

# THE HIGH COURT OF SINDH KARACHI

Mr. Justice Muhammad Saleem Jessar  
Mr. Justice Nisar Ahmed Bhanbhro

C.P. No. D - 346 of 2021

[Dr. Abdul Ghani Soomro versus Province of Sindh & others]

Petitioner : Dr. Abdul Ghani Soomro through  
M/s. Altaf Ahmed Shaikh and  
Kashif Shaikh, Advocates.

Respondents : Province of Sindh & 03 others  
through M/s. Hakim Ali Shaik,  
Saghir Ahmed Abbasi, Additional  
Advocates General, Sindh and  
Muhammad Kamran Baloch, A.A.G.  
along with Agha Shahzeb Khan,  
Section Officer-I, Health Department,  
Government of Sindh.

Date of hearing : 29-04-2026

Date of decision : 29-04-2026

## **ORDER**

**Nisar Ahmed Bhanbhro, J.** - Through this petition, the Petitioner claims following relief(s):

- a) *Be pleased to declare that the petitioner is entitled for proforma promotion from the due date.*
- b) *Be further pleased to direct the respondents to Grant his proforma promotion by fixing his pay accordingly and so also his pension and commutation be calculated after fixation of the pay.*
- c) *Be please to grant any other relief as may be deemed fit and proper under the circumstances of the petition and not prayed for buy the petition.*

2. Learned counsel for the Petitioner contended that all codal formalities requisite for promotion to the post of Senior Medical Officer (BPS-20) had been duly completed in the year 2019, and the petitioner had submitted all necessary documents, including ACRs, No-Dues Certificate, and No-Enquiry Certificate, as desired by Respondent No. 3. However, owing to the outbreak of the COVID-19 pandemic, the meeting of the Provincial Selection Board-I could not be convened, and in the interregnum, the Petitioner stood retired

on 11.05.2020 upon attaining the age of superannuation. It was further contended that the Petitioner is entitled to proforma promotion, as the delay in convening the meeting of the Provincial Selection Board-I was caused by circumstances beyond the control of the Petitioner. Learned counsel further averred that vide notification dated 12.08.2020, the juniors of the petitioner were promoted to BPS-20; however, the case of the Petitioner was not considered for promotion solely on account of his retirement. On the basis of the foregoing submissions, learned counsel prayed that the instant petition may be allowed and the Respondents may be directed to consider the case of the Petitioner for proforma promotion.

3. At the very outset, learned Additional Advocate General, Sindh, assisted by Mr. Agha Shahzeb Khan, Section Officer-I, Health Department (Respondent No.3) placed on record the statements supported by set of documents, which are taken on record.

4. Learned Additional Advocate General, Sindh, while vehemently controverting the submissions advanced on behalf of the petitioner, contended that the petitioner is not entitled to promotion, as the same is not a vested right of an employee. He submitted that, under the relevant service rules, promotion is granted on the principle of seniority-cum-fitness. He further conceded that although the juniors of the Petitioner were recommended by the Selection Board for promotion to BPS-20, the meeting for such promotion was convened subsequent to the retirement of the Petitioner, a fact duly acknowledged by the petitioner in the instant petition. He further contended that the Petitioner stood retired on 11.05.2020 upon attaining the age of superannuation, and that, in terms of the policy of the Services, General Administration & Coordination Department, Government of Sindh, there exists no provision in the relevant rules for grant of ante-dated promotion. On the strength of the foregoing submissions, he prayed for dismissal of the petition.

5. Heard learned counsel and perused the material made available before us on record.

6. The case as set-up by the Petitioner, that he was initially appointed as a Medical Officer (BPS-17) on 17.11.1988 and assumed charge of the said post on 21.11.1988 on adhoc basis. Subsequently, upon qualifying the competitive examination, his name was recommended by the Sindh Public Service Commission vide letter dated 10.10.1990 for appointment as Medical Officer (BPS-17). In pursuance thereof, the petitioner was appointed on a permanent basis through notification dated 13.01.1991. Thereafter, the petitioner was promoted from the post of Medical Officer (BPS-17) to Senior Medical Officer (BPS-18) vide notification dated 18.03.2003. Owing to his consistent, meritorious, and dedicated service, the petitioner earned a further promotion to BPS-19 as Senior Medical Officer and was posted as Chief Medical Officer at Chandka Medical College Hospital, Larkana. It is stated that the seniority list for the post of Senior Medical Officer (BPS-19), as it stood on 01.04.2019, was issued vide notification dated 13.05.2019, wherein the name of the petitioner appeared at Serial No. 112. Subsequently, owing to the outbreak of the COVID-19 pandemic worldwide, a lockdown was imposed, as a consequence whereof the meeting of the Provincial Selection Board-I was postponed for an indefinite period, despite the fact that all requisite codal formalities and documentation had already been completed. Subsequently, the petitioner stood retired from service on 11.05.2020 upon attaining the age of superannuation. Successively, vide notification dated 12.08.2020, the Provincial Selection Board-I recommended as many as 93 officers for promotion to BPS-20. In view of the foregoing, the Petitioner claims entitlement to proforma promotion to the post of Senior Medical Officer (BPS-20), on the ground that his juniors were granted such promotion.

