

THE HIGH COURT OF SINDH, KARACHI

Before:

Justice Mohammad Karim Khan Agha

Justice Adnan-ul-Karim Memon

CP No D- 3388 of 2019

(Ashfaq Ahmed & another v Federation of Pakistan & others)

Date of hearing and order:- 22.5.2025

Mr. Sajjad Ahmed advocate for the petitioner.

Ms. Afsheen Aman advocate for the respondent

ORDER

Adnan-ul-Karim Memon, J., The petitioner requests the court to:

- a) Direct the respondents to upgrade the petitioner to Grade 16, given that their juniors have already been upgraded.*
- b) Order a report from the respondents concerning upgradation and transfers within Pakistan Railways.*
- c) Grant any other relief deemed appropriate by the court.*

2. The petitioners were hired by Pakistan Railways on July 1, 2000, and are seeking a court order to be upgraded to BS-16 (selection grade). They maintain a 24-year record of smooth and efficient service. The central submission of the petitioners is that all of their 2000 DAE Mechanical batchmates, including those in sensitive departments, have already received the BS-16 designation.

3. The petitioner's counsel argued that denying his client an upgrade is discriminatory, illegal, and unlawful, particularly because junior colleagues have already been promoted. He emphasized that the petitioner's unblemished service record, free of any disciplinary issues, despite repeated appeals to the respondents, no action has been taken. The counsel further cites the precedent set by the Lahore High Court and Supreme Court in *Imran Ahmed's* case (Writ Petition No. 18698/2013), where a similarly situated individual received an up-gradation in higher scale.

4. The respondent's counsel (Pakistan Railways) argued for the petition's dismissal, calling it "false and malicious." She contends that BS-16 selection grade was awarded based on specific criteria, which the petitioner, appointed on August 7, 2000, did not meet due to insufficient length of service under the Finance Division's O.M. dated June 30, 1996. Crucially, the counsel stated that the selection grade was discontinued on September 4, 2001, meaning the petitioner could not have completed the required three years of service before its cessation. Regarding the case, the respondent clarified that while the Lahore High Court ordered a hearing, his claim was ultimately rejected via a

speaking order. She also denied receiving any application from the petitioner, asserting the petition is not covered by existing rules and policies and is time-barred.

5. We have heard the learned counsel for the parties and perused the record with their assistance.

6. It appears from the record that the petitioner was appointed on August 7, 2000, and did not meet the specific criteria for BS-16 selection grade due to insufficient length of service under the Finance Division's O.M. dated June 30, 1996. Crucially, the selection grade was discontinued on September 4, 2001. This prima facie indicates that the petitioner could not have completed the required three years of service before its cessation in 2001. Regarding the precedent, while the Lahore High Court ordered a hearing in Imran Ahmed's case, his claim was ultimately rejected via a speaking order, as pointed out by the counsel for the respondents. Furthermore, this case falls within the doctrine of laches, as the alleged cause of action accrued in 2001, but the petition was filed on May 14, 2019, a considerable period after the cessation of the selection grade.

7. This petition is not covered by the respondents' policy, and therefore, the petitioner's request for selection grade in BS-16 cannot be entertained at this stage, as "much water has already flown under the bridge." Consequently, this petition is not maintainable under Article 199 of the Constitution due to the doctrine of laches and is accordingly dismissed along with any pending applications.

JUDGE

HEAD OF CONST. BENCHES

SHAFI