

## THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Const. Petition No.D-480 of 2025  
(*Hafeezullah Shaikh v. P.O. Sindh & others*)

### PRESENT:

MR. JUSTICE ZULFIQAR ALI SANGI  
MR. JUSTICE RIAZAT ALI SAHAR

Petitioner : **Hafeezullah Shaikh** through Mr.  
Sohail Ahmed Khoso, Advocate.

Respondents: Through Mr. Ali Raza Baloch,  
Additional A.G Sindh along with  
Rehan Iqbal Baloch, Secretary to  
Government of Sindh, Health  
Department.

Date of Hearing : 09.10.2025

Date of Decision : 09.10.2025

### JUDGMENT

**RIAZAT ALI SAHAR J:** - The petitioner has filed instant constitutional petition, with the following prayers:-

- A. "To direct the respondent to upgrade the post of the petitioner as Assistant Manager (hardware & Net Work) BPS-16 to the post I.T. Manager in BPS-17 in the light of Finance Department Notification dated 12<sup>th</sup> May, 2023.*
- B. To direct the respondents to conduct the departmental Promotion Committee to consider the petitioner for promotion as I.T. Manager in BPS-17.*
- C. To award any other relief as deemed fit and proper".*

2. In his petition, the petitioner has stated that he was appointed in the year 2015 at Khairpur Medical College under

the Health Department, Government of Sindh, against an I.T. Cadre position. He holds a Bachelor of Engineering (Computer Systems) degree and has also completed a Master of Engineering (Computer Systems) from Quaid-e-Awam University of Engineering, Science and Technology, Nawabshah, maintaining a consistent First-Class academic record. The petitioner has averred that during his entire service of about ten years, no show-cause notice, explanation, or disciplinary action has ever been issued against him and his conduct and performance have remained satisfactory and unblemished. Despite holding a professional engineering qualification, he has been placed in BPS-16, whereas other employees possessing degrees in civil engineering have been appointed in BPS-17 and subsequently promoted to BPS-18 within a short span of time. Likewise, medical professionals initially appointed in BPS-18/19 have been upgraded to BPS-20/21. **The petitioner further stated that upon his representation, the Section Officer (H-T(H)), Health Department, upgraded his post along with other I.T. Assistants to the designation of Assistant Manager (Hardware & Network) in BPS-16.** However, his case stands on a different footing from others in view of the Finance Department's Notification No.FD(SR-II)2-22/2014/I.T/Pt.I dated 12.05.2023, wherein the post of I.T. Manager is a sanctioned position for which he directly qualifies by virtue of his engineering qualifications. It is further averred that a discriminatory policy is being followed within the department, as employees possessing equivalent professional qualifications in other disciplines have been accorded higher grades, which is violative of the constitutional guarantee of equality. The sanctioned post of I.T. Manager at Khairpur Medical College Teaching Hospital, as well as other health facilities, has remained vacant since its creation; therefore, the petitioner's appointment or promotion to the said post would

neither create any additional financial liability nor require sanction of a new position. The petitioner averred that he has annexed documentary evidence showing that employees of the Health and Education Departments, initially appointed in BPS-12 without possessing any professional I.T. qualification, are presently serving as Data Processing Officers in BPS-17, demonstrating arbitrary and unjust treatment towards him. **It is further pointed out that the petitioner was initially appointed as I.T. Assistant in BPS-14 in 2015 and was later upgraded to BPS-16 vide order dated 08.11.2023; however, he has not been promoted since his initial appointment. The petitioner submitted that upgradation of a post does not amount to promotion, as it is merely a policy-based benefit extended to specific categories of employees.** He has further submitted that the Honourable Supreme Court of Pakistan has also held that an employee who has been granted upgradation remains entitled to regular promotion thereafter. Hence, after rendering more than ten years of meritorious service, the petitioner is entitled to promotion through the Departmental Promotion Committee from BPS-16 to BPS-17 on the basis of his qualification and length of service.

