

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No. D-1881 of 2025

[Mst. Jawaria Juman V. Federation of Pakistan and Others]

C.P. No. D-1406 of 2026

[Mst. Jawaria Juman V. Federation of Pakistan and Others]

Date	Order with signature of Judge(s)
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Before:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Muhammad Hasan Akbar

Date of hearing and Order: 19.05.2026

Mr. Asrar Ahmed Abro advocate for the Petitioner.

Mr. Sajid Ali advocate for the Respondent

Mr. Muhammad Akbar DAG.

ORDER

Adnan-ul-Karim Memon, J. – Petitioner Mst. Jawaria Juman has filed this Constitution Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan 1973, seeking the following relief:-

- a. *To direct the Respondent Nos. 1 to 5 to issue Notification of Promotion as Senior Reservation Supervisor (BS-16) for the petitioner, as the petitioner is retiring on next month 16th June 2025;*
- b. *Direct Respondent NO.1 to redress the appeal dated 24.10.2024 submitted by the petitioner within 10 days as the petitioner is retired on next month 16th June 2025;*
- c. *To grant any other equitable relief, which this Hon'ble Court deems fit and proper under the circumstances of the case, in favor of the petitioners.*

2. The petitioner is a disabled female retired employee of Pakistan Railways. The petitioner submits that vide letter dated 24.12.2024, the respondents initiated the process for promotion from Reservation Supervisor (BS-12) to Senior Reservation Supervisor (BS-16) through Departmental Promotion Committee (DPC). According to the revised final seniority list dated 04.02.2025, the petitioner was the most senior employee and placed at Serial No.1, therefore fully entitled for promotion to BS-16. However, despite fulfillment of all requirements and availability of vacancy, the respondents had deliberately delayed issuance of the promotion notification. Ultimately, she retired on 15.06.2025, and the respondents intentionally withheld her lawful promotion to deprive her of service benefits attached thereto. The petitioner has also submitted representations/appeals to the respondents, but no response has been received to date. Having no other adequate and efficacious remedy available under the law, the petitioner has invoked the constitutional jurisdiction of this Court seeking directions to the respondents to issue her promotion/now proforma promotion

notification to the post of Senior Reservation Supervisor (BS-16), and decide her pending representation within the stipulated time.

3. Learned counsel for the petitioner submits that the petitioner retired from service on 16.06.2025 while serving as Reservation Supervisor (BS-12) at City Railway Station Karachi. He submits that despite a lapse of about nine months after retirement, the respondents have failed to release the petitioner's lawful retirement dues, including G.P. Fund, leave encashment, farewell grant, and gratuity, amounting to more than Rs. 38 lacs. Counsel further submits that the petitioner is herself disabled and has three children, one of whom is also disabled, while all of them are unemployed, the family is facing severe financial hardship due to non-payment of retirement benefits. He contends that the petitioner repeatedly approached the respondents through applications and representations, no positive response has been received. Learned counsel further argues that the petitioner is presently residing in a Pakistan Railways quarter along with her family and, due to non-payment of retiral dues, she is unable to arrange any alternate accommodation. He submits that the respondents have no lawful authority to withhold retirement benefits and relies upon the judgments reported as 2026 SCMR 267 and 2025 PLC (C.S.) 12, wherein it has been held that retirement dues cannot be delayed and, if delayed, the same are liable to be paid along with markup/interest. He lastly submits that the petitioner has no other adequate and efficacious remedy available under the law except to invoke the constitutional jurisdiction of this Court for directions to the respondents to release all retiral dues with interest and not to dispossess the petitioner from the railway quarter till payment of her outstanding benefits.

4. Learned counsel for Pakistan Railways, while filing objections/reply on behalf of the respondents, raised preliminary objections regarding the maintainability of the instant petitions. He submitted that the controversy pertains to the terms and conditions of service of the petitioner; therefore, in view of Article 212 of the Constitution of the Islamic Republic of Pakistan, 1973, the matter exclusively falls within the jurisdiction of the Federal Service Tribunal, and the constitutional petition under Article 199 of the Constitution is not maintainable. He further argued that Pakistan Railways enjoys statutory protection under Section 38 of the Railway Regulatory Authority Ordinance, 2002, and no prior notice under Section 80 C.P.C. was served upon the respondents before filing of the petition. Learned counsel also contended that the matter involves disputed questions of fact requiring production of evidence, which cannot appropriately be adjudicated in constitutional jurisdiction, and as such, the petition is liable to be dismissed. It was additionally submitted that the petitioner lacks locus standi to invoke the constitutional jurisdiction of this Court. On merits, learned counsel admitted that the petitioner served in Pakistan

