

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE MUNIB AKHTAR
MR. JUSTICE SHAHID WAHEED
MS. JUSTICE MUSARRAT HILALI

CIVIL APPEALS NO.252-K TO 257-K OF 2013

[On appeal from common judgment dated 20.10.2011 passed by the High Court of Sindh, Sukkar in Const. Petitions No:D-150/2008, D-584 & D-1062/2009, D-117/2011 & D-803/2013, respectively]

The Province of Sindh & others *In all cases* **...Appellant(s)**

VERSUS

<i>Sono & others</i>	<i>In C.A.252-K</i>
<i>Muhammad Nawaz</i>	<i>In C.A.253-K</i>
<i>Suhail Ahmed</i>	<i>In C.A.254-K</i>
<i>Muhammad Younus</i>	<i>In C.A.255-K</i>
<i>Ihsanullah & another</i>	<i>In C.A.256-K</i>
<i>Zaheer Ahmed and others</i>	<i>In C.A.257-K</i> ...Respondent(s)

AND

C.M.A.28-K/2016 in C.A.252-K/2013
(For Intervenor on behalf of Altaf Hussain Bhutto)

C.M.A.1021/2020 in C.A.252-K/2013
(For Intervenor on behalf of Nisar Ahmed Lakher)

C.M.A.4762/2019 in C.A.252-K/2013
(For impleadment on behalf of Kashif Hussain & 2 others)

C.M.A.7225/2019 in C.A.252-K/2013
(For impleadment on behalf of Izat Ali)

C.M.A.78-K/2016 in C.A.252-K/2013
(For Intervenor on behalf of Ghulam Mustafa Qureshi)

C.M.A.3459/2018 in C.A.252-K/2013
(For impleadment on behalf of Abdul Hadi Markhiani & 4 others)
...Applicant(s)

For the Appellant(s) : Mr. S.M. Saulat Rizvi, Addl. AG
(through video link from Karachi)

For the Respondent(s) : Mr. Mukesh Kumar G. Karara, ASC
(Through Video Link From Karachi)
Also For The Applicants In In C.M.As.
4762 & 7225/2019 & 1021/2020

Respondents/Applicants
(in person) M/S Sono Bhaagat, Muhammad Ali
Lund, Muhammad Safal Rind, Murid

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Abbas Rind, M Arfeen Qureshi,
 Mukhtar Ahmad Bugio, M Bux
 Bubio, Abdul Hameed Bugio,
 Shahzad Ansari, Atta Hussain Dahri,
 Anwar Ali Magario, Ayaz Ahmed,
 Sikandar Ali, Arshad Ali Mangi,
 Dhani Bux Magario, Ghulam Nabi
 Parhiyar, Abdul Hadi Markhaiani,
 Ghulam Mustafa Qureshi, Ghulam
 Hussain Bhatti, Kashif Hussain
 Khichi, Nisar Ahmed Lakheer,
 Ghulam Mustafa Bhutto, Nisar
 Ahmed Kalhoro, Muhammad
 Suleman Raho, Nawaz Solangi, Abdul
 Hameed Bhatti, Qaisar Khan Mangi,
 Yousaf Abro, Hubdar Ali Abro,
 Nadeem Ahmed Waseer, Abdul
 Khaliq, Abdul Majeed Memon,
 Tariq Ahmed Qureshi, Shafi
 Muhammad Solangi, Muzaffar Ali
 Channar, Muhammad Tahir Khan
 Pathan, Amjad Ali, Asif Khoso,
 Muhammad Ashraf Mufti, Sohail
 Ahmed Muhammad Younas,
 Muhamad Nawaz, Ahsanullah and
 Zaheer Ahmed

M/s Asad Ali, Nalay Mithoo, Noshad
 Ali, Nadeem Ahmed, Imtiaz Hussain,
 Iqbal Ahmed, Bahadar Khan,
 Mukhtar Hussain, Ghulam Shabbir,
 Noor Ahmed, Ahmed Khan, Changaiz
 Khan, Shakeel Ahmed, Muhammad
 Arif, Muhammad Ramzan,
 Muhammad Javed, Shams ud Din,
 Liaqat Ali, Asadullah, Javed Akhtar
 and Nazaqat Ali
 (via video link from Karachi)

Date of Hearing : 23.11.2023

J U D G M E N T

Musarrat Hilali, J.— Through these appeals, the appellants have assailed common judgment passed by the High Court of Sindh on 26.10.2011 whereby writ petitions filed by the respondents were allowed and the appellants were directed to issue appointment letters to the candidates' of 2007 advertisement within thirty days.



