

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-351 of 2025
(Qazi Tariq Ali versus Province of Sindh & another)

Date	Order with signature of Judge
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Before:-
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Hasan (Akber)

Date of hearing and order: 18.5.2026

Mr. Muhammad Hashim advocate for the petitioner alongwith petitioner
Mr. Abdul Jalil Zubedi, Additional AG
Mr. Hunain Junejo advocate holds brief for Mr. Shahzaib Akhtar Khan advocate
for respondent No.2 / SZABUL
Mr. Khadim Hussain, Law Officer of respondent No.2 / SZABUL

ORDER

Adnan-ul-Karim Memon, J. Petitioner Qazi Tariq Ali has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer: -

- a) Issue a writ of mandamus directing the Respondents to grant the Petitioner's upgradation to BPS-20, effective from April 2020, when he completed five years of service at SZABUL.*
- b) Declare the actions of the Respondents in withholding the Petitioner's promotion as discriminatory and unlawful, in violation of Article 25 of the Constitution.*
- c) Direct the Respondents to provide all back benefits and increments due to the Petitioner as a consequence of the upgradation from the effective date.*

2. Learned counsel for the Petitioner submits that the Petitioner, Tatiq Ali, is an academic of repute, who served as Assistant Professor (BPS-19) at Shaheed Zulfiqar Ali Bhutto University of Law, Karachi, from where she has since retired in 2023. He states that the Petitioner was duly appointed through a lawful process on 19.03.2015 upon recommendation of the Selection Board and approval of the Syndicate, and has rendered approximately eight and a half years of satisfactory service with distinction, integrity, and commitment to the institution. It is further submitted that under the applicable promotion policy and criteria, the Petitioner became eligible for upgradation to BPS-20 upon completion of five years of service. The Petitioner, according to learned counsel, fulfills all prescribed requirements, including more than sufficient service length, over 21 years of professional experience, the requisite age criteria, and near-completion of Ph.D. qualification. He emphasized that despite repeated applications made on 10.12.2019, 21.12.2022, and 17.08.2023, her case was not decided, whereas similarly placed colleagues were granted upgradation, allegedly in discriminatory circumstances, thereby attracting a violation of Article 25 of the Constitution. Learned counsel further submits that although the Anomaly Committee in January 2025 recommended the Petitioner's upgradation, the Syndicate subsequently declined approval without providing reasons or supplying minutes of the meeting,

leaving the Petitioner remediless. He contends that such inaction and arbitrary denial amount to a violation of Articles 4, 9, and 25 of the Constitution, causing serious professional prejudice to the Petitioner. It is therefore prayed that this Court may direct the Respondents to grant upgradation to BPS-20 with effect from April 2020, along with all consequential benefits, and to declare the impugned inaction as unlawful and discriminatory.

3. Learned counsel for Respondent No. 2 submits that the instant petition is not maintainable as the Petitioner has approached this Court directly under Article 199 of the Constitution without availing the alternate statutory remedies provided under Section 38 of the Shaheed Zulfiqar Ali Bhutto University of Law Act, 2012, which mandates filing of an appeal or review before the Syndicate. It is further submitted that higher education institutions operate under their own statutory framework, and superior courts ordinarily do not interfere in their internal administrative matters unless there is manifest illegality, which is absent in the present case. On merits, it is submitted that the Petitioner's claim is misconceived as promotion or upgradation is not a vested right but is always subject to the availability of posts, institutional policy, and approval of the competent authority. He pointed out that in the present case, the Syndicate, being the competent authority under Section 25 of the Act, 2012, has unanimously declined the Petitioner's promotion on the ground that he had already retired from service in 2023, and therefore, post-retirement upgradation is not permissible under law. The minutes of the Syndicate meeting dated 24.12.2024 have been placed on record as Annexure "A". It is further submitted that the Anomaly Committee has only recommendatory status and lacks authority to grant promotion/upgradation, whereas the final decision rests exclusively with the Syndicate, which is empowered to accept or differ from such recommendations. It is also clarified that no discrimination has been committed against the Petitioner, as the case cited by him pertains to a serving employee, whereas the Petitioner had already retired at the time of consideration of his case. learned counsel submits that even the Syndicate deliberations on Agenda Item 14 relating to the Anomaly Committee's recommendations clearly reflect that no provision exists for post-retirement upgradation, and accordingly, the proposal was not approved. It is therefore contended that the impugned decision is lawful, based on settled policy and statutory provisions, and does not suffer from any illegality or arbitrariness. Hence, the petition is liable to be dismissed as being devoid of merit.

