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07.07.2022

PRESENT

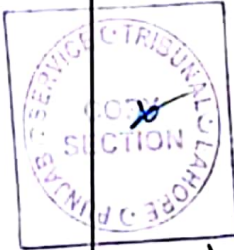
1. Mr. Allah Nawaz and Hassan Nawaz, Advocates,
Learned counsel for the appellant.
2. Hafiz M. Asif, D.D.A.
3. Departmental Representative with record.

Through the instant appeal, the appellant seeks direction to the respondents to grant him promotion against the post of BS-17 (PMS) w.e.f 24.02.2020, when his juniors were so promoted alongwith consequential benefits.

2. Arguments heard and available record perused.

3. Brief background of the case is that appellant is working as Tehsildar in the Revenue Department and during his posting at District Bhakkar a case FIR No.21/2018 was registered against him on the complaint of a private person and the matter was being investigated by ACE Bhakkar. Case of the appellant for promotion alongwith others for the post of PMS (BS-17) was considered by DPC in its meeting held on 14.02.2020 and deferred for promotion due to above said ACE FIR No.21/2018. The appellant's stance is that mere registration of criminal case is not bar for grant of promotion and he deserves to be promoted from the date when his juniors were so promoted. The stance of the department is that according to promotion policy 2010 pending anti corruption proceedings debarred a civil servant to be promoted.

4. The question which is to be decided by this Tribunal is that whether promotion of the civil servant could be deferred on the sole ground of pendency of inquiry against him to which he is yet to be proved guilty or innocent. The superior courts in number dictums reported as 2016 PLC (CS) 1019, 2003 PLC (CS) 1496, 2008 PLC (CS) 1019, 2009 PLC (CS) 40, 1991 SCMR 1637 and 2000 SCMR 645 held that pendency of inquiry or even a minor punishment could not come in the way of promotion and departmental promotion committee should consider the employee's case fairly, justly and in accordance with law. So, the action of the departmental authority is in violation of the case law laid down by the Hon'ble superior courts, where it is held that mere pendency of inquiry against the civil servant could not come as a hurdle for his promotion. It is pertinent to mention here that hanging sword on the right of the civil servant in the shape of pending inquiry/ case just only to deprive him from his lawful right of promotion is not appreciable.



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5. For the reasons recorded above, the instant appeal is accepted with the direction to respondent department to consider the appellant's case for promotion expeditiously without loss of further time for grant him promotion/ proforma promotion from the date when his juniors were so promoted/ date of deferment without influencing from the pending ACE case, if otherwise is found eligible. File be consigned to record.

Muhammad Khalil Naz
MUHAMMAD KHALIL NAZ
 07-07-22 MEMBER-III



Muhammad Khalil Naz
 TRUE COPY
 Registrar
 Punjab Service Tribunal
 Lahore
 18/7/22

Form No. _____

5473-22

PUNJAB SERVICE TRIBUNAL, LAHORE	
No. of Data of presentation of the application	18-7-22
For Copy	18-7-22
The date of	18-7-22
Examined by	12
The result of	
The result of	
Urgent fee	8
Registration	
V.P.P. Charge	96-
Total Proceeds	18-7-22
Date of Disposal	
Initial of Examined	