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2. Precise facts of the case are that in response to an advertisement published on 16.07.2007, the respondents applied for the posts of Excise & Taxation Inspector (E&TI) and after conducting written test and interview, the result of successful candidates was compiled wherein names of the respondents were shown at different serial numbers of the compiled result but meanwhile the government was suddenly changed in the province. The new government instead of issuing appointment letters to the earlier selected candidates, re-advertised those posts on 13.07.2008. The only reason given for re-advertisement was that the said recruitment process was initiated during the period when there was a ban on recruitments in 2007; therefore, the selectees of 2007 advertisement were not offered appointment letters. Subsequent to re-advertisement, fresh written tests were conducted by each Regional Director of the Excise & Taxation Department on 31.08.2008 simultaneously at various places of the province. At this stage, a summary was moved to the Chief Minister Sindh for relaxation of ban on recruitment to the posts in BPS-1 to BPS-15, which was approved on 02.12.2008 and the ban was relaxed. Thereafter, meetings of Departmental Selection Committee (DSC) were held from 17th to 26th February 2009. The DSC finally recommended 250 candidates for appointment against vacant posts of E&TI. The respondents did not apply in response to the fresh advertisement made in the year 2008.

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3. Arguments advanced by learned counsel for the parties have been heard and record perused.

4. In the context of recruitment process started in pursuance of an advertisement published on 16.07.2007, the

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learned Additional Advocate General contended that the said recruitment process was scrapped as it was initiated when there was a ban on recruitments, which ban was not revoked by the time the said process was completed and that the acts performed by the public functionaries are presumed to be regularly and properly performed unless proved otherwise. To the extent of the recruitment process initiated as a result of re-advertisement dated 13.07.2008, it was contended that the ban was lifted by the Chief Minister on 02.12.2008 and immediately thereafter the candidates, who had applied and passed the written tests, in response to the advertisement of 2008, were called for interview. Hence, these appointments were made in accordance with law. He lastly contended that the conclusion drawn by the High Court in the impugned judgment directing issuance of appointment letters to the respondents is not in accordance with law.

5. On the other hand, stance taken by the learned counsel for the respondents was that while scrapping the recruitment process initiated in the year 2007, the only reason assigned that it was initiated during ban. He vehemently maintained that the same reason is equally applicable to the recruitments made on the basis of fresh advertisement in the year 2008 as this process was also initiated in July, 2008 when there was a ban and that such ban was lifted by the Government on 02.12.2008.

6. By placing both the situations in juxtaposition, we see no remarkable difference between them and are unable to understand why the candidates selected in the earlier process left high and dry. If the process initiated during ban in the year 2008

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can be acted upon then why the process started in the year 2007 could not be acted upon and if the authority can make appointments of the candidates whose results were declared six months earlier by relaxing the ban, why could it not do so in respect of the results of final selection held one year earlier, particularly, when there was no valid reason available on record for sweeping such process by the government.

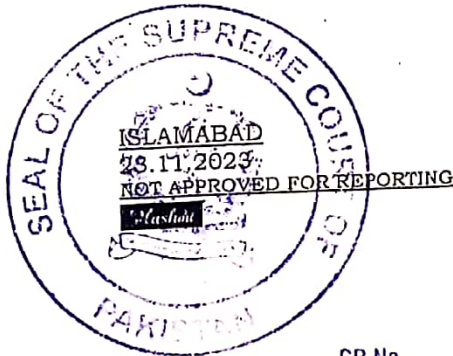
7. Keeping in view the discussion made above, we are of the view that impugned judgment of the High Court is based on sound reasoning and proper appreciation of the relevant record, which needs no interference; therefore, it is maintained. Consequently, the appeals stand dismissed.

8. As the applicants/intervenors are necessary party to the proceedings, therefore, the listed CMAs are allowed.

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