

IN THE HIGH COURT OF SINDH AT KARACHI
CP. No. D-1257 of 2021
(*Ghulam Bashir Bughio v Federation of Pakistan & others*)

Date	Order with signature of Judge
	Before: Mr. Justice Muhammad Karim Khan Agha Mr. Justice Adnan-ul_Karim Memon

Date of hearing and Order: 20.05.2025

Mr. Muhammad Yasir advocate for the petitioner
Mr. Abdul Samad Memon advocate for respondents No. 2 to 4, along with
Muhammad Siddique, Director I.T., and Mr. Danish Ahsan, Treasurer.
Ms. Wajiha Mehdi, Assistant Attorney General for respondent No.1.

ORDER

Adnan-ul-Karim Memon, J: This case revolves around a petitioner's demand for BPS-19 salary and service benefits from the Federal Urdu University, (FUU), where he was employed from 1983 until his retirement in 2023.

2. The Petitioner's counsel argued that his client, who joined the Federal Urdu University in 1983, has an unblemished service record and was consistently promoted, reaching Director Administration (BPS-19) in 2013. Despite this, his BPS-19 salary was withheld twice: first from 2015 to 2017, and again from June 2018 till his retirement in 2023. These actions, the counsel asserted, stemmed from baseless accusations. Crucially, an inquiry in 2018 fully exonerated him, recommending the immediate release of his BPS-19 salary and all outstanding dues as per order 27.07.2023. However, a significant sum of Rs. 2,620,852/- from the 2015-2017 period remains unpaid, and since June 2018, he has only received a BPS-18 salary. The counsel contended that the university's actions are illegal, unconstitutional, discriminatory, and mala fide, violating his fundamental rights under the Constitution of Pakistan in terms of Articles 4, 9, 14, and 25 of the Constitution. The petitioner is seeking a court order to release his BPS-19 salary with all back benefits and outstanding dues, declare the university's actions illegal, and compel the issuance of proper salary slips.

3. The Federal Urdu University's counsel countered that the petitioner's claim for BPS-19 pay lacks merit. He asserted that the University Senate had nullified all promotion and upgradation decisions made under former Vice-Chancellors Dr. Zia and Dr. Zafar Iqbal. To support this, he referenced the minutes of the 33rd (2017) and 50th (2024) Senate Meetings, which confirmed the invalidation of "irregular appointments/promotions." The counsel specifically highlighted that the petitioner's supposed roles as Additional Director (Protocol) and his BPS-19 upgrade were invalidated by these Senate directives. He underscored that the petitioner retired as an Administrative Officer in BPS-18, which, in his view, reinforces the stance of the respondent University that his BPS-19 status was never properly regularized under the law. Finally, he argued that any document

the petitioner relies on for BPS-19 status from former Vice-Chancellor's tenure has been expressly annulled, and therefore, he requested the petition's dismissal.

4. We have heard the learned counsel for the parties and perused the record with their assistance.

5. The petitioner is primarily seeking a court order to receive his BPS-19 salary, including all back benefits and outstanding dues allegedly withheld since 2013 when his promotion in BPS-19 was sanctioned by the competent authority. His argument rests on the premise that the university's actions are illegal, as he was previously granted BPS-19 status on 18.3.2013. Conversely, the respondent university maintains that the petitioner's claim is invalid. They cite a university letter, which declared all decisions made during the tenures of former Vice-Chancellors Dr. Zafar Iqbal and Dr. Zia ud Din null and void. This declaration was based on a Senate Meeting held before the petitioner's retirement on March 20, 2023, as confirmed by an office order dated March 17, 2023, which noted his retirement in BPS-18. Although the petitioner was informed of this annulment through an office order dated April 3, 2024, this was *after* his retirement.

6. The core legal question here is: Can the respondent university retroactively annul the petitioner's BPS-19 promotion, even though it was issued by a competent authority at the time and acted upon, simply because the Senate later declared all actions of the former Vice-Chancellor null and void?

7. It is well-settled law that the cancellation of the individual's promotions without proper, separate notices was/is unlawful. However, in the present case, the reasons provided for this cancellation, after the promotions' implementation with effect from 2018 with benefits, are vague and lack a legal basis. The claim that the Senate of the respondent university necessitated the recall of the promotion order of the petitioner contradicts the decision of the Court in the reinstatement of the former VC, as pointed out by the parties. The respondents failed to provide justifiable and lawful reasons for reconsidering and cancelling the petitioners' promotions already granted vide Notification dated, acting unilaterally without adhering to legal procedures. It is well-settled law that altering vested rights, including promotions, requires granting the affected parties a meaningful hearing, which the learned counsel conceded was not provided. In our view that separate proceedings ought to have been initiated before recalling the promotion order. Furthermore, legal precedents, including **PLD 1992 SC 207**, **2007 PLC (C.S) 364** and *Capital Development Authority* case **2022 SCMR 627**, suggest that such a recall may not be permissible.

8. The Supreme Court in the case of *Nazeer Ahmed Chkrani v Government of Pakistan* (**2004 SCMR 623**), reiterating the principle from *Pakistan International Airlines v Nasir Jamal Malik* (**2001 SCMR 934**), established that a promoted employee cannot be demoted without being given a chance to be heard and present their case. In the *Nazeer Ahmed Chkrani* case, the petitioner was

promoted to General Manager in 1995 and then demoted to Deputy General Manager in 1997 without any prior explanation sought regarding the circumstances of their promotion or their capability to hold the higher post. The demotion order also lacked any stated reasons for the Competent Authority's opinion that the promotion was wrongful. The Supreme Court, without delving into the merits of the case, held that the demotion violated the principles of natural justice ("no one should be condemned unheard"). Consequently, the petition was converted into an appeal and allowed, setting aside the Federal Service Tribunal's order and the departmental demotion order. The Supreme Court clarified that the Pakistan State Oil Company Limited remains free to initiate fresh action against the petitioner, provided they follow the correct legal procedure, and no order regarding costs was issued. In recent judgment of 2022, the Supreme Court has ruled that no decision be taken effacing the right of any person without first being informed of the case and affording an ample opportunity of defense, therefore judicial propriety demand that this matter needs to be taken care of by the competitive authority of respondent-University before taking adverse view.

9. Based on the Supreme Court's findings, it's clear that the respondent-university cannot demote an employee to a lower position without providing them notice and a chance to be heard. This fundamental principle of natural justice is implicitly part of all laws, rules, and organizational decisions, including those made by the respondent-University.

10. At this point, we proposed remitting the case to the respondent-university's competent authority for reconsideration. This would involve a thorough review of the service record of the petitioner, consideration of relevant Supreme Court judgments, and granting the petitioner a proper hearing to reach a fresh decision within three months. After examining the petitioners' service records and promotion order, a new decision will be made within three months. However, the Senate's decision to recall the petitioner's BPS-19 promotion will be held in temporary suspension during this period.

11. This petition is disposed of in these terms.

JUDGE

Head of the Const. Benches