3. In pursuance of the notice issued by this Court, respondents No.1, 2 and 3 filed their respective comments. Respondent No.1 (Health Department, Government of Sindh) in his comments admitted that the petitioner was appointed as I.T. Assistant (BPS-14) on a contract basis at Khairpur Medical College (KMC), Khairpur and was subsequently regularized. It is further stated that the Finance Department, Government of Sindh, pursuant to the approval of the Provincial Cabinet, allowed the upgradation of I.T. Cadre/I.T. related posts throughout the province, including those of I.T. Assistants, who were upgraded and re-designated as Assistant Managers

(Hardware & Network) in BPS-16. The respondent clarified that the petitioner's appointment was specific to Khairpur Medical College, Khairpur, where the post of I.T. Manager does not exist as a sanctioned position. It is asserted that the petitioner is simultaneously seeking both upgradation and promotion, which is not permissible. Moreover, the petitioner has not completed the requisite two years of service in BPS-16 following his upgradation and is prematurely claiming promotion to BPS-17, contrary to the relevant service rules. The respondent therefore contended that since the petitioner has already benefited from upgradation and does not fulfill the criteria for promotion, the instant petition is misconceived and merits dismissal

4. Respondent No.2 (Finance Department, Government of Sindh) in its comments stated that, pursuant to the approval of the Provincial Cabinet in its meeting held on 09.03.2023, the Finance Department approved the upgradation of 3,264 leftover posts of I.T.-related cadres with immediate effect, subject to fulfillment of all codal formalities. This included the posts of Assistant Manager (Hardware & Network) (BPS-16) and I.T. Manager (BPS-17), vide Finance Department Notification dated 12.05.2023. It is contended that the petitioner's individual case cannot be considered in isolation, and hence, the Finance Department prayed that its name be deleted from the array of respondents.

5. Respondent No.3 (Principal, Khairpur Medical College) in his comments stated that the petitioner, along with three other I.T. Assistants appointed in the same grade, was upgraded to BPS-16 as Assistant Manager (Hardware & Network) on his recommendation. He clarified that other officers and faculty members were promoted because their posts were duly sanctioned in the Schedule of New Expenditure (SNE) and

Budget Book, whereas I.T. staff posts were not sanctioned in higher grades and were therefore only upgraded. He denied receipt of any formal promotion request from the petitioner, adding that he himself initiated the upgradation process. He further stated that although the post of I.T. Manager is sanctioned under the Finance Department's notification, it has not been created for Khairpur Medical College; hence, the petitioner cannot claim promotion against a post sanctioned for another institution. He averred that no discrimination exists, as all I.T. Assistants were equally upgraded to BPS-16 and are availing due financial benefits and in the Finance Department's Notification dated 12.05.2023, it is provided that the clarification issued by the Finance Department that the benefit of upgradation under circulars dated 10.01.2020 and 24.08.2020 is one-time benefit and same upgraded employee shall not be entitled to double/triple upgradation, shall remain intact. However, promotion case of the petitioner will be considered as per rules upon creation of sanctioned posts and completion of the requisite service period. He added that other similarly placed employees have not raised any grievance and therefore, the petitioner's claim for premature promotion is misconceived and liable to dismissal.

6. Learned counsel for the petitioner contended that the petitioner, being a qualified Engineer with both Bachelor's and Master's degrees in Computer Systems, has been subjected to discriminatory treatment as compared to other professionals in equivalent cadres. He contended that despite ten years of unblemished service, the petitioner remains stagnated in BPS-16, whereas similarly placed officers in other technical and professional fields have been promoted to higher grades. Counsel contended that the petitioner's case falls within the ambit of the

Finance Department's Notification dated 12.05.2023, wherein the post of I.T. Manager (BPS-17) stands sanctioned and the petitioner fully meets the qualification criteria for such position. He has contended that the upgradation granted to the petitioner does not preclude his entitlement to promotion, as upgradation is merely a policy measure and not a substitute for career progression. Per learned counsel, the employees, after upgradation, continue to retain the right of promotion under the relevant rules. He has contended that denial of promotion to the petitioner is violative of the principles of equality guaranteed under Articles 25 and 27 of the Constitution and that he deserves due consideration for promotion to BPS-17 through the Departmental Promotion Committee.

7. Conversely, learned Assistant Advocate General Sindh supported the stance of the official respondents and contended that the petitioner's claim for promotion is premature. He contended that the petitioner was initially appointed as I.T. Assistant (BPS-14) and has already availed the benefit of upgradation to BPS-16 under the provincial policy approved by the Cabinet. He specified that the post of I.T. Manager, though sanctioned in the overall cadre, has not been created or allocated for Khairpur Medical College; hence, no promotion can be made against a non-existent post. Learned A.A.G. further contended that under the applicable service rules, a minimum period of service is required in the upgraded scale before a candidate's promotion on the very sanctioned post, which the petitioner has not yet completed. He has also contended that all I.T. Assistants at KMC have been treated uniformly and no element of discrimination is visible. He, therefore, contended that the petition is misconceived, devoid of merit and liable to be dismissed.

