balouch	(In CA.59-K/22)
Najeebullah Qureshi	(In CA.60-K/22)
Syed Ammar Hussain	(In CA.61-K/22)
Muzamil Rasool Bughio	(In CA.62-K/22)
Zafar Abbas Abbasi	(In CA.63-K/22)
Faraz Ahmed Siddiqui	(In CA.64-K/22)
Agha Zulfiqar Hussain Durrani	(In CA.65-K/22)
Ms.Afshan Shaikh	(In CA.66-K/22)
Babar Khan Nizamani	(In CA.67-K/22)
Humair Ahmed Memon	(In CA.68-K/22)
Mohammad Ali Gopang	(In CA.69-K/22)
Qaim Akbar Nimai	(In CA.70-K/22)
Tariq Ali Solangi	(In CA.71-K/22)
	...Respondent

For the Appellants:	Mr. Suresh Kumar, Addl. AG, Sindh Mr. Bhouro Mal, Law Officer (SGA&CD)
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For the Respondent:	Mr. M. Aqil Awan Sr. ASC a/w Mr. Danish Rashid, Associate (In CA.52-K & 64-K/22)  Mr. Sohaib Shaheen, ASC (In CAs.53-K to 63-K & 65-K to 71-K/22)  Mr. Faraz Ahmed Siddiqui Mr. Ghulam Shabbir Mr. Najeebullah Qureshi Mr. Babar Nizamani (Respondents in person)
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Date of Hearing:	30.12.2022
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**JUDGMENT**

**MUHAMMAD ALI MAZHAR, J.** These Civil Appeals by leave of this Court are directed against the consolidated judgment dated 03.12.2021 passed by the learned Sindh Service Tribunal at Karachi ("**Tribunal**") in Appeals No. 508 to 526/2020 and 08 of 2021 whereby the appeals of the respondents were disposed of with the direction to

the appellants to consider the respondents for promotion to BPS-17 with effect from the date when the posts were fallen vacant in the quota.

2. The transitory chronicles of the case are that the Sindh Public Service Commission ("**SPSC**") announced ninety-six (96) posts of Mukhtiarkar (BPS-16) vide advertisement No.1/2009. The respondents applied for the posts and after completion of all codal formalities they were recommended for appointment in line with the Rules and Policy of the Government of Sindh. After the passage of some time, a meeting of the Departmental Promotion Committee ("**DPC**") was held on 25.04.2017 for consideration of promotion of Mukhtiarkars to the posts of Assistant Commissioner (BPS-17) in Ex.PCS Cadre. As a result thereof 78 Mukhtiarkars were promoted on regular basis against clear vacancies and 22 Mukhtiarkars were promoted on acting charge basis. Thereafter, another meeting of the DPC was held on 16.01.2020 for consideration of promotion cases of Mukhtiarkars (BPS-16), Superintendents (BPS-17) and Private Secretaries (BPS-17) to the posts of BPS-17 in the Provincial Management Service ("**PMS**") on regular basis. The DPC considered the cases and the promotion of the respondents was regularized in BPS-17 vide Notifications dated 12.05.2020, 20.05.2020 and 02.07.2020 subject to the condition that the promotions shall be on probationary period of one year, and confirmation of the promotion shall be subject to clearance of the required Departmental Examination failing which the promotions shall be reverted. According to the appellant, the respondents cannot claim regular promotion from the date of assigning acting charge. The departmental appeals of the respondents were rejected on the point that on the date when they were promoted on acting charge basis, there was no provision under the rules for promotion with retrospective effect and acting charge appointment does not confer any vested right for regular promotion to the post or grade.

3. Leave to appeal was granted *vide* order dated 20.06.2022 to consider whether the regularization of acting charge could be claimed from the date of occurrence of vacancy; whether the recommendations of DPC for regularizing the acting charge with immediate effect was in consonance with law and whether the learned Tribunal had any justification to issue directions to the competent authority to consider the cases of the respondents for

promotion with effect from the date when the posts in their quota had fallen vacant.

