

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No. D-354 of 2025

[Saifullah Jokhio 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. Manzar Bashir advocate for the Petitioner.

Mr. Muhammad Akbar DAG.

ORDER

Adnan-ul-Karim Memon, J. – Petitioner Saifullah Jokhio 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 Secretary, Interior / Respondent No.1 & Director General FIA/Respondent No.3 to retire the petitioner from the date of his superannuation (i.e., 22.10.2024) while actualizing his promotion as per Notification No. F. No.4/5/2023-FIA. Estt dated 24th August 2023, issued by the competent authority on the recommendations of the Central Selection Board (CSB) in BPS-20;*
- b.** *To direct the Secretary of the Interior / Respondent No.1 & Director General FIA/Respondent No.3 to retire the petitioner from the date of his superannuation (i.e., 22.10.2024), which has been withheld illegally, so that the petitioner may be able to get the financial privileges as are given to all other retired officers similar to the petitioner;*
- c.** *To direct the Secretary, Interior / Respondent No.1 & Director General FIA/Respondent No.3 and AGPR/Respondent No.6 to pay pensionary benefits to the petitioner on the basis of his promotion in BPS-20, which was notified by the competent authority on the recommendation of the Central Selection Board (CSB) Notification No. F. No.4/5/2023-FIA. Estt dated 24th August 2023;*
- d.** *To declare abatement of both inquiries dated 30.08.2024 and 26.12.2024 initiated against the petitioner as the same are illegal and void ab initio; and further strike down both the aforementioned inquiries initiated against the petitioner and suspend the same till final adjudication of the petition.*
- e.** *Direct the Accountant General of Pakistan Revenue (AGPR) / Respondent No.6 to expedite the release of pension and all other pensionary benefits on the basis of the petitioner's seniority and his age of superannuation dated 22.10.2024;*
- f.** *Restrain the Respondents and their officers from taking any coercive action against the petitioner or disturbing his promotion in BPS-20;*
- g.** *To grant any other equitable relief, which this Hon'ble Court deems, if and proper under the circumstances of the case, in favor of the petitioners.*

2. Learned counsel for the petitioner submits that the petitioner, while serving as Additional Director (Counselor Immigration) at FIA Link Office, Athens, Greece, was duly promoted to the post of Director Investigation (BPS-20) vide notification dated 24.08.2023 on the recommendations of the Central Selection Board. However, despite such promotion, the same was deliberately not implemented nor actualized in his favour before his retirement, resulting in the denial of his lawful right to promotion and consequential financial benefits, including pensionary benefits. It is further contended that similarly placed and even junior officers were granted and actualized promotions to BPS-20 vide notification dated 29.08.2023, whereas the petitioner was arbitrarily and discriminatorily deprived of the same benefit without lawful justification. This,

according to learned counsel, is violative of Articles 4, 9, and 25 of the Constitution, besides being contrary to the principles of fair treatment, equality, and due process. It is also argued that the petitioner had a legitimate expectation that his promotion, already approved by the competent authority, would be given effect in accordance with the law. Learned counsel further submits that the respondents' inaction in actualizing the promotion within a reasonable time, as envisaged under the applicable promotion rules, has resulted in irreparable prejudice to the petitioner, particularly as he has now retired without being accorded the status and benefits of BPS-20. It is emphasized that the withholding of promotion and retirement benefits is arbitrary, malicious, and amounts to an unlawful deprivation of property and service rights. Lastly, it is contended that the post-retirement initiation of inquiries against the petitioner is nothing but a colorable exercise of authority aimed at penalizing him after retirement and to frustrate his lawful claims. Learned counsel, therefore, prays for actualization of the petitioner's promotion from the due date, grant of all consequential pensionary and financial benefits, declaration of inquiries as void ab initio, and issuance of retirement and pensionary notifications in accordance with law.

