

IN THE HIGH COURT OF SINDH KARACHI

CP No.D-4856 of 2025

(*Nisar Ahmed v. the Secretary Establishment and others*)

Before:

Justice Muhammad Saleem Jessar

Justice Nisar Ahmed Bhanbhro

1. For hearing of CMA No.20258/2025
2. For hearing of main case

Date of hearing and order: 22.01.2026

Date of Reasons: 24.01.2026

Petitioner Nisar Ahmed is present in person

Ms. Zahrah Sehr Vayani, Assistant Attorney General

ORDER

Nisar Ahmed Bhanbhro, J. Through instant petition, the petitioner has sought following relief (s):

1. To declare that the order dated 10-09-2025 passed by the FPSC/Respondent No 4 is void and liable to be set-aside.
2. To declare that petitioner is eligible candidate to appear in interview for the post of Deputy Director (BPS-18) as advertised Case No. 127/2024.
3. That any other relief which this Hon'ble Court deem fit and proper in the circumstances of the case"

2. Petitioner, who is appearing in person, contended that he is employed as a Security Officer in BPS-17 at the Pakistan Meteorological Department, Ministry of Defense. Per petitioner, two vacancies for the post of Deputy Director were advertised by the Federal Public Service Commission (FPSC) vide Case No. F-4-127/2024, Advertisement No. 7/2024, with a closing date of 22.07.2024 and he applied for the same before the deadline and was successfully screened. Petitioner alleged that following the written test, the Petitioner's name was placed at first on the Sindh (Rural) quota list, as announced on 10.04.2025. Petitioner submitted that the FPSC then directed

him to submit his Bio-data and relevant documents by 14.04.2025, which he did in compliance with the notice. However, in a subsequent Public Notice dated 27.06.2025, the Petitioner's name was listed among the rejected candidates due to the alleged absence of proof for five years' experience in Human Resource Development or related fields in BPS-17 or equivalent. According to Petitioner, he submitted the necessary experience certificate and sought an opportunity to clarify his position through a representation under section 7(3) of the Federal Public Service Commission Ordinance, 1977 (FPSC, Ordinance). The FPSC invited the Petitioner for a Zoom meeting on 05.08.2025, but subsequently rejected his representation on 07.08.2025, offering him the option to file a review application. Petitioner contended that he filed a review application, submitting further proof of his relevant experience. However, the FPSC rejected his review application on 10.09.2025 without providing a hearing or clear reasons for the rejection, thus, he has no recourse but to approach this Court for redressal of his grievances. He lastly prayed to allow instant petition.

3. In contra, learned Assistant Attorney General contends that the Petitioner, in the presence of an alternate remedy of appeal under Section 7(3)(d) of the FPSC Ordinance has invoked the extraordinary jurisdiction of this Court under article 199 of the Constitution of Islamic Republic of Pakistan, of 1973 (the constitution), therefore, the present petition is neither competent nor maintainable. It is further contended that the Petitioner, in response to the advertisement for the vacancy of Deputy Director (BS-18), applied online and declared that he had read the General Instructions for Candidates. As per the policy of the FPSC, specifically Para 5(1) of the General Instructions, candidates are provisionally allowed to appear in the written examination, subject to the condition that eligibility will be determined only after the screening, professional test, and descriptive examination. The Petitioner was provisionally allowed to appear in the examination, as evidenced by his admission certificate/roll number slip. After the examination, the Petitioner was required to submit his Bio-data/application form along with attested copies of the necessary documents within 15 days of the notice posted on the FPSC website. He was explicitly cautioned that the submission of documents did not imply shortlisting for an interview and that his eligibility would be determined after scrutiny of the documents. Upon detailed scrutiny of the Petitioner's application and supporting documents, the FPSC rejected his candidature on the grounds that he did not possess the requisite five years' post-qualification experience

in the field of Human Resource Development/Workers Training/Workers Welfare in a nationally recognized institution at BS-17 or equivalent. The Petitioner was informed of this rejection via letter dated 27.06.2025. The Petitioner filed a representation, which was duly examined, and he was given the opportunity for a personal hearing on 05.08.2025. However, during the hearing, the Petitioner failed to provide any substantial evidence to prove his eligibility, consequently, his representation was rejected so also the review petition. She prayed to dismiss this petition on the point of maintainability and merits as well.