4. The learned Additional Advocate General, Sindh ("**AAG**") argued that the learned Tribunal failed to consider that the respondents were promoted on acting charge basis and they were liable to be reverted back to their original position after recommendations of appointment on such posts by the SPSC. It was further averred that deciding eligibility for promotion was the domain of the DPC, hence the directions of the learned Tribunal is without jurisdiction and failed to consider that a claim of promotion is to be determined on the basis of eligibility and fitness. The direction of the learned Tribunal is against Rule 8 (6) (7) of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 ("**1974 APT Rules**"). He further contended that there is no provision under the Sindh Civil Servants (Promotion, Confirmation and Seniority) Rules, 1975 and/or the Sindh Civil Servants Act, 1973 for promoting an officer from the date of occurrence of the vacancies. He further argued that at the time of DPC meeting there were seventy-eight (78) posts available, including the posts of Education Management Cadre, Chief Monitoring Officer and E&ACE which were subsequently encadred for promotion of Mukhtiarkars. Due to the promotion of officers from BPS-17 to BPS-18, twenty-eight (28) posts became vacant in BPS-17, and nine (9) vacancies occurred due to the retirement of officers in BPS-17 to which the respondents were promoted on acting charge basis. However, under the Sindh Civil Servants (Provincial Management Services) Rules, 2018, one hundred and twenty (120) vacant posts were bifurcated amongst Mukhtiarkars and Secretariat employees in a proportion of 50:50 and the DPC was apprised that the posts in BS-17 pertaining to Education Management were excluded from the cadre schedule on the proposal of the School Education & Literacy Department, therefore it was decided to consider the promotions against 50% of the vacant posts, hence the Mukhtiarkars and Secretariat Employees were considered for promotion against 30 posts each.

5. The learned counsel for the respondents argued that the respondents were entitled for regularization of promotion with effect from the date they were promoted on acting charge basis or from the date the posts fell vacant in the promotion quota. He further argued that under Rule 8-A of the 1974 APT Rules, there is no doubt that the

entrustment of acting charge cannot be treated as a regular promotion but in the case in hand, the learned Tribunal only issued directions to the competent authority to consider the cases for promotion with effect from the date when the vacancies occurred in the promotion quota. It was further averred that the DPC had determined the fitness and eligibility for further promotion on acting charge basis due to non-availability of posts in the promotion quota. The respondent-employees were not reverted back to the post of Mukhtiarkar (BPS-16) on the appointment of direct recruits and had they been appointed against the post of direct recruit, they would have been reverted back to their original position. He further contended that the respondents possessed the minimum required qualification for promotion to the next higher post and once the DPC cleared the nominee then the respondents were not required to be considered by the DPC again and the notification for regular promotion should have been issued outrightly without the intervention of the DPC. The learned counsel further referred to the paragraph (iv) of the comments filed by the appellants before the Tribunal wherein they admitted that, due to promotions of officers from BPS-17 to BPS-18, twenty-eight (28) posts became vacant in BPS-17 and nine (9) vacancies occurred due to retirement of officers in BPS-17 and during the intervening period the respondents were promoted on acting charge basis.

6. Heard the arguments. The record reflects that vide Notification dated 23.05.2017 issued by the Chief Secretary, Sindh, the respondent employees were promoted from BPS-16 to BPS-17 in Ex-PCS cadre on acting charge with the approval of the competent authority with immediate effect taking into consideration the recommendations forwarded by the DPC. However, after the respondents had been performing their duties on acting charge basis for at least three years, a further notification was issued on 12.05.2020 by the Chief Secretary, Sindh whereby, on the recommendations of the DPC and with the approval of the competent authority i.e. Chief Minister, Sindh, the respondent employees were promoted to BPS-17 in the PMS on regular basis with immediate effect subject to the condition that the promotion shall be on probationary period of one year and their confirmation shall be subject to successful completion of training and the required Departmental Examinations of Assistant Collector Part-I & Part-II, failing which they shall be deemed to have been reverted back to their

former post and shall cease to be considered for further promotion in the PMS. A further condition was also imposed that the promoted employees would mandatorily be required to serve in each grade for not less than two years in Sindh Secretariat, two years in Education cadre and two years in field, failing which they will not be eligible for promotion to the next higher grade.

