

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

*Constitutional Petition No. D-1510 of 2025*  
*[Ms. Sabra Rajput vs. Province of Sindh and others]*

***Before:-***

***Mr. Justice Amjad Ali Bohio,***  
***Mr. Justice Ali Haider 'Ada'.***

Petitioner : Ms. Sabra Rajput, *through*,  
M/s Sohail Ahmed Khoso and  
Abdul Qadeer Khoso, Advocates.

Respondents : Province of Sindh and others,  
*through*, M/s Ali Raza Balouch,  
Additional Advocate General,  
and Agha Athar Hussain Pathan,  
Assistant Advocate General.

Date of Hearing : 22.04.2026.  
Date of Decision : 28.04.2026.

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**JUDGMENT**

**Ali Haider 'Ada' J.-** The petitioner was appointed as Assistant District Public Prosecutor (BPS-17) on 30.09.2008. According to the notification issued with respect to the seniority list, her date of birth is recorded as 02.06.1969. By means of the instant petition, the petitioner has sought issuance of directions to the respondents to grant incentive of a higher grade based on the time scale strictly in accordance with her length of service.

2. The crux of the instant petition is that, since her appointment on 30.09.2008, no Departmental Promotion Committee has been constituted to consider the case of the petitioner for promotion. It is contended that the petitioner has rendered continuous service for approximately 17 years on the same post, i.e., Assistant District Public Prosecutor, without any promotional advancement. It is further asserted that the petitioner is now nearing the age of superannuation, as calculated from her date of birth, thereby leaving

her with limited prospects for career progression. The petitioner has also placed on record instances where other law officers have been granted the benefit of higher grades on a time-scale basis. According to the petitioner, denial of similar treatment in her case amounts to discriminatory conduct and is contrary to the settled principles governing service matters. This, in essence, constitutes the primary grievance of the petitioner in the present proceedings.

3. On behalf of the Finance Department, Government of Sindh, the Additional Finance Secretary (SR) filed comments stating that a comprehensive time-scale policy is presently under process. It was submitted that, for this purpose, a series of communications have been addressed to all administrative departments, calling for requisite information along with financial implications concerning both isolated and **non-isolated** or non-promotional posts. However, it was noted that the requisite data has not yet been received from all departments. It was further stated that upon receipt of the complete information, the matter shall be placed before the Provincial Cabinet for final decision.

4. On behalf of the Law Department, Government of Sindh, a statement was filed, submitting that the formulation of a time-scale policy is under active consideration before the Finance Department. It was further asserted that, pursuant to directions, the Finance Department had sought detailed information from various departments, and in compliance thereof, the Law Department has already furnished the requisite data regarding isolated and non-promotional posts, including a list of such posts.

5. Comments were also submitted on behalf of the Prosecutor General, Sindh, wherein it was contended that the Criminal Prosecution Service Department has consistently taken measures to ensure regular promotions and, where promotion avenues are limited, to extend the benefit of time-scale facility to eligible officers,

including Assistant District Public Prosecutors. It was further stated that several communications were addressed to the Secretary, Law, Parliamentary Affairs and Criminal Prosecution Department, Government of Sindh, in this regard. Reference was made to a notification issued by the Finance Department whereby the post of District Attorney (BPS-19), upon completion of 10 years' satisfactory service, was granted the benefit of higher scale (BPS-20) on a time-scale basis. Similarly, the post of Deputy District Attorney (BPS-18), upon completion of 10 years' satisfactory service, was granted time-scale promotion to BPS-19.

6. Further comments filed by the Additional Finance Secretary (SR) revealed that the Services, General Administration and Coordination Department, Government of Sindh, had constituted a committee to formulate a draft time-scale policy for isolated/non-promotional posts. In this regard, a progress report was submitted along with an Office Memorandum dated 28.05.2022, issued by the Finance Division (Regulation Wing), Government of Pakistan, relating to the grant of time-scale to civil servants in BPS-01 to BPS-16 at the Federal level. It was further reported that the grant of time-scale to District Attorneys was premised on the fact that such posts lack a defined promotional avenue. It was also pointed out that, in similar matters, this Court, vide order dated 06.08.2025, had directed the Chief Secretary, Sindh, to decide the representations of similarly placed officers.

