

THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 1332 of 2024

[Khalid Hussain Mangi v. Pakistan Railways through its General Manager and others]

Before:
Justice Arbab Ali Hakro
Justice Muhammad Osman Ali Hadi

Petitioner by : Mr. Jamshed Ahmed Faiz, Advocate

Respondents by : M/s Ghulam Abbas Akhtar, Advocate and
Ashfaq Hussain Abro, Assistant Attorney
General

Date of Hearing : **12.08.2026**

Date of Decision : **12.08.2026**

ORDER

ARBAB ALI HAKRO, J. – Through this constitutional petition, the petitioner challenges the order dated 02.08.2024, passed by the Chief Executive Officer/Senior General Manager, Pakistan Railways, which declined his representation seeking notional promotion from the post of Head Clerk to that of Office Superintendent, with consequential retirement benefits. He further seeks a direction to the respondents to treat him as notionally promoted with effect from the date of his retirement, i.e. 20.03.2023.

2. The relevant facts are that the petitioner entered the service of Pakistan Railways on 16.11.1981. During his service, he was transferred to Karachi Division, where he was promoted to Upper Division Clerk, and was thereafter transferred back to Sukkur Division in August, 1992. The transfer order on record states that the transfer was at his own request and that, on joining Sukkur Division, he would rank junior to the UDCs already working there, irrespective of the pay he drew. The petitioner asserts that, notwithstanding his earlier entry into service, his juniors, including Muhammad Sharif and Irshad Ahmed, were shown above him and promoted earlier. He maintains that his seniority ought to have been reckoned from his earlier promotion as UDC and that the delayed promotion to Head Clerk in

May, 2010 adversely affected his further promotion to the post of Office Superintendent.

3. The record further shows that the petitioner invoked the jurisdiction of the National Industrial Relations Commission. The matter was remanded by the Commission's Full Bench on 12.09.2023 for a fresh decision in light of the notification dated 29.12.2020 and to determine whether the petitioner fell within the definition of a workman. Upon remand, the learned Single Member dismissed the grievance petition on 07.11.2023, holding that the petitioner, being a Head Clerk in BPS-16, was not a workman and could seek a remedy before the appropriate forum.

4. Thereafter, the petitioner filed C.P. No. D-153 of 2024. On 25.04.2024, the petition was disposed of when his learned counsel stated that he would be satisfied if the competent authority decided his representation. The petitioner was afforded a personal hearing on 08.07.2024. By the impugned order dated 02.08.2024, his claim was rejected on the grounds that promotion to the post of Office Superintendent depended on inter se seniority in the eligible grade and successful completion of the qualifying P-32 course at Pakistan Railways Academy, Walton; that he had not qualified for the said course; and that he was junior in the relevant seniority.

5. In their para-wise comments, the respondents have controverted the petition. Their case is that the petitioner's seniority was fixed strictly in accordance with the condition attached to his own-request transfer to Sukkur Division; that Signal Branch and Personnel Branch constituted distinct seniority units; that the officers cited by the petitioner were not similarly placed, and that no timely objection was raised to their course nomination or promotion. It is further stated that the petitioner was nominated for the prescribed promotion course for Head Clerk and, upon qualifying, was promoted on 26.05.2010. The respondents have additionally pleaded that the notification dated 29.12.2020 concerns an exemption from mandatory NITB training for an official likely to retire within two years, and does not dispense with or substitute the railway-specific P-32 qualifying course required for

promotion as Office Superintendent. They have also stated that the petitioner retired on 20.03.2023, is receiving pension, and has been paid the admissible pensionary benefits.

6. Learned counsel for the petitioner contended, in substance, that the petitioner had repeatedly been overlooked despite his seniority; that the notification dated 29.12.2020 exempted him from mandatory training because he was nearing superannuation; and that the impugned order failed to give meaningful effect to this Court's earlier direction. He submitted that the petitioner does not seek assumption of a higher office after retirement, but only a notional promotion for the recalculation of retirement benefits.

7. Learned counsel for the respondents opposed the petition and submitted that it raises a pure service dispute relating to seniority, eligibility and promotion, and is therefore not amenable to constitutional jurisdiction. On the merits, he argued that the petitioner accepted the condition of bottom seniority upon his own-request transfer, never qualified for the mandatory P-32 course, and cannot equate an exemption from NITB training with an exemption from a departmental promotion course.

8. Learned Assistant Attorney General supported the impugned order and submitted that no vested right to promotion accrued to the petitioner. He further maintained that, after superannuation, a claim for promotion cannot be granted by bypassing the prescribed eligibility criteria and the competent departmental forum.

9. We have heard learned counsel for the parties and have carefully perused the material on record.

10. At the outset, the relief claimed by the petitioner is based on his asserted seniority and eligibility for promotion during service, and it seeks consequential pensionary benefits after retirement. The controversy, therefore, substantially concerns the terms and conditions of service. Article 212 of the Constitution assigns exclusive jurisdiction over such matters to the constitutionally designated service forum, where the employee is governed

by the applicable civil-service regime. A constitutional petition cannot ordinarily be used to secure direct adjudication of a disputed seniority or promotion claim by recasting it as a challenge to a speaking order.

11. Even if the matter is examined on the merits, the petitioner's claim faces insurmountable difficulty. The August 1992 transfer order expressly records that his transfer to Sukkur Division was at his own request and that he would rank junior to the UDCs already serving there. That contemporaneous condition was neither shown to have been set aside nor successfully challenged within a reasonable time. Reopening such seniority after decades would unsettle accrued rights of employees who are not before the Court.

12. The further obstacle is the petitioner's admitted non-completion of the P-32 course. The notification dated 29.12.2020, upon which considerable reliance has been placed, grants a limited exemption from mandatory NITB training to an official likely to retire within two years, subject to the prescribed eligibility criteria. Its text does not refer to the P-32 course conducted by Pakistan Railways Academy, Walton, nor does it declare that all departmental qualifying courses shall stand waived. The two requirements operate in distinct fields. The exemption from NITB training, therefore, cannot be read as an exemption from P-32 in the absence of an enabling rule or departmental order. In **Secretary, Ministry of Finance, Finance Division, Government of Pakistan**¹, the Supreme Court held that promotion is not a vested right; that the statutory scheme contemplates promotion of a serving civil servant and that a retired employee cannot claim promotion after attaining superannuation as of right. It was further held that eligibility, qualification and fitness for promotion fall within the domain of the prescribed competent forum and that neither a Tribunal nor a Court may substitute its own assessment or declare an employee qualified outside the manner prescribed by law. The principle reiterated in **Mian Abdul Malik**², likewise

¹ Secretary, Ministry of Finance, Finance Division, Government of Pakistan and others v. Muhammad Anwar (2025 SCMR 153)

² Mian Abdul Malik v. Dr. Sabir Zameer Siddiqui and others (1991 SCMR 1129)

recognizes the primacy of the competent authority in matters of fitness and suitability for promotion.

13. The impugned order records that the petitioner was personally heard, that the official record was examined, and that his representation was rejected for lack of the mandatory course qualification and because of his position in the relevant seniority. The order thus discloses the essential reasons for the decision and satisfies the requirement of a speaking determination. No mala fide, jurisdictional defect, or violation of a mandatory statutory provision has been established.

14. For the foregoing reasons, the petition is not maintainable in the constitutional jurisdiction. It is, in any event, devoid of merit. Consequently, the constitutional petition, together with the pending application(s), is **dismissed**, with no order as to costs.

J U D G E

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Abdul Basit