8. After careful consideration of the record, the pleadings of the parties and the arguments advanced by the learned counsel for the petitioner as well as the learned Assistant Advocate General Sindh, we found that in the instant petition, material facts are mainly undisputed. **The petitioner was appointed as an I.T. Assistant (BPS-14) at Khairpur Medical College under the administrative control of the Health Department, Government of Sindh and was subsequently granted upgradation to BPS-16 by the Health Department vide order dated 08.11.2023 in pursuance of the Finance Department's Notification No.FD(SR-II)2-22/2014/I.T/Pt.II dated 12.05.2023.** The said notification reflects the Government's policy to upgrade I.T. related posts across various departments in order to mitigate stagnation and extend financial relief to employees serving on isolated posts without regular promotional channels.

9. The grievance of the petitioner is that despite his professional qualifications holding Bachelor's and Master's degrees in Computer Systems Engineering, he has not been promoted to BPS-17, whereas other technical cadres have received advancement to higher grades. According to the petitioner, the denial of such promotion is discriminatory and contrary to the constitutional guarantee of equality. However, the record clarifies that the petitioner's upgradation to BPS-16 was made strictly under the provincial upgradation policy. The post of I.T. Manager (BPS-17), though sanctioned under the general Finance Department notification, has not been created or allocated in the sanctioned strength or Schedule of New Expenditure (SNE) of Khairpur Medical College. Promotion cannot be claimed against a post which does not exist in the sanctioned setup of the petitioner's institution. The absence of such a sanctioned post is a legal impediment to any promotion

consideration, as creation of a new post falls exclusively within the executive's domain.

10. At this stage, it would be useful to reproduce the guiding principle enunciated by the Honourable Supreme Court of Pakistan in the case of ***SECRETARY TO THE GOVERNMENT OF PAKISTAN, ESTABLISHMENT DIVISION, ISLAMABAD v. MUHAMMAD AHMED KHAN & others*** (2025 SCMR 434), wherein it has been held that:

*“9. We are mindful that the upgradation of a post is not a vested right, rather it stems from a policy decision intended to benefit a particular set of employees under the scheme embedded in the policy. Upgradation cannot be mixed up with promotion. In the case of upgradation, the employee continues to hold the same post without any change in his duties, but he is accorded a higher pay scale in order to mitigate the distress associated with stagnation due to a lack of progression or promotional avenues. Once the Government announces a policy, it is also responsible for enforcing such policy across the board to accord the benefit of the policy to all those who are eligible under it and may be benefited because of it. No doubt, the Court cannot interfere in the policymaking domain of the Government, but when a widespread and comprehensive policy is announced to benefit employees, it should be implemented bigheartedly and generously, without adding any ifs and buts or discrimination that can stifle the main objective of the policy. In fact, an efficient policy implementation aligns with the actual targets and rationales of a policy to operationalize it and ensure its optimal impact rather than creating hindrances in its swift implementation. In the present cases, not only did the department of the respondents fully supported the upgradation, but also communicated with the concerned quarter in order to espouse the interest of their employees. The upgradation policy was approved by the Chief Executive, which should have been implemented in letter and spirit. However, it has often been observed that despite validly approved policies with a broad spectrum, instead of being implemented conscientiously within their purview and scope, the Finance Department or other departments, loyal more than the king, raise unwarranted objections to nullify the effect of these policies, rendering them unworkable or redundant; a demeanor that ought to be obviated.*

*10. The literal connotation of the word "discrimination" essentially refers to different treatment of the same kind or class of persons or behaving less favourably towards them. During the course of employment, discrimination occurs when an employer treats an employee less favourably or disadvantageously than others without any intelligible differentia. Equal treatment with equal opportunity is a cornerstone for an egalitarian society, while acts of discrimination in the workplace seriously*



*undermine a harmonious working environment and create unrest among employees discriminated who are deprived of perks and privileges. In fact, the doctrine of equal treatment underscores the broad-spectrum canons envisioned for the protection of human rights. The philosophy of equality within the same class or category of workers at the workplace evokes equal opportunities to work. Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973, establishes a tremendous benchmark for maintaining equality amongst the citizens, stating that all citizens are equal before the law, and are entitled to equal protection of the law, and there shall be no discrimination on the basis of sex. However, the same article also provides a further clause which articulates that nothing in this Article shall prevent the State from making any special provision for the protection of women and children. This article cannot be interpreted with a narrow-minded, pedantic, or lexicographic approach to restrict or diminish its wide-ranging scope. Therefore, similar laws, rules, and policies should apply uniformly to all in similar situations, without any discrimination or distinction between one employee and another, within the sphere of legislation or policy, provided that their status is substantially equivalent and indistinguishable. Even in cases of classification or categorization, such distinctions must not be arbitrary but should be based on reasons, qualities, and characteristics that establish an intelligible differentia for those who have been left out of the arena or who have been excluded, with clarity regarding the objective sought to be achieved.”*