4. Learned AAG is of the same view as narrated by the counsel for the respondent university.

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

6. We have been informed that during the Syndicate meeting, while considering Agenda Item 14 regarding approval of the Anomaly Committee recommendations, the House was apprised that no upgradation is permissible after retirement. The proposal was duly seconded, and it was observed by members that once an employee retires, no further consideration for promotion or upgradation can be made in such cases. It was also discussed that although a hardship policy had been introduced in an earlier Syndicate meeting and was generally applicable across universities of Sindh for consideration of such cases, it remained within the discretion of the Syndicate to decide each matter on its own merits. Reference was also made to a previous instance where upgradation of a serving employee was allowed on a hardship basis; however, the Chair noted that relevant details regarding the composition and approval of the Anomaly Committee would be placed before the next meeting for proper consideration. In light of the above deliberations, the Syndicate concluded that there is no provision for post-retirement upgradation and accordingly the agenda item was not approved in its present form.

7. In such circumstances of the case, this Court is of the considered view that the core grievance of the Petitioner relates to the non-grant of upgradation to BPS-20 after he retires from service in 2023. The entire claim of the Petitioner rests on the premise that he had acquired eligibility during service and, therefore, is entitled to post-retirement upgradation with retrospective effect.

8. It is an established principle of service jurisprudence that promotion or upgradation is not a vested right but is always subject to the applicable statutory rules, service regulations, availability of posts, and the discretion of the competent authority. Even where an employee may have become eligible during service, no indefeasible right accrues for automatic promotion unless the competent authority, in accordance with law and policy, grants such a benefit.

9. It is equally well-settled that courts exercising jurisdiction under Article 199 of the Constitution do not ordinarily substitute their own view for that of the academic or statutory bodies of public universities, particularly where decisions are taken by the competent bodies in accordance with their enabling statutes.

10. In the present case, it is not disputed that the Petitioner had retired from service in 2023. The Syndicate of Respondent University, which is the competent authority under the relevant provisions of the Shaheed Zulfiqar Ali Bhutto University of Law Act, 2012, has considered the matter and, after due

deliberation, unanimously declined the request for upgradation on the specific ground that post-retirement promotion/upgradation is not permissible under the applicable framework. The deliberations of the Syndicate, particularly with reference to Agenda Item 14, clearly demonstrate that the decision was taken after considering policy position, past practice, and the legal limitation that no promotion can be granted after cessation of service.

11. The contention regarding the recommendation of the Anomaly Committee does not advance the Petitioner's case, as it is well settled that such committees are advisory in nature and their recommendations are not binding upon the Syndicate, which alone is the final decision-making authority. Similarly, the plea of discrimination is not sustainable as the Petitioner has failed to establish parity with any legally comparable case of a retired employee, and in any event, equality cannot be claimed in violation of express policy or statutory limitation. And it is for the respondent university to take a decision if any of the junior of the petitioner was considered for the benefit of BS 20 in violation of the law and policy of the respondent university.

12. The reliance on Articles 4, 9, and 25 of the Constitution is also misplaced. No arbitrariness or mala fide has been shown in the decision-making process. The record reflects that the matter was duly placed before the competent forum, considered in accordance with law, and decided within its jurisdiction. It is now well-settled, including by consistent constitutional jurisprudence of the superior courts, including the Honorable Federal Constitutional Court in service and university governance matters, that where a decision is taken by a statutory body of a public university within its lawful domain, the Constitutional Court will exercise restraint unless the decision is shown to be without jurisdiction, malicious, or in violation of an express statutory provision. None of these exceptions is applicable in the present case.

13. In view of the above, we find no illegality, procedural irregularity, or constitutional infirmity in the impugned decision of the Syndicate. The Petitioner, having retired from service, cannot claim promotion/upgradation as a matter of right, particularly when the competent authority has expressly held that such a benefit is not admissible post-retirement under the governing framework.

14. For the foregoing reasons, this petition, being devoid of merit, is hereby dismissed along with pending applications, with no order as to costs.

JUDGE

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