7. Learned counsel for the petitioner contended that the fundamental object of public service is to afford progression to an employee through promotion or otherwise, provided that the employee has served with diligence and integrity. He argued that the petitioner, having been appointed in the year 2008, is now nearing the age of superannuation, yet she has neither been granted promotion nor provided any lawful justification for such denial. It was further contended that even if a Departmental Promotion

Committee is convened at this stage, the petitioner is unlikely to benefit due to the limited number of sanctioned posts in the higher cadre, which situation has arisen due to the inaction of the department in holding timely promotion proceedings. In such circumstances, it was argued that the petitioner is entitled to the grant of higher scale on a time-scale basis. In support of his contentions, learned counsel relied upon Notification No. FD(SR-I)1(52)/2010 dated 07.06.2010, issued by the Finance Department, Government of Sindh, whereby teaching posts, despite being promotional in nature, were granted higher grades on a time-scale basis. He further placed reliance upon Notification dated 19.02.2026 issued by the Law, Parliamentary Affairs and Criminal Prosecution Department, whereby District Attorneys were extended the benefit of higher scale on time-scale basis. Reliance was also placed upon judgments of this Court passed in Constitutional Petition No. D-1736 of 2013 and Constitutional Petition No. D-1544 of 2025, seeking parity of treatment.

8. Conversely, learned Additional Advocate General submitted that the preference for the grant of time-scale is ordinarily extended to isolated posts lacking promotional avenues. It was contended that the service structure requires a comprehensive mechanism, and in this regard, the matter is presently under consideration by the competent authorities for finalization of a uniform policy.

9. Heard the learned counsel for the parties and perused the material available on record.

10. The petitioner was appointed as Assistant District Public Prosecutor BPS-17 in the year 2008 and, since the date of her appointment, has continued to serve in the same post without any promotional advancement. The said post falls within the definition of "Prosecutor" as provided under **Section 2(1) of the Sindh Criminal Prosecution Service (Constitution, Functions and**

**Powers) Act, 2009.** For the sake of ready reference, Section 2(1) of the *ibid* Act is reproduced as under:

*Section 2(1) "Prosecutor" means the Prosecutor General, Additional Prosecutor General, Deputy Prosecutor General, Assistant Prosecutor General, District Public Prosecutor, Deputy District Public Prosecutor, Assistant District Public Prosecutor and a Public Prosecutor appointed under this Act and shall be deemed to be the Public Prosecutor under the Code.*

11. Furthermore, **Section 16(2) of the Sindh Criminal Prosecution Service (Constitution, Functions and Powers) Act, 2009** provides that a Prosecutor appointed under the said Act shall be deemed to be a public servant. For the sake of ready reference, Section 16(2) of the *ibid* Act is reproduced as under:

*Section 16 (2). A Prosecutor appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code, 1860 (Ordinance XLV of 1860).*

12. At this juncture, reference may also be made to **Section 8 of the Sindh Criminal Prosecution Service (Constitution, Functions and Powers) Act, 2009**, which lays down the procedure for appointment. In terms of proviso to sub-section (3) of Section 8, it is provided that fifty percent of the vacancies occurring in the relevant posts shall be filled through promotion. For the sake of ready reference, Section 8 of the *ibid* Act is reproduced as under:

**8. Appointments.-** (1) *Government may appoint any Prosecutor to conduct criminal cases in the High Court, Federal Shariat Court and Supreme Court, 10[Special Court, Tribunal, Lower Court or any other Court]*

(2) *Government shall appoint a District Public Prosecutor in each district, who shall be Officer Incharge of the Prosecution in the district within the meaning of the Code.*

(3) *All the appointments, except that of the Prosecutor General, to various posts in the Service, shall be made through initial recruitment in the manner, as may be prescribed:*

*Provided that, after initial recruitment, fifty percent of vacancies occurring on the post of Additional Prosecutor General, Deputy Prosecutor General, Assistant Prosecutor General, District Public*

*Prosecutor and Deputy District Public Prosecutor shall be filled through promotion.*