4. Heard arguments and perused the material made available before us on record.

5. To address the question of maintainability, raised by the Respondent FPSC, Petitioner contended that he had exhausted the remedy of representation and review before FPSC, thus had no other option available under the law except to invoke the writ jurisdiction of this Court. Contention of Petitioner is not correct, under the provisions of FPSC Ordinance, on rejection of review, a remedy of filing appeal before High Court is provided under section 7. Section 7 (3) of the ordinance being relevant is reproduced below for the ease of reference:

7. ***Functions of the Commission:***

(1) *The functions of the Commission shall be:*

(2)

(3) (a) *A Candidate aggrieved by any decision of the Federal Public Service Commission may, within thirty days of such decision, make a representation to the Commission and the Commission shall decide the representation within fifteen days after giving the candidate a reasonable opportunity of hearing. The decision of the Commission, subject to the result of review petition, shall be final.*

(b) *A candidate aggrieved by the decision of the Commission made under paragraph (a) may, within fifteen days of the decision, submit a review petition to the Commission and the Commission shall decide the review petition within thirty days under intimation to the petitioner.*

(c) *Save as provided in this Ordinance, no order made or proceeding taken under this Ordinance, or rules made*

thereunder, by the Commission shall be called in question in any court and no injunction shall be granted by any court in respect of any decision made or taken in pursuance of any power conferred by, or under, this Ordinance.

(d) Any candidate aggrieved by a decision of the Commission under paragraph (b) may, within thirty days of the decision, prefer an appeal to the High Court

6. From the perusal of above provisions of law, it is crystal clear that right of appeal was available before High Court. Petitioner ought to have filed an appeal under section 7(3)(d) of the FPSC Ordinance instead he preferred instant petition. However this mistake on the part of Petitioner can be rectified. It is a settled proposition of law that for the safe administration of justice and to ensure the protection of the rights of the parties a litigation brought under one jurisdiction can be converted into other jurisdiction provided that the matter fell under the lap of jurisdiction of the Court, though no formal request be made by the party in that regard, because it is the duty of the Court to ensure that a right belonging to a person must go to him without being frustrated by the technicalities. The Doctrine of *ex debito justitia* would be fully attracted in circumstances of the present case, which is exercised by the Court to advance the cause of justice so also to prevent the injustice. No fetters are placed on this Court to convert one type of the proceedings into other, provided that the Court has jurisdiction to entertain and decide the *lis* under adjudication. This Court equally enjoys the powers and jurisdiction of appellate Court against the decision rendered by FPSC. For the safe administration of justice and to ensure that right of fair trial was accorded to the petitioner it is essential to examine the order passed by the FPSC by converting this Constitution Petition into an appeal.

7. In the case of **FIA through Director General FIA and others Versus Syed Hamid Ali Shah and others reported as PLD 2023 Supreme Court 265**, the Honorable Supreme Court seized with a matter of exercise of powers by High Court under section 561-A CrPC for quashing of FIR lodged by FIA against employees of FIA was pleased to observe in Para 5 of the judgment as under:

"In the present case, as the High Court was competent to judicially review the acts of registering the FIR and conducting the investigation by the Officers of FIA in the exercise of its Constitutional Jurisdiction under Article 199 of the Constitution, therefore, the acceptance of the criminal

miscellaneous application filed by some of the accused persons under section 561-A CrPC, and the reference to section 561A while quashing the FIR have no material bearing on the Jurisdiction of the High Court while passing the impugned judgment. Even otherwise if the reasons stated for passing the impugned judgment fall within the scope of the jurisdiction of the High Court under article 199 of the Constitution, the reference to a wrong or inapplicable provision of law will not by itself have any fatal consequences. The High Court has observed in the impugned judgment that the matter in issue, which relates to the violation of the terms and conditions of the service of CDA employees, does not constitute the offence of misconduct punishable under section 5 (2) of PCA nor are the ingredients of the offence of Criminal Breach of Trust under section 409 PPC made out. The High Court has also has also specifically quoted the statement made before it by the Addl. Director, FIA that "FIA has concluded investigation and no element of bribery has been found in the entire inquiry against any official of CDA" with the said observations, the High Court has quashed the FIR, by holding that FIA authorities have failed to legally justify their actions of initiating the inquiry and registration of the FIR. These reasons squarely fall within the scope of the provisions of Article 199(1)(a)(ii) of the Constitution."

8. In the cases of Noman Mansoor alias Nomi and another Versus the State and another reported as PLD 2024 Supreme Court 805, Mian Asghar Ali Versus Government of Punjab reported as 2017 SCMR 118, Commissioner of Income Tax Abbottabad Versus Messers ED ZUBLIN AG Germany and another reported as 2020 SCMR 500 the Honorable Supreme Court has been pleased to hold that there is no bar on High Court for conversion of one type of proceedings into other.