Railways and her service particulars are matters of record. He submitted that the petitioner's ACRs and service record were called for through a letter dated 24.12.2024 in connection with promotion to the post of Senior Reservation Supervisor (BS-16). However, although the petitioner was initially exempted from the mandatory P-15 course by the competent authority, such exemption was subsequently withdrawn vide letter dated 27.05.2025 on the ground that the same was not covered under the applicable rules. Consequently, according to the respondents, the petitioner did not fulfill the prescribed eligibility criteria for promotion to BS-16. Learned counsel further submitted that while the petitioner's name appeared at Serial No.1 in the seniority list dated 13.01.2025 and she retired on superannuation on 16.06.2025, mere seniority did not entitle her to promotion in the absence of the mandatory P-15 course qualification. He explained that the case of the petitioner, along with other candidates, remained under process for verification and linkage of ACRs and service records from the concerned divisional offices, as reflected in the office letter dated 24.12.2024 already annexed with the petition. He lastly denied the assertions made by the petitioner regarding illegality on the part of the respondents and reiterated that the dispute squarely falls within service matters barred under Article 212 of the Constitution. Learned counsel therefore prayed that the instant petitions, being devoid of merits and not maintainable before this Court, be dismissed with costs.

5. We have heard learned counsel for the parties and perused the material available on record.

6. It is an admitted position that the petitioner, a disabled female employee of Pakistan Railways, served the department for several decades and, before her retirement on 16.06.2025, was posted as Reservation Supervisor (BS-12) at City Railway Station Karachi. It is further not disputed that the petitioner's case for promotion to the post of Senior Reservation Supervisor (BS-16) was actively under consideration by the respondents, as evident from the office letter dated 24.12.2024, whereby her ACRs and service record were called for in connection with the meeting of the Departmental Promotion Committee (DPC). The record further reflects that the petitioner stood at Serial No.1 in the relevant seniority list, thus making her the senior-most eligible candidate for consideration against the promotional post.

7. The principal objection raised by the respondents pertains to the maintainability of the instant petition under Article 199 of the Constitution on the ground that the matter relates to terms and conditions of service and falls within the exclusive jurisdiction of the Federal Service Tribunal under Article 212 of the Constitution, subject to the condition that the officer is a Civil Servant. There can be no cavil with the settled proposition that ordinary service disputes are to be agitated before the competent service tribunal. However, the constitutional

jurisdiction of this Court is not completely ousted where the facts disclose patent illegality, mala fide, arbitrary exercise of authority, violation of fundamental rights, or where departmental authorities act in a discriminatory and unfair manner resulting in manifest injustice.

8. In the present case, the grievance of the petitioner is not confined merely to a claim of promotion simpliciter; rather, it relates to the arbitrary and discriminatory manner in which her case was processed and delayed by the respondents despite her undisputed seniority and imminent retirement already within the knowledge of the department as well as disclosed before this Court through Constitution Petition No.1881 of 2025 filed prior to her retirement.

9. The record reveals that the petitioner had approached this Court before her retirement, specifically asserting that she was due to retire on 16.06.2025 and seeking timely consideration of her promotional case. Despite such knowledge, the respondents failed to conclude the process expeditiously. On the contrary, the exemption earlier granted to the petitioner from the mandatory P-15 course was abruptly withdrawn vide letter dated 27.05.2025, barely a few days before her retirement. Significantly, the respondents have not placed on record any material demonstrating that such an exemption was obtained through misrepresentation or fraud, nor have they shown any compelling public interest necessitating withdrawal of the exemption at such a belated stage. The timing of the withdrawal, coupled with the prolonged inaction of the department in finalizing the petitioner's promotional case, prima facie reflects a lethargic and arbitrary approach on the part of the respondents.

10. It is also noteworthy that the petitioner is a disabled female employee who served the department for a considerable period. The respondents themselves admit that the competent authority had initially granted her exemption from the P-15 course. Such exemption appears to have been extended, keeping in view her disability and peculiar circumstances. Once the department had consciously exercised discretion in her favour and initiated the promotional process, the subsequent withdrawal of the exemption at the verge of retirement, without affording meaningful opportunity or concluding the promotional process promptly, offends the principles of fairness, legitimate expectation, and good governance. Administrative authorities are expected to act fairly, transparently, and within a reasonable timeframe, particularly where delay itself is capable of defeating valuable service rights of an employee approaching superannuation.

11. The conduct of the respondents further demonstrates that although the petitioner's service record and ACRs were called for in December 2024, no final decision was taken for several months. Such an unexplained delay assumes significance because the petitioner was admittedly nearing retirement, and any

procrastination in convening the DPC or deciding her eligibility would inevitably frustrate her claim for promotion. It is a settled principle of law that where an employee is otherwise entitled to consideration for promotion during service, the employer cannot defeat such right through administrative delay, inaction, or by keeping the matter pending till retirement. The respondents, being public functionaries, were under a legal obligation to process the petitioner's case diligently and fairly instead of adopting a course that effectively rendered her claim infructuous.