7. It is borne out from record that the Petitioner retired from service on attaining the age of superannuation. The concept of

promotion with a retrospective effect to a retired Civil Servant is alien to the scheme of law. The Sindh Civil Servants Act 1973 and Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 being governing laws in matters of appointment and promotions do not contain any provision entitling a Civil Servant for promotion after retirement. In absence of any laws conferring rights of promotion to the retired Civil Servants, this Court cannot issue writ, and direct the authority to promote a retired civil servant retrospectively.

8. After superannuation the civil servant may, however, claim a right to be considered for pensionary benefits in accordance with the policy or a scheme adopted by the competent authority. The proviso to FR 17(1) of the Fundamental Rules empowered the appointing authority to direct that a civil servant shall be paid the arrears of pay and allowances of a higher post through proforma promotion if satisfied that the civil servant who was entitled to be promoted from a particular date was, for no fault of his own, wrongfully prevented. Through Fundamental Rule 17 government obviously intended to compensate a civil servant for being deprived of a right to be considered for no fault on his part. The finance Division vide notification No SRO No.965(I)/2022 dated 20.05.2022 omitted the above provision; however, left the room open for consideration of case of Proforma Promotion of civil servants, by orders of judicial forum.

9. The Petitioner claims promotion to next higher grade. Though the appointment, promotion and transfer are the internal affair of the department and this Court was not acting as an Appellate Authority to examine the matters pertaining to the terms and conditions of the service of a Civil Servant. It is always expected that the department undertakes promotion cases of civil servants strictly on merits, promotion of a deserved civil servant underscores the concept of good governance and any favoritism or nepotism in the promotion matters erodes the confidence of the officers in the

department. To determine whether the Petitioner was entitled for the arrears of pay and allowances of a higher post through proforma promotion, he has to establish that he was entitled to be promoted from a particular date and wrongly prevented for no fault of his own.

10. It is an admitted position that all codal formalities for promotion to the post of Senior Medical Officer (BPS-20) had been duly completed in the year 2019, and the petitioner had submitted all requisite documents as required by Respondent No. 3. However, owing to the outbreak of the COVID-19 pandemic, the meeting of the Provincial Selection Board-I could not be convened in time, and during this intervening period, the petitioner stood retired on 11.05.2020 upon attaining the age of superannuation.

11. It further transpires from the record that, as per the seniority list of BPS-19 officers as it stood on 01.04.2019, the Petitioner was placed at Serial No. 112. It is also an admitted position that officers junior to the Petitioner, commencing from Serial No. 82 onwards in the said seniority list, were subsequently granted promotion to BPS-20 vide notification dated 12.08.2020. However, the Petitioner, having already retired prior to the convening of the meeting of the Provincial Selection Board-I, was not considered for such promotion. In the foregoing circumstances, it is evident that the Petitioner had fulfilled all requisite conditions and was within the zone of consideration for promotion; however, due to the deferment of the Selection Board meeting on account of Covid-19, he was deprived of consideration for promotion.

12. The promotion is not a vested right of the employee but an employee cannot be denied such right without his fault; as such the denial on the part of the authority was not falling within the dominion of law and violated the rights of Petitioner guaranteed under Article 4, 9, 14, 25, and 27 of the Constitution of Islamic Republic of Pakistan of 1973, which lay emphasis that a person was subject to the due process of law, his right as to the life, liberty and

development and prosperity shall be respected, he shall not be discriminated and given equal treatment of law in all matters including service.

13. It can safely be concluded, in view of the admitted factual matrix, that the Petitioner was otherwise eligible and due for consideration for promotion to BPS-20, but was deprived of the same solely on account of his retirement from service. The record further reflects that the Petitioner was prevented from being considered for the next higher grade without any fault attributable to him. Therefore, the Petitioner is held entitled to the grant of proforma promotion to BPS-20.

14. For the foregoing reasons, this petition is allowed to the extent of prayer clauses (a) and (b). The Respondents are hereby directed to consider the case of the Petitioner for grant of proforma promotion and to decide the same within a period of two (02) months from the date of receipt of a copy of this order. The office is further directed to transmit a copy of this order to the Respondents forthwith for compliance.

**JUDGE**

**JUDGE**  
**HEAD OF THE CONST. BENCH**

**\*PS/SADAM**

**APPROVED FOR REPORTING**