*(4) No direct recruitment shall be made on regular basis to the posts of District Public Prosecutor, Deputy District Public Prosecutor, Assistant District Public Prosecutor, Additional Prosecutor General and Deputy Prosecutor General and Assistant Prosecutor General except on the recommendation of Sindh Public Service Commission:*

*Provided that on commencement of this Act, the persons already performing functions of prosecution on regular basis in the Province, shall continue as such.*

13. So far as the requirement of length of service for promotion is concerned, the **Sindh Prosecutors (Appointments and Conditions of Service) Rules, 2006** prescribe the minimum qualifying service for eligibility to higher posts in various Basic Pay Scales. In this regard, Rule 10 of the said Rules specifically provides the minimum length of service required for promotion. For the sake of ready reference, Rule 10 of the *ibid* Rules is reproduced as under:

**10. Minimum length of service for Promotion-** (1) *The minimum length of service for eligibility for promotion to various basic pay scales shall be as follows:*

*For Basic Pay Scale 18 5 Years in BPS-17*

*For Basic Pay Scale 19 12 Years in BPS-17 and above*

*For Basic Pay Scale 20 17 Years in BPS-17 and above*

*Provided that where initial appointment takes place in BPS-18 or 19, the length of service for promotion to higher scales shall be as follows:*

*For Basic Pay Scale 19 5 Years in BPS-18*

*For Basic Pay Scale 20 12 Years in BPS-18 and above or 5 Years in BPS-19 and above*

14. Thus, a clear statutory mechanism exists, nonetheless, the grievance of the petitioner is that, despite the availability of such a framework, the department has, over a period of approximately seventeen years, failed to extend any benefit of higher scale to her either by way of regular promotion or through the grant of time-

scale. This inaction, according to the petitioner, has effectively deprived her of legitimate career progression and the financial incentives attached thereto.

15. In **Chapter 7 relating to Career Planning, Promotion and Training under the ESTA Code Edition, 2021**, the relevant provision for grant of time-scale has been articulated in Article 6.6. The Additional Finance Secretary (SR), Finance Department, has also placed reliance upon an Office Memorandum issued by the Finance Division (Regulation Wing), Government of Pakistan (referred to supra), which reflects a similar policy approach. In view thereof, Article 6.6 of the ESTA Code Edition, 2021 assumes relevance to the controversy in hand. For the sake of ready reference, the said Article 6.6 is reproduced as under:

***6.6 Grant of BPS-17 to the Superintendent (BPS-16) in the Federal Government Ministries/Divisions/Attached Departments/Sub-ordinate Offices.***

*Prime Minister has been pleased to accord approval to the grant of higher time scale to the Superintendents (BPS-16) in the Federal Government Ministries / Divisions / Attached Departments / Subordinate Offices with immediate effect as under: –*

*(a) One time grant of BPS-17 to all Superintendents working in BPS-16 irrespective of their length of service.*

*(b) In future three (03) years satisfactory service as Superintendent BPS-16 may be prescribed for grant of BPS-17 to them.*

*2. The grant of higher time scale will be subject to the following terms and conditions: –*

*(i) The recruitment rules, nomenclature/tier of the posts and seniority of the Superintendents shall remain intact.*

*(ii) The grant of higher time scale will be subject to fitness of candidate and recommendations of the relevant DPC.*

*(iii) On grant of higher time scale pay will be fixed at the next above stage in BPS-17 and no pre-mature increment is admissible.*

*(iv) On grant of higher time scale there shall be no change in the*

*entitlement/ admissibility of rental ceiling/House Rent Allowance/ Medical Allowance.*

*[Authority:- Finance Division (Reg. Wing) O.M. No.1(3) R-I/2010/2014 dated 10-9-2014].*

16. The concept of time-scale pay is also recognized under the **Fundamental Rules**. In this regard, **Rule 9(31)** comprehensively defines “**time-scale of pay**” as a scale of pay subject to the condition of progression of increments from a prescribed minimum to a maximum, thereby constituting a class of progressive pay. The said rule regulates the manner in which an employee advances within the pay scale by way of periodic increments in accordance with the prescribed conditions. For the sake of ready reference, Rule 9(31) of the Fundamental Rules is reproduced as under:

*9 (31) (a) Time-scale pay means pay which, subject to any conditions prescribed in these rules, rises by periodical increments from a minimum to a maximum. It includes the class of pay hitherto known as progressive.*