12. At the same time, this Court is conscious of the limitation upon constitutional jurisdiction in matters requiring the determination of disputed service claims or the grant of promotion as of right. The question whether the petitioner fulfilled all codal formalities and whether withdrawal of exemption from the P-15 course was legally sustainable are matters that ordinarily fall within the domain of the competent departmental authority/service forum. Nevertheless, where the departmental process itself appears tainted with arbitrariness, unreasonable delay, and possible discrimination, this Court is competent to issue appropriate directions to ensure fair and lawful consideration of the petitioner's accrued rights.

13. As regards the retirement benefits of the petitioner, there appears to be no lawful justification for withholding the same for an indefinite period. Retirement dues are not a bounty but constitute accrued and vested rights earned by an employee through long years of service. Any inordinate delay in the release of such dues without a cogent reason amounts to a violation of Articles 4, 9, and 24 of the Constitution. The respondents have failed to demonstrate any legal impediment preventing the release of the petitioner's admitted retirement benefits, including G.P. Fund, gratuity, leave encashment, and other admissible dues.

14. The concept of "proforma promotion" is a recognized service law concept evolved through statutory interpretation and judicial pronouncements whereby an officer, who could not be considered or promoted due to circumstances not attributable to him, is granted notional or retrospective promotion from the date his junior was promoted, together with all consequential service and pensionary benefits. Such promotion does not amount to automatic or regular promotion as of right; rather, it is an equitable and lawful remedial measure intended to undo prejudice caused by administrative omission, delay, or illegality on the part of the competent authority. The principle has repeatedly been recognized by the superior Courts of the country to ensure that an officer is not made to suffer for the fault, inaction, or inefficiency of the department.

15. It is by now a settled proposition of law that although promotion itself is not a vested or fundamental right, fair and lawful consideration for promotion in

accordance with the governing rules is indeed a legal right of every eligible civil servant. The distinction between a “right to promotion” and a “right of consideration for promotion” has consistently been maintained by the superior judiciary. The Hon’ble Supreme Court held that no civil servant can claim promotion as a matter of right and that promotion depends upon various factors, including competence, suitability, antecedents, integrity, and availability of posts. However, an eligible officer cannot be lawfully deprived even of consideration for promotion due to departmental delay or administrative inaction.

16. The reliance placed by the Petitioner upon the judgment of the Hon’ble Supreme Court in Ghulam Qadir Thebo v. Government of Pakistan is well-founded. In the said case, the august Supreme Court recognized the principle that where an officer is deprived of consideration for promotion due to departmental delay and his juniors are subsequently promoted, such officer cannot be penalized for the inaction of the authorities and is entitled to appropriate remedial relief, including proforma promotion with consequential benefits. The ratio decidendi of the judgment is that an officer cannot be denied legitimate consideration because of administrative delay attributable to the department. The said principle squarely applies to the present controversy.

17. The grievance of the Petitioners is not merely against non-promotion simpliciter; rather, it pertains to arbitrary exclusion from consideration caused by mala fide administrative delay and violation of constitutional guarantees of equality and fair treatment. Where a matter involves a violation of fundamental rights, discriminatory treatment, or actions coram non iudice, constitutional jurisdiction under Article 199 of the Constitution may validly be invoked notwithstanding the availability of an alternate remedy. Moreover, the Respondent has failed to point out any efficacious remedy before the Federal Service Tribunal whereby retired officers of Pakistan Railways could seek the precise constitutional and declaratory relief claimed in the instant proceedings.

18. In view of the above discussion, these petitions are disposed of with directions to respondent Nos. 1 to 5 to finalize and release all admitted retirement benefits of the petitioner within a period of thirty (30) days from receipt of this order. The competent authority is further directed to reconsider the petitioner’s claim for proforma promotion to the post of Senior Reservation Supervisor (BS-16) by taking into account her seniority position, the circumstances under which exemption from the P-15 course was initially granted and subsequently withdrawn, her disability, and the delay attributable to the department in concluding the promotional process before her retirement. A speaking order shall be passed strictly in accordance with law within sixty (60) days after affording an opportunity of hearing to the petitioner. In the event the petitioner is found entitled to proforma promotion, consequential retirement benefits shall also be

extended to her in accordance with the law. In case the meeting is not convened in the intervening period, the petitioner shall be granted proforma promotion by way of circulation just after the expiry period.

19. All pending application(s) in both petitions stand disposed of in the above terms.

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