7. According to Rule 7 of the 1974 APT Rules, the appointments by promotion or transfer to the posts in Basic Pay Scales 1 and 2 are to be made by the appointing authority on merits, however in Sub-rule 2, it is explicitly provided that appointments by promotion or transfer to the posts in basic pay scales 3 to 18 without special pay, other than the posts for which the Provincial Selection Board ("**PSB**") has been constituted under Rule 6-A, shall be made on the recommendations of the appropriate DPC, whereas under the niceties of Rule 7-A, the appointing authority may approve the promotion of an officer from the date on which the recommendation of the PSB, or as the case may be, the DPC is made. The avenue or pathway for making the appointments on acting charge basis has been laid down in Rule 8-A of the 1974 APT Rules wherein certain eventualities and limbs are provided for appointment on acting charge basis which includes the consideration by the appointing authority in the public interest to fill a post reserved under the 1974 APT Rules for departmental promotion and if the most senior civil servant belonging to the cadre or service concerned, who is otherwise eligible for promotion, does not possess the specified length of service, the authority may appoint him to that post on acting charge basis. The first portion of Sub-rule 1 of Rule 8-A delineates the avenue of departmental promotion on acting charge basis, whereas Sub-rule 3 is germane to the posts of basic pay scales 17 and above reserved under the 1974 APT Rules to be filled by initial appointment. In the situation where the appointing authority is satisfied that no suitable officer in which the post exists is available in that category to fill the post and if it is found expedient to fill the post, the appointing authority may appoint a person to that post on acting charge basis who is the most senior officer otherwise eligible for promotion in the organization, cadre or service, as the case may be, in excess of promotion quota. However, it is further clarified in the 1974 APT Rules that appointment on acting charge basis shall be made on the recommendations of the DPC or PSB I or II, as the case may be, with a further rider that acting charge appointment shall not amount to

appointment by promotion on regular basis for any purpose including seniority and it shall not confer any vested right for regular promotion to the post or grade held on acting charge basis but, according to Sub-rule 9, the civil servant appointed on acting charge basis is entitled to draw fixed pay equal to the minimum pay on which his pay would have been fixed had he been appointed to that post on regular basis.

8. Indubitably, acting charge does not amount to an appointment by promotion on regular basis, nor does it confer any vested right for regular promotion to the post or grade held on acting charge basis. Here the bone of contention is altogether different in which the promotion was made on acting charge basis in the year 2017 but after three years the incumbents were promoted on regular basis, which demonstrates that there was no case of withdrawal, or dissatisfactory service, or complaint, or any recommendation of the SPSC justifying the reversion from acting charge to the substantive post, rather the competent authority of its own volition and satisfaction regularized the promotion made on the basis of acting charge after three years on the recommendations of the DPC which means that, after verifying the dossier with regard to the performance and antecedents of the respondent-employees, the recommendations for regularizing the promotions were acted upon by the competent authority, and despite this the matter was yet again sent to the DPC for effecting regularization for recommendations after a timespan of three years which does not stand to reason. The respondents merely approached the learned Tribunal for directions to consider the regularization of their acting charge promotion from the date when they were initially assigned the duties in BS-17 on acting charge basis rather than regularizing their promotion after three years with immediate effect, or else they should have been considered for the regularization of their acting charge promotion from the date when the posts had fallen vacant.

9. The impugned judgment of the Tribunal unequivocally reflects that the respondents in their individual service appeals entreated various prayers, but during the course of the arguments their learned counsel agreed to be confined only to the extent of prayer clause (a) which was, in a nutshell, the claim of promotion on regular basis from the date when the acting charge was assigned to them or from the date that when the posts had fallen vacant in the promotion

quota. Our attention was also invited to the parawise comments which were filed before the learned Tribunal on behalf of the Province of Sindh and the Secretary Services, General Administration and Coordination Department, Government of Sindh in Service Appeal No. 508 of 2020 (Ghulam Shabbir Vs. Province of Sindh through Chief Secretary and others) wherein, in response to Ground (IV) of the memo of appeal, it was admitted that due to the promotion of officers from BPS-17 to BPS-18, twenty-eight (28) posts had fallen vacant in BPS-17 and nine (09) vacancies had fallen vacant due to the retirement of certain officers in BPS-17 during the period in which the appellant (respondents) were promoted on acting charge basis. The above reply unambiguously put on show that the posts were vacant in the promotion quota even at the time when the respondents were assigned acting charge on the recommendations of the DPC, but they were regularized after three years without reverting them to their substantive posts, which insinuates that they were eligible for promotion.

