

THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 822 of 2026

[Syed Shaique Hussain Rizvi v. Federation of Pakistan and others]

Before:

Justice Arbab Ali Hakro

Justice Nisar Ahmed Bhanbhro

Petitioner by : Syed Jaffar Ali Shah, Advocate

Respondents by : M/s Khan Muhammad Sangi, Advocate,
Syed Naveed Ahmed Shah, Deputy Attorney
General and Israr Ahmed Shah, Assistant
Advocate General Sindh

Date of Hearing : **22.09.2026**

Date of Decision : **22.09.2026**

ORDER

ARBAB ALI HAKRO, J. – Through this Constitutional Petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner seeks a declaration of entitlement to Time Scale Upgradation from 2023 to his retirement on 10.03.2026 along with financial back-benefits, and directions for the immediate release of his pension, Leave Encashment (LPR), GP Fund and other accrued post-retirement benefits.

2. We have heard the learned counsel for the respective parties, as well as the learned Law Officers, and have perused the available record.

3. The facts, briefly stated, are that the petitioner was appointed as Inspector (BPS-11) on 14.12.1994 and retired upon attaining the age of superannuation on 10.03.2026 as Inspector Inland Revenue (BPS-16), RTO Sukkur, vide Notification dated 27.01.2026. The petitioner contends that, despite completing the required 10-year period following his prior time scale grant in 2013 and being reflected at Serial Nos. 2 and 1 in the Seniority Lists dated 05.05.2025 and 16.12.2025, he was arbitrarily denied the time scale upgradation due in 2023, and that his pensionary benefits were unlawfully

withheld after his retirement on the basis of an undisclosed minor penalty dated 17.06.2022.

4. Conversely, the official respondents filed preliminary objections and statements that the petitioner was awarded a minor penalty of reduction by three stages in his pay scale for three years, without cumulative effect, vide Board's Notification dated 17.06.2022. It was submitted that when the Board evaluated the petitioner's case on 25.01.2023, he failed to meet the requisite criteria due to the subsisting minor penalty and was declared unfit for time scale grant, a determination he never challenged during his active service. Regarding post-retirement benefits, the respondents placed on record that Rs.612,657/- on account of GP Fund was paid through Cheque No.9739425 dated 20.04.2026; the pension case was approved by the competent authority on 27.07.2026 and transmitted to AGPR Karachi on 07.08.2026; and LPR encashment was sanctioned vide letter dated 28.07.2026, with actual disbursement pending solely for want of budgetary allocation, which was requisitioned vide communication dated 21.08.2026.

5. In his rejoinder, the petitioner asserted that the minor penalty dated 17.06.2022 was never formally served on him and, in any event, had expired on 17.06.2025, before his retirement.

6. So far as the petitioner's prayer for retrospective Time Scale Upgradation with financial back-benefits is concerned, the law is settled that promotion is neither a vested right nor can it be claimed with retrospective effect, and a time scale upgradation, which carries the incumbent into a higher pay scale, stands on no better footing. What a civil servant may claim as of right is that his case be considered in accordance with the rules when it is taken up; the evaluation of his fitness rests exclusively with the competent authority, and neither the Tribunal nor this Court can substitute its own opinion for that of the designated forum. The Supreme Court in *Muhammad Anwar* has further held that a civil servant who has retired on attaining the age of superannuation cannot claim to be considered for promotion to a higher post, and that proforma promotion is meant to compensate only one

who, for no fault of his own, was deprived of such consideration.¹ When the petitioner's case was considered in January 2023, his record carried a subsisting disciplinary penalty awarded on 17.06.2022. He was, therefore, not overlooked on account of any administrative lapse or delay; he was assessed and found unfit because of his own service record, which places him outside the exception noticed above. The plea that the penalty was never served upon him raises a disputed question of fact that cannot be resolved in writ jurisdiction, the more so when the penalty itself was never assailed before the departmental or appellate forum. Its expiry on 17.06.2025 is equally of no avail to him, for it cannot relate back to January 2023, when his case was taken up. The petitioner accepted the non-grant of time scale during his service and did not challenge the underlying administrative decisions before the competent forum during his tenure. Having allowed that decision to attain finality while in service, he cannot, after superannuation, invoke the constitutional jurisdiction of this Court to secure a retrospective upgradation which only the competent authority could have granted. Consequently, the prayer regarding Time Scale Upgradation and back-benefits is devoid of legal merit and is hereby **dismissed**.

7. Regarding the prayer for release of post-retirement benefits, the record demonstrates that the official respondents have substantially complied with their statutory obligations: the GP Fund has been disbursed, the pension approval has been forwarded to AGPR Karachi, and the LPR encashment has been officially sanctioned. The sole remaining hurdle is the disbursement of the LPR encashment, which is delayed due to a lack of budgetary allocation. Pension and other retirement dues of a civil servant are not a bounty; they are earned through years of service, and their payment cannot be left to the department's convenience. Noting the hardship suffered by retired government servants on this account, the Supreme Court in *Haji Muhammad Ismail Memon* directed that their pension and other dues be

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

settled promptly and without avoidable delay.² Want of funds may explain the delay, but it furnishes no lawful ground to withhold an amount already sanctioned.

8. In view of the above position, the grievance regarding pensionary benefits stands substantially redressed, save for the actual release of funds. Accordingly, to eliminate any ambiguity or further delay, this petition, to the extent of retirement benefits, is **disposed of** with the following binding directions:

- i) Respondents Nos.1 and 2 shall arrange the necessary budgetary allocation and ensure full payment of the sanctioned LPR encashment to the petitioner within thirty (30) days of receipt of this order.
- ii) Respondent No. 6 and AGPR Karachi are directed to finalize the pension payment to the petitioner without further delay.

9. The petition stands **dismissed** to the extent of Time Scale Upgradation and is **disposed of** on the above terms insofar as post-retirement benefits are concerned. Office to communicate a copy of this order to all concerned parties for immediate compliance.

J U D G E

J U D G E

Abdul Basit

² In re: *Haji Muhammad Ismail Memon*, Advocate PLD 2007 SC 35.