

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C. P. NO. D-4970 / 2021
(Syed Tasneem Ali Vs. Federation of Pakistan & Others)

Date

Order with signature of Judge

Present:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Muhammad Jaffer Raza

Date of hearing and order:- 10.08.2026.

Mr. Tanzim Ali, Advocate for Petitioner.

Ms. Wajiha Mehdi, Assistant Attorney General

Syed Rehan Ali I/C Admn (PCSI), Respondent No. 3.

ORDER

Adnan-ul-Karim Memon, J. The petitioner, Syed Tasneem Ali, has filed this Constitutional Petition under Article 199 of the Constitution seeking a direction to the respondents, particularly the PCSI management, to initiate his promotion case and grant him promotion to the post of Deputy Director (BPS-18), contending that he had fulfilled the requisite length of service before attaining the age of superannuation in 2021.

2. The petitioner states that he was appointed as Cotton Field Officer (BPS-16) in 1987 and served in BPS-16 for about 29 years, with a total service of approximately 33 years. Relying upon Clause 3.22 of the PCSI Service Rules, 1995, learned counsel contends that the petitioner had completed the prescribed length of service for promotion to BPS-18 and was therefore entitled to consideration for proforma promotion after his retirement in the year 2021.

3. The learned Assistant Attorney General has opposed the petition, submitting that the petitioner had not completed the requisite five years' service in BPS-17 before retirement, lacked the prescribed professional qualification for BPS-18, and had retired in 2021. It is further contended that post-retirement promotion is generally discouraged and that granting such relief may create a precedent for numerous other retired employees. The learned DAG has also referred to the dissolution of PCSI, its subsequent restoration pursuant to the judgment in C.P. No. D-4268/2025 dated 26.01.2026, and the prevailing downsizing policy of the Federal Government. She prayed to dismiss the petition.

4. The counsel for the petitioner, in rebuttal to the respondents' comments, submitted that he was initially appointed as Cotton Field Officer (BPS-16) w.e.f. 01.10.1987 and served in BPS-16 for about 29 years, before his post was upgraded/redesignated as Assistant Director (BPS-17) in April 2016. He retired from service on 30.04.2021, having rendered approximately 33 years of total service, including about four and a half years in BPS-17. The petitioner contended that under Clause 3.22 of the PCSI Service Rules, 1995, although five years' service in BPS-17 is ordinarily prescribed for promotion to BPS-18, Clause 3.22(b) permits one-half of the service rendered in BPS-16 to be counted as service in BPS-17 for the purpose of computing eligibility for promotion. Since he had rendered more than 29 years in BPS-16, he asserted that he had sufficient qualifying service for promotion to BPS-18. He further submitted that, according to the respondents' own comments, the Director, PCSI was competent to consider his promotion, and that his post had already been upgraded to BPS-17 in 2016. Lastly, the petitioner rebutted the objection regarding CP No. D-214/2018 (Matin Uddin Ahmed v. Federation of Pakistan), stating that he was neither a party to the said proceedings nor was there any restraining order or order of status quo operating against him. He therefore maintained that the pendency of the said petition could not legally be made a ground to deny or withhold consideration of his promotion to BPS-18. He prayed to allow this petition.

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

6. The principal question requiring determination is whether the petitioner, who had rendered about 29 years' service in BPS-16 and approximately four and a half years in BPS-17 before his retirement on 30.04.2021, could claim consideration for promotion to BPS-18 by invoking Clause 3.22(b) of the PCSI Service Rules, 1995.

7. Clause 3.22 of the PCSI Service Rules, 1995 prescribes the requisite length of service for promotion to BPS-18. Although five years' service in BPS-17 is ordinarily required, Clause 3.22(b) specifically provides that, where an employee was initially appointed in BPS-16 or below, one-half of the service rendered in BPS-16 may be counted as service in BPS-17 for the purpose of computing the qualifying length of service for promotion. The provision is therefore intended to confer a specific benefit upon employees whose initial appointment was in BPS-16 or below and whose post is subsequently upgraded or who are otherwise brought into the higher pay scale.

8. In the present case, it is not disputed that the petitioner was initially appointed as Cotton Field Officer in BPS-16 w.e.f. 01.10.1987, remained in BPS-

16 for about 29 years, and his post was upgraded/redesignated as Assistant Director (BPS-17) in April 2016. Consequently, his case falls prima facie within the express language of Clause 3.22(b). Even on a conservative calculation, one-half of his approximately 29 years' service in BPS-16 would substantially exceed the shortfall of approximately six months between his actual service in BPS-17 and the ordinary requirement of five years. Thus, the respondents' objection that the petitioner lacked five complete years in BPS-17, without considering the benefit available under Clause 3.22(b), cannot by itself constitute a lawful basis for rejecting his claim.

9. However, eligibility for consideration is distinct from entitlement to promotion. The petitioner cannot claim promotion as an automatic consequence of completing the prescribed length of service. Promotion to BPS-18 would remain subject to the existence of a sanctioned/vacant post, fulfillment of the prescribed qualification and other eligibility conditions, availability of the competent promotion forum/authority, fitness and suitability of the petitioner, and the applicable rules and policy governing promotion. This Court, in exercise of constitutional jurisdiction, ordinarily does not itself substitute the competent authority and direct promotion unless the petitioner establishes a clear and enforceable right to such promotion.

10. The objection that the petitioner has already retired also requires consideration in its proper perspective. If the petitioner's case for promotion had become due during his service and before his retirement, his subsequent retirement would not, by itself, justify refusal to examine whether he was entitled to consideration for promotion or proforma promotion in accordance with the applicable rules. Conversely, if no vacancy existed, if the petitioner did not possess the prescribed qualification, or if he was otherwise ineligible on the relevant date, retirement cannot be used to cure those deficiencies.

11. Likewise, the respondents' reliance upon the dissolution/restoration of PCSI and the subsequent downsizing policy cannot, in the absence of a specific statutory or regulatory provision having retrospective effect, automatically extinguish a claim which had already accrued for consideration during the petitioner's service. The relevant question is whether the petitioner possessed the requisite qualifications and eligibility on the date his promotion became due, and whether a lawful promotional process was required to be undertaken at that time.

12. As regards C.P. No. D-214/2018, the petitioner has specifically asserted that he was neither a party to the said proceedings nor was any order of restraint or status quo operating against him. Unless the respondents establish from the record that the said proceedings or an order passed therein legally prohibited

consideration of the petitioner's promotion, mere pendency of litigation concerning another employee cannot ordinarily constitute a lawful ground for indefinitely withholding consideration of an otherwise eligible employee.

13. At the same time, the petitioner's prayer for a direct command to grant promotion to BPS-18 cannot be accepted in its present form, because the power of promotion involves assessment of several factual and statutory conditions which fall primarily within the domain of the competent authority.

14. For the foregoing reasons, the petition is disposed of in terms of discussion in the preceding paragraphs and respondents shall look into the aspect and give due consideration in accordance with law without being influenced by the observations recorded hereinabove.

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