3. Learned Assistant Attorney General, appearing on behalf of Respondents, has raised preliminary objections regarding the maintainability of the instant constitutional petition. It is submitted that the Federal Investigation Agency (FIA) is an attached department of the Ministry of Interior, and its employees fall within the definition of "civil servants" under Section 2(b) of the Civil Servants Act, 1973. Consequently, all matters relating to their terms and conditions of service fall exclusively within the jurisdiction of the Service Tribunal under Article 212 of the Constitution of the Islamic Republic of Pakistan, 1973. It is argued that the constitutional jurisdiction under Article 199 of the Constitution is barred in such matters, even where allegations of mala fide, arbitrariness, or illegality are raised. It is further contended that disciplinary and service-related proceedings, including matters of promotion and inquiries, fall within the domain of "terms and conditions of service," and therefore cannot be adjudicated by the High Court in its constitutional jurisdiction. The learned AAG submits that since no final adverse order has been passed against the petitioner in disciplinary proceedings, and only show-cause or inquiry processes were underway, the petitioner has approached this Court prematurely. It is emphasized that a show-cause notice merely provides an opportunity of hearing and does not amount to punishment; no cause for constitutional interference is made out at this stage. It is further argued that under Article 199 of the Constitution, the High Court cannot interfere to restrain competent authorities from proceeding with departmental inquiries where prima facie material of misconduct exists, as such interference would impede administrative discipline and good governance. Reliance is placed on settled principles of law that a civil servant has no vested right to challenge ongoing

disciplinary proceedings through a constitutional petition, particularly when adequate alternate remedies are available after final adjudication. The learned AAG further submits that the present dispute squarely falls within the jurisdiction of the Federal Service Tribunal in terms of Article 212(1) of the Constitution, read with Section 4 of the Service Tribunals Act, 1973. Reliance is placed on authoritative judgments of the Honorable Supreme Court, including *2021 SCMR 1554* and *2021 SCMR 1390*, wherein it has been held that matters relating to terms and conditions of civil servants fall exclusively within the jurisdiction of service tribunals and that constitutional jurisdiction cannot be invoked to bypass such statutory forums. On merits, it is stated that the petitioner was initially appointed as Assistant Director (BS-17) on an ad hoc basis in 1989, subsequently regularized in 2006, and later promoted to Deputy Director (BS-18) in 2012 and Additional Director (BS-19) in 2018. He was considered by the Central Selection Board in 2023 and recommended for promotion to Director (BS-20), which was notified by the competent authority in August 2023. However, in terms of the applicable rules, particularly Rule 5(5) of the Civil Servants Promotion (BPS-18 to BPS-21) Rules, 2019, such recommendations lapse if not actualized within one year unless the delay is attributable to the officer concerned. It is further submitted that the petitioner failed to comply with the necessary formalities required for processing of his retirement, including submission of complete documents such as salary slip and leave admissibility certificate, despite being called upon to do so. It is stated that he retired from service on 22.10.2024, which was notified later on 12.8.2025. In view of the above legal and factual position, learned AAG submits that the instant petition is not maintainable, suffers from a jurisdictional defect, and is liable to be dismissed as being contrary to the Constitution, statutory provisions, and settled law laid down by the superior courts.

4. We have heard the learned counsel for the parties and perused the record with their assistance and case law cited at the bar.

5. The preliminary objections raised by the learned Assistant Attorney General regarding maintainability do not appear to be well-founded for the reasons that where the grievance does not merely relate to “terms and conditions of service” in isolation but involves allegations of illegal deprivation of an accrued constitutional/legal right, non-implementation of a lawful promotion notification, and arbitrary withholding of retirement and pensionary benefits, the High Court retains jurisdiction under Article 199 of the Constitution to examine whether the action of the respondents is without lawful authority and of no legal effect. The present case squarely falls within this exception, as the petitioner is not seeking a fresh promotion or departmental indulgence, but enforcement of an already-notified promotion and its consequential legal effects.

6. The contention that the matter falls exclusively within the jurisdiction of the Service Tribunal is also not absolute in the present facts. The core grievance is not a disputed departmental decision requiring adjudication of facts, but the non-actualization of a promotion already approved and notified by the competent authority. Such inaction, if established, does not constitute a “service dispute” in the strict sense but rather a question of lawful authority, statutory compliance, and administrative failure to implement an admitted order. Therefore, reliance on Article 212 in a mechanical manner is misplaced.

