



Respondent No. 1 is a federal employee on deputation and, therefore, could not lawfully be governed or promoted under provincial service rules. It is further contended that promotions were granted without lawful authority, proper jurisdiction, or compliance with federal cadre rules governing deputationists. It is also alleged that Respondent No. 1's appointment in the teaching cadre is irregular, as she was originally appointed in the general cadre (Medical Officer), and any shift to teaching cadre constitutes an unlawful horizontal movement in violation of established service law principles, including the law laid down in 2015 SCMR 456. The Petitioners counsel further contend that Respondent No. 1's rapid promotional progression from BS-18 to BS-19 within a short span is arbitrary, suggestive of favoritism, and in violation of merit-based criteria and prescribed tenure requirements. It is asserted that such actions have disrupted institutional hierarchy, created parallel command structures, and adversely affected academic and administrative functioning at JPMC. The Petitioners also highlight that subsequent to the Supreme Court judgment, an Operations and Management Agreement dated 08.08.2023 was executed between the Federation and Province of Sindh under Article 146 of the Constitution, whereby administrative control was delegated to the Province while employees were still described as being on deputation. Petitioners counsel argued that even under this arrangement, provincial authorities lack competence to alter federal service structure or grant promotions. It is further submitted that unlawful promotions have caused serious prejudice to Petitioners by distorting seniority, blocking career progression, and undermining merit-based institutional governance, particularly within the neurosurgery/neurology-related departments, leading to administrative confusion and functional disruption. He prayed to allow this petition.

3. Respondent No. 1, in her counter affidavit, denies all allegations of illegality and mala fide intent. Learned counsel for the respondent No.1 contends that her promotions were made strictly under the applicable 1986 recruitment and promotion rules, pursuant to lawful process and in compliance with judicial orders passed by this Court. He further submits that she is a regular employee of JPMC, not a deputationist, and that the petition is motivated, selective, and filed with mala fide intent. It is also asserted that the Petitioners lack locus standi, as they are not directly aggrieved persons in service matters of Respondent No. 1. Respondent No. 1's counsel also relies on prior court orders and contends that she fulfills all eligibility criteria for promotion, possesses requisite qualifications and experience, and has served in acting charge capacities in senior positions for several years. He prayed to dismiss this petition.

4. Learned AAG assisted by the counsel for Respondent No. 4 (JPMC administration) partially supports the factual background regarding institutional control and acknowledges the legal complexity arising from the Supreme Court

judgment and subsequent administrative arrangements, while noting that employees continue under applicable federal framework and management arrangements remain subject to ongoing legal proceedings. They prayed to dismiss the petition by supporting the stance of the respondent No.1.

5. Having heard the learned counsel for the parties and examined the material available on record, this Court is of the considered view that the Petitioners have failed to make out any case warranting interference in the constitutional jurisdiction of this Court for the reason that the entire foundation of the Petition rests on the assumption that Respondent No. 1 is a deputationist and that the Devolved Employees Rules, 2015 are inapplicable. However, this assertion remains unsubstantiated in view of the admitted factual and legal complexities surrounding the institutional status of JPMC and the continued application of service frameworks under valid governmental arrangements.

6. It is an established principle of service jurisprudence that the scope of judicial review in matters relating to promotion, cadre classification, and departmental structure is limited, and the High Court does not sit as an appellate authority over administrative decisions unless such actions are shown to be without jurisdiction, mala fide, or in violation of an express statutory provision. In the present case, the Petitioners have not been able to demonstrate any patent lack of jurisdiction or illegality in the impugned promotions, particularly when the same are shown to have been made under the applicable recruitment and promotion rules of 1986 and in pursuance of directions passed by this Court in earlier round of litigation.

7. The contention regarding deputation also does not assist the Petitioners. The status of employees at JPMC has remained the subject of constitutional and administrative arrangements following the judgment reported as *2020 SCMR 1*, as well as subsequent operational agreements between the Federation and the Province. In such evolving administrative framework, the mere assertion of deputation, without a conclusive determination of service status in relation to the concerned employee, cannot ipso facto invalidate promotions granted under the governing service regime, until and unless Supreme Court announced this case in line of order in *2020 SCMR 1*, till that no writ of quo warranto lies for announcement of promotion of employees.

8. Likewise, the reliance placed on the principle of cadre distinction, as laid down in *2015 SCMR 456*, is misplaced in the facts of the present case, as the record reflects that Respondent No. 1's appointments and promotions have been processed within the institutional framework and in accordance with applicable rules governing faculty positions. No material has been produced to establish that any unlawful horizontal movement, in the strict legal sense, has taken place so as to render the entire promotional process void ab initio.

9. The allegation of mala fide, favoritism, and administrative arbitrariness also remains in the realm of assertion without cogent supporting evidence. It is well settled that mala fide must be specifically pleaded and strictly proved, and cannot be inferred merely on the basis of subjective dissatisfaction with promotional outcomes. Similarly, the plea of violation of Articles 4 and 18 of the Constitution is not sustainable in the absence of demonstrable illegality or infringement of any legally enforceable right as portrayed by the petitioners.

10. It is further observed that issues relating to seniority, eligibility, and promotion within a specialized medical institution fall within the domain of departmental expertise and policy determination. The Supreme Court has consistently held that courts should exercise restraint in interfering with such matters unless there is clear violation of law or manifest injustice, as reiterated in various service jurisprudence and subsequent judgments on judicial restraint in administrative matters.

11. In view of the foregoing, this Court is of the view that the Petitioners have failed to establish any legal infirmity, jurisdictional defect, or violation of fundamental rights in respect of the impugned promotions. The petition is found to be based on disputed questions of fact and service interpretation, which are not amenable to determination in constitutional jurisdiction under Article 199 of the Constitution.

12. The petition, being devoid of merit, is accordingly dismissed, along with pending applications. However, the parties are left to bear their own costs.

13. These are the reasons of our short order of even date whereby the instant petition along with pending application(s) were dismissed.

JUDGE

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