

THE HIGH COURT OF SINDH, KARACHI

Before:

Justice Mohammad Karim Khan Agha

Justice Adnan-ul-Karim Memon

CP No D- 3847 of 2022

(Alah Warayo Junejo v Federation of Pakistan & others)

Date of hearing and order: 22.5.2025

Mr. Ali Asadullah Bullo advocate for the petitioner.

Ms. Zehra Sehar, Assistant Attorney General

ORDER

Adnan-ul-Karim Memon, J.

This petition challenges the current job title of Senior Accounts Clerk, contending that it should be Senior Auditor. The petitioner claims this discrepancy is discriminatory, unlawful, and a violation of their fundamental constitutional rights.

2. The petitioner, an Accounts Assistant (BS-11) since 1995, is seeking a writ of mandamus from this Court due to alleged discriminatory actions by the respondents. Originally hired as an Accounts Assistant (BS-11), the petitioner's post was merged into Senior Accounts Clerk (BS-11) in 2002. In 2007, this post was upgraded to BS-14. Subsequently, in 2011, the nomenclature of Senior Accounts Clerk was converted to Junior/Senior Auditor (BS-11/BS-16) with the approval of the relevant authorities. The core of the petitioner's grievance is that while some colleagues received the benefit of this change in nomenclature and upgradation to BS-16, the petitioner was denied it without justification, leading to financial loss and hardship. Representations made by the petitioner were rejected, with the respondents citing a lack of competence to change the nomenclature, stating it is the Establishment Division's purview.

3. The petitioner's counsel contends that the respondents have engaged in discriminatory practices, denying the petitioner equal treatment compared to colleagues, who received an upgradation in their job classification. This, the counsel argues, demonstrates malice and misuse of authority. Furthermore, the counsel asserts that the petitioner has been unjustly deprived of career advancement despite 27 years of service. These actions, it is argued that they constitute a direct violation of fundamental rights enshrined in the Constitution of Pakistan, specifically citing Articles 4 (protection of law), 18 (right to profession), and 25 (equality before law). The petitioner seeks a judicial declaration that the respondents' actions are discriminatory and unlawful. The ultimate goal is a court order compelling the respondents to grant the petitioner's benefit of the nomenclature change to Senior Auditor (BS-16), effective from April 3, 2010, along with all associated benefits.

4. The learned Assistant Attorney General (AAG) argued for the dismissal of the petition, asserting that the Pakistan Post Office Department (PPOD) lacks the authority to change job nomenclatures, as this power rests solely with the Establishment Division. However, the AAG conceded that the posts in question were indeed upgraded from BS-11 to BS-14 in 2007. She further acknowledged that the Controller General of Accounts (CGA) had reclassified Accounts Clerks as Auditors in 2011, with those incumbents being upgraded to BS-16, effective April 3, 2010. In support of her arguments, she referenced the CGA Ordinance 2001 and the Prime Minister's approval concerning the administrative control of the accounts cadre.

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

6. Given that the Pakistan Post Office Department (PPOD), seemingly lacked the authority to change job nomenclatures, a power reserved for the Establishment Division; and considering the Assistant Attorney General's (AAG) acknowledgment of the 2007 up-gradation of relevant posts from BS-11 to BS-14, coupled with the Controller General of Accounts' (CGA), reclassification of Accounts Clerks as Auditors (BS-16) effective April 3, 2010, and referencing the CGA Ordinance 2001 and the Prime Minister's approval concerning the accounts cadre's administrative control. This matter is remitted to the Secretary, Establishment Division, for a decision on the subject issue within three months, ensuring no discrimination. A copy of this order shall be transmitted to the Secretary, Establishment Division, for immediate and timely compliance.

JUDGE

HEAD OF CONST. BENCHES

SHAFI