11. The Honourable Supreme Court has clarified the legal distinction between **upgradation and promotion**, i.e., a policy-driven administrative action meant to alleviate stagnation and a service right arising upon fulfillment of prescribed conditions against an available sanctioned post. The Honourable Supreme Court further highlighted that while the government must enforce upgradation policies uniformly and without discrimination, such benefit does not translate into an automatic right to promotion. In view of the principle laid down in the case (supra), the petitioner has already been extended the benefit of upgradation from BPS-14 to BPS-16 under the government's policy, and in view of the Finance Department's Notification dated 12.05.2023, wherein it is provided that the benefit of upgradation under circulars dated 10.01.2020 and 24.08.2020 is a one-time benefit and the same upgraded employee shall not be entitled to double or triple upgradation, the claim of the

**petitioner for double upgradation is not sustainable under the law.** Furthermore, the contention of the petitioner that he possesses higher qualifications in the field of Computer Systems Engineering carries no bearing upon his entitlement to further upgradation or promotion, since at the time of initial appointment, the qualification prescribed for the post is to be considered. The upgradation Notification dated 12.05.2023 clearly governs the matter and provides benefits strictly in terms of existing service positions and scales, not on the basis of higher academic qualifications acquired beyond those prescribed in the policy. Hence, the petitioner stands rightly upgraded from BPS-14 to BPS-16 in conformity with the said Notification. More so, we consider that the petitioner's claim of discrimination is misconceived and not borne out from the record. The similarly placed employees referred to by the petitioner were already serving in BPS-16 and were upgraded to BPS-17 as per the Finance Department's Notification dated 12.05.2023, whereas the petitioner was holding the post of I.T. Assistant in BPS-14 and was consequently upgraded from BPS-14 to BPS-16 under the same Notification with equal treatment. Therefore, it cannot be said that the petitioner has been subjected to any discriminatory treatment, as the upgradation was uniformly applied to all employees in accordance with their respective existing scales.

12. It is also relevant to mention that the upgradation policy itself appears to have been introduced to remove stagnation from isolated posts and to provide financial relief to employees who otherwise had no promotional avenues. The petitioner has benefited from this policy as stated above. However, the Government, having formulated such a policy, is under an obligation, consistent with the dictum of the Honourable

Supreme Court in the case (*supra*), to implement it uniformly and *bigheartedly and generously, without adding any ifs and buts or discrimination that can stifle the main objective of the policy.*” Insofar as the contention for direct promotion of the petitioner to BPS-17 is concerned, the same cannot be accepted being premature at this stage because there is no sanctioned post of I.T. Manager (BPS-17) existing in Khairpur Medical College, and promotion must follow established service rules and availability of a sanctioned vacancy. However, his service rights for future consideration of promotion shall remain intact, as the upgradation of a post does not amount to promotion; rather, it is a policy-based benefit extended to a particular class or category of employees, as has been held by the Honourable Supreme Court in the case referred (*supra*).

13. Essence of the above discussion obviously is that the promotion is indeed a recognized right of an eligible employee, such right is not absolute or self-executing. It must operate within the legal framework and administrative structure of sanctioned posts. The Government, in its wisdom, introduced the upgradation policy precisely to address the hardship of employees in isolated positions. Having already benefited from such policy, the petitioner’s present grievance stands redressed to that extent. Accordingly, we direct that upon completion of the prescribed length of service in BPS-14 as well as BPS-16, and subject to the creation of sanctioned posts of I.T. Manager (BPS-17) or equivalent, as the case may be, the competent authority shall place his case before the Departmental Promotion Committee for consideration of promotion in accordance with law, rules, and policy.

14. It is expected that the official respondents shall avoid any arbitrary or discriminatory treatment among similarly placed

I.T. cadre employees in future policy applications and consider the case of petitioner for promotion preferably within a period of three months after the requisite post is sanctioned in accordance with law, which has yet not been created for Khairpur Medical College.

15. Accordingly, this petition is **disposed of** in the above terms along with pending application(s), if any.

**JUDGE**

**JUDGE**

Ahmad