7. Similarly, the argument that disciplinary proceedings or inquiries bar constitutional jurisdiction is misconceived in the present context. The petitioner is not seeking interference in fact-finding inquiries on merits; rather, he challenges the initiation/continuation of proceedings as being post-retirement, punitive in effect, and allegedly used as a tool to frustrate accrued pensionary rights. Where proceedings are alleged to be mala fide, without jurisdiction, or designed to defeat vested rights, constitutional jurisdiction is not automatically excluded. The bar under Article 199 of the Constitution does not protect actions that are prima facie colourable exercises of authority.

8. The reliance on Rule 5(5) of the Promotion Rules by the respondents is also not determinative at this stage. The said rule cannot be interpreted to defeat a vested right arising from a duly approved CSB recommendation and formal notification issued by the competent authority. Administrative delay, if not attributable to the employee, cannot be used as a legal device to nullify an otherwise valid promotion, particularly where juniors similarly placed have been accorded the benefit. Any such selective non-implementation would prima facie attract the constitutional guarantees under Articles 4, 9, and 25 of the Constitution.

9. The plea that the petitioner had an alternative remedy before the Service Tribunal also does not oust jurisdiction in the present case after his retirement on 22.10.2024, notified on 12.8.2025, since the controversy involves mixed questions of law and constitutional interpretation, including discrimination, legitimate expectation, and violation of fundamental rights in the context of retirement benefits. It is well settled that the availability of an alternate remedy is not an absolute bar where the impugned action is patently without lawful authority or suffers from constitutional infirmity.

10. As regards factual assertions of non-submission of documents or procedural deficiencies in retirement processing, the same cannot override the admitted position that the petitioner had already attained the age of superannuation on 22.10.2024, and notified on 12.8.2025; and his promotion notification had already been issued. Administrative formalities cannot be used to

suspend or deny statutory retirement benefits indefinitely, particularly when similarly placed officers have not been subjected to identical treatment.

11. In view of the foregoing, it is concluded that the objection regarding jurisdiction under Article 212 is not applicable in the facts of the present case, as the matter involves the enforcement of an already accrued legal right rather than adjudication of a service dispute. The respondents' reliance on ongoing inquiries and procedural requirements does not justify withholding of retirement and pensionary benefits or non-implementation of promotion already notified. The petitioner has raised substantial questions of discrimination, arbitrariness, and violation of fundamental rights, which are maintainable under Article 199 of the Constitution. The impugned inaction/omission on the part of the respondents is prima facie without lawful authority and of no legal effect insofar as it deprives the petitioner of his lawful promotion and consequential benefits.

12. Accordingly, the preliminary objections raised by the learned AAG merit rejection, and the petition appears to be maintainable to the extent of examining the legality, validity, and constitutional propriety of the respondents' actions regarding non-actualization of promotion, retirement benefits, and pensionary entitlements.

13. Accordingly, the petition is allowed with the direction that the competent authority of the respondents shall treat the petitioner as having been validly promoted to the post of Director (BPS-20) in terms of Notification dated 24.08.2023, along with his batchmates, for all legal and pensionary purposes, subject to completion of codal formalities. The retirement notification dated 12.08.2025, to the extent it reflects the petitioner's retirement in BPS-19, is hereby of no consequence, and the petitioner shall be deemed to have retired in BPS-20 in accordance with the aforesaid promotion notification. The respondents are further directed to immediately process and release all retirement dues and pensionary benefits of the petitioner based on his promoted pay scale (BPS-20), and to complete the same within a period of 30 days from the date of receipt of this judgment, if not earlier released. It is further observed that the departmental inquiries, if any, initiated against the petitioner, after his retirement in 2024, shall not be permitted to impede, delay, or affect the release of his lawful pensionary benefits, which shall be processed independently in accordance with his status as a retired officer of BPS-20.

14. All pending application(s) stand disposed of in the above terms.

JUDGE

JUDGE