*(b) Time-scales are said to be identical if the minimum, the maximum, the period of increment and the rate of increment of the time -scale are identical.*

*(c) A post is said to be on the same time-scale as another post on a time-scale if the two time-scales are identical and the posts fall within a cadre, or a class in a cadre, such cadre or class having been created in order to fill all posts involving duties of approximately the same character or degree of responsibility, in a service or establishment or group of establishments so that the pay of the holder of any particular post is determined by his position in the cadre or class and not by the fact that he holds that post.*

*Government Order. – The Government have decided that, to find the average cost of an appointment in the Junior Scale of an All-Pakistan Service, formula (3) mentioned in the Audit Instruction below should be used and that such proportion of overseas pay should be added to the minimum basic pay, as well as to the basic pay just before promotion to the Senior Scale, as the number of persons drawing overseas pay in the Junior Scale bears to the total number of persons in that scale.*

*(G.I., F.D., letter No.F.39-II-Ex.-I/31, dated the 2nd April, 1931.)*

17. Even so, Rules 22 to 29 (inclusive) and Rule 9(31) of the Fundamental Rules apply generally to time-scales of pay.

18. The time-scale incentive is intended to extend monetary benefits to civil servants who have completed a prescribed period of service, ordinarily ten years, in the same pay scale without any promotional advancement and where no effective promotional prospects exist. The grant of such incentive is not dependent upon the availability of a vacant post or occurrence of a vacancy, but is primarily linked with the length of satisfactory service in the same cadre. Reliance in this regard is placed upon the judgment reported as *Khawaja Nazir Ahmed v. Azad Government of the State of Jammu and Kashmir through Secretary Forest and others* (2022 PLC (C.S.) 1417).

19. Although promotion is not a vested right, it cannot be denied, particularly where an employee has become eligible under the applicable rules and policy. Such entitlement cannot be defeated merely on account of administrative inaction or omission on the part of the department in failing to convene the requisite Departmental Promotion Committee or in not implementing the service structure in accordance with law. The Indian Supreme Court in *A. Satyanarayana and others v. S. Purushotham and others* [(2008) 5 SCC 416] has held that although a mere chance of promotion is not a fundamental right, the right to be considered for promotion is nevertheless a protected service right. Similarly, in *Ajit Singh and others v. State of Punjab and others* [(1997) 5 SCC 201], it was held that:

*"In Indian Admn. Service (S.C.S.) Association UP and others v. Union of India and others 1992(3) SCALE 126 in paras 14 and 15, another Bench of three Judges had held that no one has a vested right to promotion or seniority but an officer has an interest to seniority acquired by working out the rules. In A.B.S.K. Sangh v. Union of India and others JT (1996) SC 274, a Bench to which two of us, K. Ramaswamy and G.B. Pattanaik, JJ., were members, following the above ratio, held that no one has a 'vested right to promotion or seniority but an officer has an interest to seniority acquired by working out the rules'. It could be taken away only by operation of valid law."*

20. The grant of time-scale does not amount to promotion in the strict sense contemplated under the Civil Servants (Appointment,

Promotion and Transfer) Rules, 1973, as it does not involve any change in the designation of the post. Rather, it is a financial up gradation granted based on length of service, without disturbing the cadre position or seniority structure. Reliance in this regard is placed on *Secretary Finance, Finance Division, Pak. Secretariat, Islamabad v. Muhammad Farooq Khan and others* (2022 SCMR 381),

21. Furthermore, in *Khushdil Khan Malik v. Secretary, Establishment Division, Cabinet Block, Islamabad and others* (2021 SCMR 1496), the Honourable Supreme Court held that:

9. *Now adverting to another contention of the petitioner that benefits under Time Scale Formula may be granted to him, it is essential to consider the 'terms and conditions of service of the petitioner under the Act of 1973 read with the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 hereinafter referred to as Rules 1973. The petitioner being a civil servant was appointed under the Act of 1973 and transferred and promoted under the procedure and conditions prescribed under the same Act and Rules 1973. The Act of 1973 doesn't define the term 'Time Scale Promotion'; therefore it cannot be considered as a term and condition of service. Promotion on the basis of Time Scale is not a regular promotion but a matter of policy granted to specific categories of professions by the relevant competent authority with the concurrence of the Finance Division. Such a policy is meant to grant benefits of higher pay scales to those cadres of civil servants which do not ordinarily get promotions to higher grades under the Rules 1973 on a regular basis. The monetary benefits under the Time Scale Formula cannot be extended generally to all civil servants but to class of civil servants as mentioned in the approved policy. The Establishment Division, expressly mentioned in Office Memorandum dated 19.09.2011, that Time Scale Formula is simply the grant of financial benefits of a higher pay scale without change in designation of the post and does not tantamount to up-gradation of the said post nor requires amendment in the recruitment rules. It was further clarified by the Finance Division, vide letter dated 10.09.2013, that even after the grant of higher time scale the incumbent continues to hold the same post without there being any change in its status. The explicit conditions of the Time Scale Formula as mentioned in the relevant policy make it crystal clear that it does not tantamount to regular promotion under the Rules 1973. The monetary benefits under the Time Scale Formula were initially granted to the Teaching Staff of the Federal. Directorate of Education, Islamabad and later, at the request of the Ministry of Defence, these were extended to the Teaching Staff of the parent department pursuant*

*to approval given by the Prime Minister which was duly communicated on 16.10.2015. The petitioner admittedly belongs to the cadre of the Teaching Staff of the parent department; however, he is serving on ex--cadre posts since 2011 and has hardly served as an officer of Teaching Staff in the parent Department. He could not be extended the benefits of Time Scale Formula, particularly when at the same time he was also seeking his induction in the Secretariat Group. Therefore, the request of the petitioner for consideration of his promotion on Time Scale basis at this stage is not feasible. However, it is open to the relevant competent authority to consider his case on Time Scale basis after his repatriation to the parent department.*

*(Underline emphasized)*

In the *supra* case, the petitioner had also sought induction into the Secretariat Group; however, he could not be extended the benefit of the Time Scale Formula, particularly in view of his simultaneous claim for absorption in another service cadre. It was, therefore, held that the request for consideration of promotion based on Time Scale at that stage was not feasible. In contrast, in the present case, the petitioner's claim is confined solely to the grant of Time Scale promotion under the applicable Time Scale Formula. It is pertinent to note that the Civil Servants Act, 1973, does not define the term "Time Scale Promotion", and as such, it cannot be construed as a vested or enforceable term and condition of service in the strict sense. Time Scale promotion, as recognized, does not constitute a regular promotion under the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, but is rather a policy-based financial up gradation extended by the competent authority with the concurrence of the Finance Division.

22. Moreover, a policy is essentially intended to provide monetary benefits in the form of higher pay scales to those cadres of government servants who, due to structural limitations, stagnation, or lack of promotional avenues, are not ordinarily granted regular promotion under the statutory service rules. It is also pertinent to note that the Finance Department, in compliance with the directions passed by this Court at Karachi, has already extended the benefit of higher grade on the basis of time-scale to the post of Deputy District

Attorney. Significantly, the said post is not an isolated or non-promotional post, yet the benefit of time-scale incentive was granted in order to address stagnation and to ensure parity in service benefits. In the present case, the petitioner, who has rendered approximately 17 years of service as Assistant District Public Prosecutor in BPS-17, has already crossed substantial length of qualifying service required for consideration of higher scale.

23. It is further the case of the petitioner that even if a Departmental Promotion Committee is convened at this stage, the same would be of no practical benefit, as there exists a limited number of sanctioned posts in the higher cadre. Consequently, due to administrative inaction and non-convening of timely promotion proceedings, the petitioner has been deprived of her lawful consideration for promotion, despite completion of the requisite qualifying service. The petitioner, therefore, asserts that she cannot be made to suffer on account of institutional delay and structural bottlenecks in the promotion mechanism.

24. In light of the foregoing facts, circumstances, and the discussion made hereinabove, this petition is disposed of with the declaration that the petitioner is entitled to the grant of an incentive in the form of a higher grade based on the applicable time scale. The competent authority is directed to consider and finalize the petitioner's case for the grant of such benefit expeditiously, in accordance with law.

*JUDGE*

*JUDGE*