10. Consistent with Sub-rule 4 of Rule 8-A of the 1974 APT Rules, acting charge appointment can be made against posts which are likely to fall vacant for a period of six months or more and against vacancies occurring for less than six months, but it is somewhat conspicuous in the case of the present respondents that the acting charge continued for up to three years without any logical justification or rhyme or reason and at the end of the day the promotion was regularized without any demur but with immediate effect which is a sticking point. No *raison d'etre* was presented by the learned AAG as to why the command of Sub-rule 4 of Rule 8-A of the 1974 APT Rules was not adhered to and why the acting charge was continued for such a long period in violation of the strict condition in the aforesaid rule despite the availability of vacant positions on which the promotion was regularized after a considerable period. The procedure and practice should be congruent and in harmony with the relevant rules without any unjustifiable departure. If assignment of duties on acting charge basis is allowed to be continued for an unlimited period of time then it amounts to deflecting and frustrating the very spirit of the rules. It is the obligation of the competent authority to decide the fate of an acting charge holder within the cutoff date fixed in the rules with all eventualities rather than allowing them to continue the acting charge for a long period and then one fine morning, according regularization of promotion to the

acting charge holder and treating the service of the incumbent during acting charge *non est*. The respondent approached the learned Tribunal for directions under the semblance of the doctrine of legitimate expectation. To stretch or continue acting charge or adhoc arrangement on own pay scale (OPS) for an extensive period rather than making timely appointments or filling the post by promotion according to the ratio or quota, as the case may be, creates misgivings and suspicions and such a tendency is highly destructive and deteriorative to the civil servant service structure. In the case of Uzma Manzoor and others Vs Vice-Chancellor Khushal Khan Khattak University, Karak and others (2022 SCMR 694), this Court discussed the doctrine of legitimate expectation which connotes that a person may have a reasonable expectation of being treated in a certain way by administrative authorities owing to some uniform practice or an explicit promise made by the concerned authority. In fact, a legitimate expectation ascends in consequence of a promise, assurance, practice or policy made, adopted or announced by or on behalf of government or a public authority. This doctrine is basically applied as a tool to watch over the actions of administrative authorities and in essence imposes obligations on all public authorities to act fair and square in all matters encompassing legitimate expectation. As per Halsbury's Laws of England, Volume 1(1), 4th Edition, paragraph 81, at pages 151-152, it is prescribed that "A person may have a legitimate expectation of being treated in certain way by an administrative authority even though he has no legal right in private law to receive such treatment. The expectation may arise from a representation or promise made by the authority including an implied representation or from consistent past practice." In the case of R. v. Secretary of State of Transport Exporte Greater London Council ((1985) 3 ALL.ER 300), it is propounded that "Legitimate, or reasonable, expectation may arise from an express promise given on behalf of a public authority or from the existence of a regular practice which the claimant can reasonably expect to continue. The expectation may be based on some statement or undertaking by or on behalf of the public authority which has the duty of taking decision." Whereas in the judgment reported as Union of India v. Hindustan Development Corporation ((1993) 3 SCC 499), it was held that "The legitimacy of an expectation can be inferred only if it is founded on the sanction of law or custom or established



procedure followed in regular and natural sequence. It is also distinguishable from a genuine expectation. Such expectation should be justifiably legitimate and protectable. Every such legitimate expectation does not by itself fructify into a right and therefore it does not amount to a right in the conventional sense."

11. In the case of Tariq Aziz-ud-Din and others (2011 PLC (C.S.) 1130), this Court held that all judicial, quasi-judicial and administrative authorities must exercise power in reasonable manner and also must ensure justice as per spirit of law and instruments regarding exercise of discretion. Obligation to act fairly on the part of administrative authority has been evolved to ensure rule of law and to prevent failure of justice. Object of good governance cannot be achieved by exercising discretionary powers unreasonably or arbitrarily and without application of mind. Such objective can be achieved by following rules of justness, fairness and openness in consonance with command of Constitution enshrined in different Articles including Articles 4 and 25 of the Constitution. Good governance is largely dependent upon upright, honest and strong bureaucracy particularly in written Constitution wherein important role of implementation has been assigned to bureaucracy. Civil service is backbone of administration and purity of administration to a large extent depends upon purity of services. Such purity can be obtained only if promotions are made on merit in accordance with law and Constitution, without favoritism or nepotism.