9. We are of the considered view that in presence of a remedy of appeal, the writ petition was not maintainable, however in order to examine the propriety, validity and correctness of the Order dated 10.09.2025 passed by the FPSC this is a fit case to convert the Constitution Petition filed under article 199 of the Constitution into an appeal under section 7(3)(d) of the FPSC, Ordinance as both the remedies are falling within the lap of jurisdiction of this Court conferring the supervisory and corrective powers to rectify the illegalities committed by the forums below. Since no prejudice would be caused to either side, rather it will advance the cause of justice, therefore, this Constitution Petition is converted into appeal . Office to assign

fresh number to this Constitution Petition as an appeal with red ink in terms of section 7(3)(d) of FPSC Ordinance 1977.

10. Adverting to the main controversy involved in the Petition. From the perusal of record it transpired that the Federal Public Service Commission invited applications for the post of Deputy Director, Directorate of Workers Education, Ministry of Overseas Pakistani and Human Resources Development from the candidates having 2nd Class Master Degree in Economics/Sociology/Business Administration/ Public Administration from the University recognized by HEC with a 5 years' post qualification experience in Human Resource Department or Workers Training / Workers Welfare in a nationally recognized institution in BS -17 and above or equivalent. For the sake of convenience relevant portion of the advertisement is reproduced below:

"Case No.F.4-127/2024-8 (7/2024), DEPUTY DIRECTOR (85-18), PERMANENT, DIRECTORATE OF WORKERS EDUCATION, MINISTRY OF OVERSEAS PAKISTANIS AND HUMAN RESOURCE DEVELOPMENT, MINIMUM QUALIFICATION/EXPERIENCE (1) Second Class or Grade C Master's degree in Economies/Sociology/Business Administration/Public Administration from a University recognized by HEC, (ii) Five (5) years post qualification experience in Human Resource Development or Workers Training/Workers Welfare in nationally recognized institution in B5:17 am above or equivalent AGE LIMIT: 25-35 years plus five (5) years general relaxation in upper age limit. NUMBER OF VACANCIES TWO (3) DOMICILE/QUOTA: Punjab (Open Merit) One and Sindh (Rural) (Open Merit) One, PLACE OF POSTING: Islamabad. Closing date....22.07.2024."

11. From the bare reading of the advertisement it can be deduced that a person having requisite academic qualification of Masters Degree and a post qualification experience in BS-17 and above or equivalent in the related field in the nationally recognized institutions was eligible to apply for the position. Petitioner applied for the post, he was allowed to participate in the written part of examination result of which was announced on 10.04.2025 wherein the petitioner was declared successful and placed at Sr. No.4 of general merit, available at page-27 of the court File.

12. It transpired from the record that the credentials of the petitioner were scrutinized after conduct of written part of examination, wherein it was

found that the petitioner did not possess the required post qualification experience in the field of Human Resources Development, workers training and workers welfare in nationally recognized institutions in BS-17 and above or equivalent as advertised. The candidature of the Petitioner, therefore, was rejected vide public notice dated 27.06.2025. Petitioner made a representation to FPSC which was declined. Review petition filed by the petitioner was also declined on the ground that the petitioner was not having the requisite qualification as per the advertisement, which gave cause for the proceedings in hand.

13. Petitioner was admittedly appointed as Security Officer in Pakistan Meteorological Department in year 2016. Per record petitioner was assigned the duties of Administrative Officer at Headquarters, Camp Office, Karachi vide letter dated 27.07.2017. Petitioner discharged his duties as Custodian Officer in the same office vide office order dated 27.12.2019 and vide another office dated 18.04.2023 he was nominated as Focal Person to coordinate the office staff. Petitioner was also hired by the office of the Benazir Income Support Program, Government of Pakistan on deputation basis for a period of 03 years in year 2021. He was also assigned the charge of firefighting Section in year 2022. When the candidature of the petitioner was rejected, he obtained experience certificate from the Ministry of Defence, Pakistan Meteorological Department Camp Officer, Karachi which shows that the petitioner was having reasonable experience in Human Resource Department, Workers Training and other general administrative duties. For the sake of convenience, experience certificate issued by the Chief Administrative Officer, Pakistan Meteorological Department, Camp Office, Karachi is reproduced herein below:-

"So. Ad (171) 2016/51

GOVERNMENT OF PAKISTAN
 MINISTRY OF DEFENCE (DEFENCE DIVISION)
 PAKISTAN METEOROLOGICAL DEPARTMENT
 CAMP OFFICE, KARACHI

EXPERIENCE CERTIFICATE

Certified that Mr. NISAR AHMED s/o AHMED BAKHSH BROHI bearing CNIC No: 43207-8765392-1, as been employed in this essential service department as a Security Officer-BS-17 from

24.8.2016 to date, whole time. The work of, Mr. Nisar Ahmed while employed in this department is satisfactory. The duties/job specifications are as follows:

1. He manages recruitment, on boarding, and employee relations, ensuring a smooth evolution for new employees/workers.
2. He coordinates training programs, workshops, and Human resource development initiatives to enhance staff skills.
3. The officer Provides administrative support, ensuring smooth office operations and effective management of resources.
4. He implements performance management systems, conducting appraisals and feedback sessions to drive employee/worker growth.
5. The officer Contributes to strategic HR initiatives, aligning HR functions with organizational goals to drive business/operation success.
6. The officer performs all general Admin duties i.e. planning, procurement, auctions, disposal of public assets, leaves, service books, disciplinary actions, medical bills, financial transactions, Security administration, and other special assignments and their transparent execution.

