

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

CP No.D-1078 of 2023

(Dr. Khushnood Akhter v Province of Sindh and others)

DATE

ORDER WITH SIGNATURE OF JUDGE

Before:-

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order:- 26.02.2026

M/s Harchand Rai Khemani and Imtiaz Ali, Advocate for the
Petitioner.

Mr. Abdul Jalil Zubedi, AAG.

ORDER

Adnan-ul-Karim Memon, J.- The petitioner, Dr. Khushnood Akhter, has filed this petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking the following relief(s):

- i. *To declare that the petitioner is legally entitled to the benefits from the date of the Departmental Promotion Committee (DPC) dated 08.11.2012.*
- ii. *To direct the respondents to issue notification in this respect and ensure that the petitioners are provided the benefits of actualizing the promotion of the petitioner in BPS-19 from the date of the Departmental Promotion Committee, i.e., 08.11.2012.*
- iii. *To direct the respondents to release the difference / withheld retirement benefits of the petitioner, including provident fund, gratuity, and group insurance from the date of the Departmental Promotion Committee (DPC) dated 08.11.2012.*
- iv. *To direct the respondents to pay the monthly pension of the petitioner as per pay scale BPS-19, and the arrears from 07.03.2018.*
- v. *To direct the respondents to take necessary steps to ensure that the petitioner is provided with her legal and fundamental rights under the law of the land.*

2. Learned counsel for the Petitioner submits that the Petitioner, a qualified Medical Doctor, was initially appointed as Medical Officer (BPS-17) on 07.12.1987 by the Government of Sindh and joined her duties on 12.12.1987 after fulfilling all codal formalities. During the course of her service, the Petitioner performed her duties with honesty and dedication and was promoted from BPS-17 to BPS-18 vide order dated 09.01.2008 with the approval of the competent authority. He further submits that on the recommendations of the Sindh Local Government Board in its meeting dated 08.11.2012, and with the approval of the competent authority, the Petitioner along with other officers of SCUG Services (Medical Branch/General Cadre) was promoted from BPS-18 to BPS-19 vide notification dated 20.06.2017. However, despite such promotion, the Petitioner was neither granted pay fixation in BPS-19 nor extended the financial benefits attached thereto, and she continued to draw salary in BPS-18 till her retirement on attaining the age of superannuation on

06.03.2018. Learned counsel contends that although several similarly placed officers, who were promoted through the same notification, were extended the benefits of BPS-19 from the date of the Departmental Promotion Committee (DPC), i.e., 08.11.2012, the Petitioner was unlawfully and discriminatorily deprived of the same without any lawful justification. Despite repeated representations and approaches made by the Petitioner to the concerned authorities for fixation of her pay in BPS-19, no action was taken by the Respondents. He further argues that the denial of pay fixation and consequential retiral benefits has caused serious financial prejudice to the Petitioner, as her pension, gratuity, provident fund and other retiral benefits were calculated on the basis of BPS-18 instead of BPS-19. It is submitted that in identical matters, this Honourable Court has already granted relief to similarly placed officers, and on the principle of consistency, the Petitioner is also entitled to the same treatment. Learned counsel lastly submits that the Petitioner has no other adequate or efficacious remedy available under seeking directions to the Respondents for grant of promotion benefits in BPS-19 from the date of DPC i.e., 08.11.2012, along with recalculation of her pensionary and other retiral benefits accordingly.

3. Learned AAG, while conceding the legal position, submitted that although the Petitioner was promoted to BPS-19 in the year 2017, her case for actualization of promotion with effect from the date of recommendation of the Departmental Promotion Committee (DPC) is required to be examined by the competent authority in accordance with law. He further submitted that the Petitioner retired during the intervening period and her pensionary benefits are liable to be released in that line if considered by the competent authority.

4. In light of the foregoing facts and submissions made by the learned counsel for the parties, we have noticed that the Petitioner was duly considered for promotion by the Departmental Promotion Committee (DPC) in the year 2012 and was subsequently promoted to BPS-19 vide notification dated 20.06.2017; however, she was deprived of the actual financial and service benefits of such promotion during her service tenure and retired on 06.03.2018 without pay fixation in BPS-19. The denial of such accrued service benefits has adversely affected the computation of her retiral dues, including pension, gratuity and other ancillary benefits. It is by now a well-settled principle of service jurisprudence that where an employee becomes entitled to promotion or any other service benefit during service, but the same could not be extended for administrative or procedural reasons, such benefit cannot be denied merely on account of retirement. The competent authority remains under a legal obligation to consider and grant such promotion with all consequential benefits retrospectively, provided there exists no legal impediment in the service record of the employee. The Supreme Court of Pakistan held that where promotion has been unjustifiably delayed, the employee is entitled to notional promotion with consequential monetary benefits even after retirement. Similarly, it was also

observed that retiral benefits are to be calculated on the basis of the pay scale which an employee lawfully earned or was entitled to earn during service, notwithstanding the fact that formal notification was issued at a later stage. Further under similar circumstances, directions were issued by this Court for actualization of promotion from the date of recommendation of the DPC along with recalculation of pensionary benefits on such basis.

5. In view thereof, this Court is satisfied that the Petitioner's case warrants consideration. Accordingly, the competent authority of the Respondents is directed to actualize the promotion of the Petitioner to BPS-19 with effect from the date of recommendation of the DPC held on 08.11.2012, subject to there being no legal impediment, and thereafter recalculate and release her retiral benefits on such basis within a reasonable time, if not earlier paid.

6. The petition along with pending application(s) if any stands disposed of in the above terms.

J U D G E

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Shahzad Soomro