12. The civil service is a communal expression for a segment of government put together predominantly for career bureaucrats recruited on merits. Wrongful selection of 'blue eyed boys' founded on nepotism, favoritism or other extraneous considerations or pressures lead to chaos and turmoil in the civil service structure and also incites unrest and discontent amongst the civil servants with long-term and serious repercussions, so in all fairness merit should be the sole criteria in the selection process which is an integral part of good governance. The scarcity of transparency, or affording preferential treatment to non-deserving candidates in the appointment process would amount to the slaughtering of merit and excellence. The appointment process should be straight-forward and transparent and only competent persons ought to be given way to serve rather than incompetent and unskillful persons. The menace of favoritism,

nepotism and preferential treatment in the appointment process of civil servants is always inimical, pernicious and devastating.

13. In the case of Secretary to Government of the Punjab, Communication and Works Department, Lahore and others Vs Muhammad Khalid Usmani and others (2016 SCMR 2125), this Court noted with concern that the device of officiating promotion, ad hoc promotion/appointment or temporary appointment etc. is used by Government Departments to keep civil servants under their influence by hanging the proverbial sword of Damocles over their heads (of promotion 'on officiating basis' liable to reversion). This is a constant source of insecurity, uncertainty and anxiety for the concerned civil servants for motives which are all too obvious. Such practices must be seriously discouraged and stopped in the interest of transparency, certainty and predictability, which are hallmarks of a system of good governance. In the case of Dr. Naveeda Tufail and 72 others Vs Government of Punjab and others (2003 SCMR 291) it was held that the concept of ad hoc appointments against the posts in public sector is a stopgap arrangement which is not the permanent character of the civil service. It was observed by this Court in Abdul Jabbar Memon and others (1996 SCMR 1349) that there can be no justification to keep the posts notionally vacant by making ad hoc appointments and keep the ad hoc employees hanging in the same situation for number of years with the understanding of their adjustment on permanent basis and ultimately they are informed that they are no more required. There can be no exception to the policy of law that the ad hoc appointments should be made only in exceptional circumstances in exigencies of service and should not be allowed to prolong beyond the period for which the appointment was made and keeping a person continuously as an ad hoc employee by extending his period of service, would definitely create a legitimate expectancy in his mind for regularization. The practice of occupying the posts through ad hoc appointments for a considerable period on one hand defeats the policy of law and on the other hand; with lapse of time the ad hoc employees as well as the persons seeking appointments on merits, are excluded from the process by losing the required criteria for selection. In the case of Pakistan Railways through G.M., Lahore and another Vs Zafarullah, Assistant Electrical Engineer and others (1997 SCMR 1730), it was held that the appointments on current or acting charge basis are contemplated under the instructions as well as the Rules for a short duration as a

stop-gap arrangement in cases where the posts are to be filled by initial appointments. Therefore, continuance of such appointees for a number of years on current or acting charge basis is negation of the spirit of the instructions and the Rules. It is, therefore, desirable that where appointments on current or acting charge basis are necessary in the public interest, such appointments should not continue indefinitely and every effort should be made to fill posts through regular appointments in shortest possible time.

14. In fact, the learned Tribunal has not issued any directions for reckoning or regularizing the date of promotion on acting charge basis with effect from any specific date but in all fairness, the directions were issued to the competent authority to consider the promotion with effect from the dates when vacancies in their quota became available with the net effect that matter was remanded to consider the effective date with proper application of mind and fine sense of judgment. On this specific point there are some judgments of local and foreign origin which are recapitulated as under:-

