

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**

Constitutional Petition No. D-6294 of 2024  
(Fawad Akhund versus Province of Sindh & others)

Date	Order with signature of Judge(s)
------	----------------------------------

Before:  
Mr. Justice Muhammad Karim Khan Agha  
Mr. Justice Nisar Ahmed Bhanbhro

**Date of hearing and order: 11.11.2025**

Petitioner	
Fawad Akhund	Malik Naeem Iqbal advocate
Respondents:	
Province of Sindh & others	Ms. Saima Imdad, Assistant AG

-----  
**ORDER**

**Nisar Ahmed Bhanbhro, J:** Through the instant petition, the petitioner has claimed following relief: -

- i. *Declare that the failure of the respondents to consider the case of the petitioner for proforma promotion to the rank of SP (BPS-18) is illegal, malafide, discriminatory and in violation of settled principles of law enunciated by Superior Courts;*
- ii. *Direct the respondents to place the case of the petitioner for proforma promotion to the rank of SP (BPS-18) before the upcoming PSB-II forthwith;*

2. Malik Naeem Iqbal, learned counsel for the petitioner contends that the petitioner was employee of the Police Department and retired from service as Deputy Superintendent of Police (DSP) on 14.7.2024 and the retirement of the petitioner was conveyed through letter dated 29.3.2024. He next contended that the department vide its notification dated 24.5.2024 conveyed to the Director General FIA, Islamabad, Chairman, Anti-corruption Establishment Sindh and all DIGPs, Additional IGPs in Sindh, that department will hold meeting of Provincial Selection Board – II shortly to consider the promotion of the senior most DSPs Grade-17 to the rank of Superintendent of Police (SP) BS-18. He argued that the name of the petitioner reflected at Sr. No.7 in the said letter, but the meeting of the Provincial Selection Board-II (PSB-II) was not convened until the retirement of the petitioner and the meeting was held on 27.9.2024, wherein case of the petitioner was not considered. He argued that the petitioner has since retired

and he was denied the right of a promotion, which was otherwise available to him without any fault on his part, therefore, for the purposes of emoluments towards pension, he was entitled for proforma promotion. He placed reliance upon the cases of Secretary Agriculture, Livestock and Cooperation Department v. Anees Ahmad (2021 SCMR 1266) and Zakir Hussain Samo v. Province of Sindh (2025 PLC (C.S.) 634). He lastly prayed for allowing this petition.

3. Learned Assistant Advocate General (AAG) contended that the department considered the cases for promotion from Grade-17 to 18 in the month of September 2024, but the petitioner had retired in the month of July 2024, therefore, his case could not be considered. She contended that the promotion was not a vested right of the civil servant, therefore, the claim of the petitioner cannot be considered. She prayed for dismissal of the petition.

4. Heard arguments and perused the material made available on record.

5. Admittedly the petitioner has retired from service on attaining the age of superannuation, under the provisions of the Sindh Civil Servants Act, 1973 and the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974 (APT Rules), there was no concept of promotion after retirement, as such the petitioner cannot be granted a regular promotion after his retirement. However, under the Finance Division's Notifications and Rules, a retired civil servant can be considered for a proforma promotion and grant of emoluments towards the pension benefits. Fundamental rule 17 in that regard was relevant, which empowered the competent authority / appointing authority to direct that the civil servant be paid the arrears of pay and allowance of a higher post through proforma promotion, given that the said civil servant was entitled to be promoted from a particular date for no fault on his part and he was wrongly prevented to get such benefit. The purpose and intent of the fundamental rule 17 was to compensate a civil servant, who was wrongfully denied right of promotion. The Finance Division, Government of Pakistan vide Notification dated 20.5.2022 omitted the proviso conferring powers to the competent authority for grant of proforma promotion but left it fettered to the orders by the judicial forums, as such the Courts can adjudicate the cases of retired civil servants for proforma promotion.

6. Meticulous perusal of the record revealed that the petitioner was appointed as DSP in the year 2016. Per Schedule II to Rule 6 of the Sindh Civil Servants Promotion (BS 18 to 21) Rules 2022, civil servant is entitled for promotion to Grade-18 on completion of five years' service in Grade-17,

the span of period, which petitioner completed in the year 2021. It further transpired from the record that the department through letter dated 24.5.2024, required the information from various departments for promotion of 30 senior most DSPs, in which the name of the petitioner stood at Sr. No.7. The relevant information was collected; however, the meeting of the PSB-II was convened on 27.9.2024, by that time the petitioner had already retired on attaining the age of superannuation, therefore, he was not considered for promotion.

7. Minutiae of the record evidenced that the case of the petitioner for promotion could not be considered for the reason that the meeting of the PSB-II was not held within time. It also revealed from the minutes of the meeting available at page 39 of the Petition that cases of 42 DSPs were considered for promotion to Grade-18 as SP, out of which 37 DSPs were junior in rank to the petitioner. The case of the Petitioner was not considered as he had retired from service. The reason assigned by the Department to ostracize the petitioner from his colleagues was not covered under any statutory provisions. Once the case of civil servant was mature for promotion it has to be considered justly and fairly without any delay.

8. Reliance in this regard is placed on the cases of Secretary Agriculture, Livestock and Cooperation Department v. Anees Ahmad (2021 SCMR 1266) wherein it was held that:

*9. In the present case the DPC has not considered the case for promotion of respondent and the reason assigned is that he has retired. This reason given by the DPC, apparently, is no reason in law, in that, once the Model Working Paper for promotion of respondent was placed before the DPC, it was incumbent upon it to have considered and decided the same, for that, though the law does not confer any vested right to a government servant to grant of promotion but the government servant surely has a right in law to be considered for grant of promotion. It is because of the department's own non-vigilance and the DPC being insensitive to the employees who were on the verge of retirement of which the employees could not be made responsible, cannot simply brush aside the case of an employee by merely saying that he has retired. Once the case of respondent has matured for promotion while in service and placed before the DPC before retirement, it was*

*incumbent upon the DPC to fairly, justly and honestly consider his case and then pass an order of granting promotion and in case it does not grant promotion, to give reasons for the same. This was not done by the DPC and in our view such was a miscarriage of justice to respondent*

9. Though the promotion is not a vested right of a civil servant, but it cannot be denied, when the said civil servant was otherwise eligible for the same and his similarly placed colleagues were considered for the promotion. Non-consideration of the case of the petitioner tantamount to the violation of the fundamental rights guaranteed under Articles 4, 9, 25 and 27 of the Constitution of the Islamic Republic of Pakistan, 1973, which lay emphasis that a person was entitled for the equal treatment in all matters including service and to be dealt in accordance with law and through due process of law was an inalienable right of every individual. It appeared from the record that the petitioner was entitled for the promotion to the next higher grade, but he was denied of such entitlement without any fault on his part, thus a case for exercising the discretion conferred under Article 199 of the Constitution of Islamic Republic of Pakistan of 1973 is made out.

10. In view of the discussion made hereinabove, this petition is allowed. The respondents are directed to consider the case of the petitioner for proforma promotion and if found eligible, he shall be promoted accordingly. This exercise shall be conducted within a period of two months from date of this order.

Office to send copy of the order to the Respondents for compliance.

JUDGE

HEAD OF CONST. BENCHES

>>