

IN THE HIGH COURT OF SINDH AT KARACHI  
CP. No. D-1334 of 2020  
(*Tahir Hussain Akhgar v Federation of Pakistan & others*)

Date	Order with signature of Judge
	Before: Mr. Justice Muhammad Karim Khan Agha Mr. Justice Adnan-ul-Karim Memon

**Date of hearing and Order: 09.05.2025**

Petitioner is present in person  
Ms. Wajiha Mehdi, Assistant Attorney General  
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**ORDER**

**Adnan-ul-Karim Memon, J:** The Petitioner prays this Court to compel the Respondents to explain the prolonged delay in granting him BPS-13, considering the 1994 notification and supporting evidence. He seeks direction of this court to the Respondents to upgrade his post to BPS-13 with full retroactive benefits and ensure equal treatment with similarly situated employees.

2. Employed since 1990 with 29 years of clear service and educational increments but no promotions, the Petitioner highlights a 1994 Gazette Notification (P6) upgrading Photographers to BPS-13 within the Ministry of Defence and a 2016 GHQ circular (P7) confirming this. Unlike other colleagues in Respondent No. 04 (appointed under the same 1992 rules) who received upgradations (including a Telephone Operator to BPS-09 with back benefits - P8 series - and reportedly lower staff), the Petitioner remains in BPS-07. His attempts via official channels (P9 series) failed. As the only BPS-07 Photographer in Respondent No. 04 with no promotion prospects, he contends that this stagnation is discriminatory. His 2016 departmental appeal was rejected, and a Federal Service Tribunal appeal (P10-P13) was also dismissed for jurisdictional reasons. Pointing out that all other photographers in respondent departments are in BPS-13, the Petitioner seeks equal treatment under the existing upgradation policy, submitting that the Respondents' inaction infringes upon his fundamental rights.

3. Appearing personally, the Petitioner submitted that general principles justify his upgradation. He submitted that as the sole BPS-07 Photographer lacking promotion prospects despite his qualifications and 29 years of service, he suffers an unlawful disadvantage. He further asserted his entitlement to the same grade and benefits as other similarly upgraded employees. He cited SRO No. 54 (1) /94 and other evidence showing Photographers in BPS-13 within the Ministry of Defence as proof of his eligibility. The Petitioner also submitted that the Respondents have treated his case unfairly and that the Constitution's guarantee of equality and equal protection prohibits the discrimination he faces due to his colleagues' upgradation while his case remains pending. He prayed to allow the petition.

4. The learned AAG opposed the Petitioner's plea for upgradation from BPS-07 to BPS-13. She explained that the Petitioner, appointed in 1990 under the 1992 ITD rules, bases his claim on a 1994 Gazette Notification that the Respondents averred was exclusively for the E&ME Directorate, not the Petitioner's GS&C group. The AAG pointed out that GS&C's separation from ITD in 2019, with new rules pending, means ITD rules still govern. Furthermore, the photographer's post is slated for abolishment. The 1994 notification, according to the AAG, is not universally applicable, and pay scales/qualifications differ across directorates. She argued that the required justification for upgradation is absent, no higher Photographer position exists for promotion, and the Petitioner initially accepted BPS-07. The AAG also submitted that the FST's dismissal of a previous appeal of the petitioner was due to jurisdictional limitations on upgradation matters. She concluded by stating that the Respondents adhere to separate directorate appointment rules, the 1992 notification applies to the Petitioner, no fundamental rights have been violated as he receives his BPS-07 salary, and his upgradation request was considered voluntarily without obligation, particularly given the post's impending abolishment.

5. We have heard the petitioner who is present in person and learned AAG on the maintainability of the petition and perused the record with their assistance.

6. The Petitioner, a BPS-07 Photographer working under the Pakistan Army's command structure (Respondents 01 & 02 overseeing his direct superior, Respondent 04), requests an upgrade to BPS-13. Although Respondents 03 (DGOS) and DG E&ME are related entities under the same higher command, Respondents 01 and 02 are responsible for consistent policies across all their subordinate departments.

7. The legal right to the Petitioner's BPS-13 upgrade is disputed, especially since the Respondents say the 1994 rule did not apply to him, his work group has different rules, there's no higher Photographer job, his duties have not changed, he agreed to BPS-07, and the job is being ended due to abolishment of post, this Court cannot order the upgrade of the post which had already been abolished. Upgrading a job, especially one being ended, is a decision for the Ministry of Defence, and this Court may not interfere at this point. The people in charge at the Ministry can consider his request if the rules and policies allow it. So, this petition is dismissed based on these reasons.

JUDGE

Head of the Cost. Benches