- i. Dr. Muhammad Amjad and another Vs Dr. Israr Ahmed and others (2010 SCMR 1466). The Court held that .... it was nobody's case that respondent was not eligible to be considered for promotion when substantive vacancy in the promotion quota was available and that being so, the impugned judgment directing the appellants to consider the case of respondent's promotion to the post of Associate Professor in BPS-19 w.e.f. the date when the vacancy in his quota was available is unexceptionable.
- ii. Water and Power Development Authority through Chairman, Lahore and another Vs Muhammad Nawaz Khan and another (1998 SCMR 640). It was observed whether the promotees could be considered and appointed on a promotion post not from the date of their selection or appointment or taking over of the appointment, but from the date when the vacancies occurred, the decision of the Supreme Court rendered inter parties is final and binding. There is no going back or questioning that decision. Hence the appellants cannot dispute the proposition. The only question that could be agitated is that the promotees were not eligible when the vacancies occurred and on being considered for promotion they could not be declared eligible for promotion. That, however, is not their case. The eligibility of the promotees for promotion on the date when the vacancies occurred for promotion quota has not been challenged up to now at any stage.
- iii. Government of N.-W.F.P. and others Vs Buner Khan and others (1985 SCMR 1158). The civil petitions were converted into appeals and allowed and while modifying the directions of the Tribunal to promote the respondents substituted the directions that the promotees shall be considered for promotion to Grade-18, post with effect from the dates when vacancies in their quota became available and that thereafter a joint seniority list of the Officers directly recruited and those promoted shall be issued according to the rules.
- iv. S. Abu Saeed Vs Government of N.-W.F.P. through Secretary to the Government of N.-W.F.P, Education Department, Peshawar and another (1990 SCMR 1623). In this case also this Court directed that the promotees shall be considered for promotion with effect from the dates when vacancies in their quota became available and directions of the Tribunal to promote the respondents were modified accordingly.
- v. B.S. Yadav v. State of Haryana, [1981] 1 SCR 1024. It was held that the promotees have to be confirmed in their quota if found fit and qualified and when vacancies arose in their quotas.
- vi. A. Janardhana v. Union of India, [1983] 2 SCR 636 (at p.961). It was held that the seniority of the promotees was to count from the date of occurrence of vacancy in their quota.
- vii. G.P. Doval v. Chief Secretary, Government of U.P., [1984] 4 SCC 329. It was held that subsequent appointment by the Public Service Commission to the temporary appointments will relate back to the initial dates or appointment for purpose of

seniority on basis of rule of continuous officiation and the seniority could not be reckoned only from the date of approval or selection by the Commission.

- viii. Narender Chadda v. Union of India, [1985] 2 SCC 157. It was held that promotees were first to be regularized from dates of occurrence of vacancies/eligibility. The initial appointment though not according to rules, the said service could not be ignored.
- ix. A.N. Pathak v. Secretary to the Government, [1987] Suppl. SCC 763. It was held that the promotees had to be inserted at places reserved for them as per quota.
- x. Keshav Chandra Joshi v. Union of India, [1992] Suppl. 1 SCC 272. It was held that previous promotee would get regularization from date of occurrence of vacancy in promotion quota. Before that, it would be fortuitous. Of course, excess promotees could not claim seniority if the quota rule had not broken down because they occupy the seats of direct recruits.
- xi. Rajbir Singh v. Union of India, AIR (1991) SC 518. It was held that the ad hoc promotion was in 1975 and the subsequent regularization was in 1986 and it was held that the period ad hoc service could be counted.
- xii. A.N. Sehgal v. Raje Ram Sheoran, [1992] Suppl. 1 SCC 304. It was held that the promotees whose services were regularized could count their earlier service from the date of availability of a post within their quota but the earlier period between the starting point of ad hoc promotion and the date of occurrence of the vacancy could not be counted.
- xiii. S.L. Chopra v. State of Haryana, [1992] Suppl. (1) SCC 391. It was held that promotees service would count from date of availability of post within quota and service before that dates would be fortuitous.
- xiv. BaleshwarDas v. State of U.P., [1981] 1 SCR 449. It was observed (at p.464) that officiating promotees are to be given dates by the Service Commission for counting seniority.

[Ref: Judgment of Supreme Court of India in the case of Suraj Parkash Gupta & Others vs. State of J & K & Others, dated 28 April, 2000 in Appeal (Civil) 3034 of 2000].

15. The law laid down in the aforesaid foreign and local dicta reveals that the promotion cases of the candidates holding acting charge under the recommendations of the DPC may be considered by the competent authority, with their fine sense of judgment and proper application of mind from the date when the posts in the promotion quota had fallen vacant, hence the directions given by the Tribunal cannot be considered illegal or in excess of jurisdiction whereby the matter was barely remanded to the competent authority for consideration and decision.

16. In view of the above discussion, we do not find any illegality or perversity in the impugned judgment passed by the learned Service Tribunal. Consequently, the aforesaid civil appeals are dismissed.

Judge

Judge

Karachi the  
30<sup>th</sup> December, 2022  
Approved for reporting  
Khalid