

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Constitutional Petition No. D-1799 of 2024
(*Muhammad Abu Azam Khan & others versus Province of Sindh & others*)

Date	Order with signature of Judge(s)
	Before: Mr. Justice Muhammad Karim Khan Agha Mr. Justice Adnan-ul-Karim Memon

Date of hearing and order:- 07.11.2025

Syed Shoa-un-Nabi advocate for the petitioners
Ms. Saima Imdad, Assitant Advocate General

ORDER

Muhammad Karim Khan Agha, J: The petitioners have prayed
as under:-

- To declare the petitioners entitled to up-gradation of their post in view of directions of the Government. With holding such benefit to the petitioners are unfair , malafide, discriminatory against principles of natural justice and violation of fundamental right.*
- To direct the respondents to allow up-gradation post of the petitioners from BS-9 to 16*
- To direct the respondents from taking any coercive action against the jobs and salaries of the petitioners.*
- To award cost of petition.*

2. The petitioners joined the Health Department, DMC West, as Compounders in 1997 in BS-06 and were posted at the Chief Medical Officer’s Office, Orangi Town. Their posts were upgraded to BS-09 with effect from 13.05.2006 vide office order dated 12.10.2010. Since then, no further promotion or upgradation has been granted, and they have remained in BS-09 for about 17–18 years. They now want their posts be upgraded in BS-16.

3. Learned counsel for the petitioners contends that the Local Government Department issued a notification on 14.12.2010 approving a service structure upgradation, but the same has not been implemented for the petitioners. Despite repeated requests and applications to the Chairman, Town Municipal Corporation Orangi, no action was taken, though one Muhammad Saeed, a Compounder, was upgraded from BS-06 to BS-16. Counsel argues that the petitioners have no alternative remedy except to seek this Court’s direction for consideration of their applications. He prayed to allow the instant petition.

4. Conversely, learned AAG submits that upgradation is a policy matter and not a vested or enforceable right. It depends on administrative, financial, and functional considerations, and unless the government extends such benefit to all similarly placed employees, the petitioners cannot claim parity merely on expectation. He prayed to dismiss the petition.

5. After considering the submissions of both sides and examining the record, it appears that the petitioners' case for upgradation is not supported by any specific notification or policy extending such benefit to all similarly placed employees. Upgradation of posts is a policy matter resting within the discretion of the competent authority, based on administrative and financial considerations. Unless it is demonstrated that the Government has decided to upgrade the post of Compounder from BS-09 to BS-16 generally or has granted such benefit to all employees of the same cadre, the petitioners cannot claim upgradation as a matter of right. However, if the case of one Muhammad Saeed was upgraded under similar circumstances, the competent authority may examine the petitioners' claim for parity and pass a speaking order within two months after hearing them, in accordance with law and the prevailing policy.

6. Petition stands disposed of in the above terms.

HEAD OF CONST. BENCHES

JUDGE

Shafi