Sd/-

Chief Administrative Officer

BS-19"

14. The experience certificate issued by the Department demonstrated that Petitioner was having more than five years experience in the Human Resources Development and Training. Petitioner filed review application along with the copy of experience certificate which was decided vide order dated 10.09.2025. From the perusal of said order it revealed that while deciding review application the material placed on record by the petitioner was not considered and his review application was dismissed in a stereotyped manner. For the sake of convenience order dated 10.09.2025 is reproduced below:-

"BY REGISTERED POST
No. F.4-127-2024-R-FS-
FEDERAL PUBLIC SERVICE COMMISSION
Aga Khan Road, Sector F-5/1

Tel: (051) 9205075 (Ext. 226)
 September, 2025

Islamabad, the 10th

MEMORANDUM

(Review Petition)

Subject:- RECRUITMENT TO TWO (02) POSTS OF DEPUTY DIRECTOR (BS-18), DIRECTORATE OF WORKERS EDUCATION, MINISTRY OF OVERSEAS PAKISTANIS AND HUMAN RESOURCE DEVELOPMENT.

Please refer to your review petition on the above subject.

2. FPSC advertised above post of Deputy Director (BS-18), with the following qualification:-

Qualification:-
<p>(i) Second Class or Grade 'C' Master's degree in Economics / Sociology/Business Administration/Public Administration from a University recognized by HEC.</p> <p>(ii) Five (5) years' post qualification experience in Human Resource Development or Workers Training/Workers Welfare in nationally recognized institutions in BS-17 and above or equivalent.</p>

3. Whereas, you applied for the above post, your candidature was rejected by the Commission as per para 12 (12) of General Instructions to candidates as you did not possess the required 05 years post, qualification experience on the closing date as advertised, and

4. Whereas, you filed a representation against above order of the Commission. Personal Hearing was granted to you on 05.08.2025, but you failed to present any cogent argument in support of your candidature, therefore, the Commission declined to accept your representation. Accordingly, decision was conveyed to you vide FPSC's letter of even number, dated 07.08.2025.

5. Now whereas, in response to rejection of the representation, you have preferred a review petition with no new evidence in support of your claim. You have failed to defend your point of view. The Commission, after

due deliberations, has dismissed your review petition being devoid of lawful merit and without legal substance.

6. *It is further informed that you have availed all the statutory remedies before FPSC under 7(3) of FPSC Ordinance, 1977; hence, no further correspondence on the subject will be entertained.*

Sd/-

BY ORDER OF THE

COMMISSION

(Israr Ahmed Khan)

Assistant Director (FS-1)"

15. From the perusal of material placed before us it can be safely held that the petitioner was having relevant experience to deal with the matters related to the Human Resource Department, Worker Training and Workers Welfare in Pakistan Meteorological Department. He was also having degree of masters in Economic as such he was qualified to participate in the competition. In the written part of examination the petitioner was placed at Sr. No.4 of the general merit and Sr. No.1 in Sind Rural Quota. The Respondent Federal Public Service Commission failed to examine the service record of the petitioner which spoke about his exposure in the relevant field and candidature was rejected merely on the ground that he was appointed as Security Officer. In the advertisement it is nowhere mentioned that the candidate must be working in the Human Resource Department. There is no cavil to the proposition that for the purposes of job the relevancy of experience is examined but not the position held by him as the nomenclature of the post might indicate different nature of the work which was actually done by the employee.

16. In the wake of above discussion, we have reached to an unavoidable conclusion that the petitioner has made out a case for indulgence of this court to exercise the powers of judicial review. Consequently this appeal is allowed. Orders dated 10.09.2025 and 07.08.2025 passed by the FPSC are set aside. Petitioner is held qualified to participate in the examination for the post of Deputy Director were advertised by the FPSC vide Case No. F-4-127/2024, Advertisement No. 7/2024. Since the petitioner has qualified in the written part of examination, the respondents are directed to conduct the interview of the petitioner.

17. These are the reasons of short order dated 22.01.2026 whereby the instant petition was converted into an appeal in terms of Section 7(3) of the Federal Public Service Commission Ordinance, 1977 and allowed.

Office to send copy of this order to the Respondents for compliance.

JUDGE

JUDGE
HEAD OF CONST. BENHCES

Approved for reporting

Nadir*