

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Const. Petition No.D-2255 of 2026

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| Date | Order with signature of Judge(s) |
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Before:-

Mr. Justice Adnan-ul-Karim Memon

Mr. Muhammad Justice Hasan (Akbar)

Date of hearing and order: 21.05.2026.

Mr. Danish Rashid Khan, advocate for the petitioner,
along with the petitioners.

Mr. Abdul Jalil Zubedi, AAG.

Mr. Nadeem Ahmed Qureshi, Law Officer of the
Law Department, Govt. of Sindh.

ORDER

Adnan-ul-Karim Memon, J Through the captioned petition, the petitioners pray that this Court may declare the impugned order dated 16.02.2026 as illegal, arbitrary, discriminatory, and without lawful authority, being contrary to the settled principles of service jurisprudence and the judgments of this Court in C.P. No. D-1736 of 2013 and C.P. No. D-1544 of 2025. The petitioners further seek directions to the respondents to grant them the benefit of time-scale promotion/incentive to the next higher grade on parity with similarly placed Deputy District Attorneys of the Solicitor Department, with effect from the date of their due eligibility, along with all consequential benefits, including arrears, seniority fixation, re-fixation of pay, pensionary and retiral benefits. The petitioners also pray that in case any petitioner retires during the pendency of the petition, he may be granted proforma promotion/time-scale benefit with all consequential monetary and pensionary advantages.

2. The case of the petitioners is that they were initially appointed as Deputy District Attorneys (BPS-17) through the Sindh Public Service Commission in the Solicitor's Department vide notification dated 14.02.2004. Subsequently, the said post was upgraded to BPS-18 with effect from 01.07.2005. Thereafter, upon establishment of the Sindh Criminal Prosecution Service under the Sindh Criminal Prosecution Service (Constitution, Functions and Powers) Ordinance, 2006, the petitioners exercised one-time option under Section 8(a) of the Ordinance and were inducted into the Sindh Criminal Prosecution Service as Deputy District Public Prosecutors (BPS-18) vide notification dated 05.12.2007. Since then, the petitioners have continuously served the department with an unblemished record for more than eighteen years. It is urged that despite completion of the requisite qualifying service prescribed under Rule 10 of the Sindh Prosecutors (Appointment and Conditions of Service) Rules, 2006, the petitioners' cases for regular promotion to BPS-19 have never been placed before the Departmental Promotion Committee. The petitioners have remained stagnated in the same grade for over two decades without any lawful justification, although they are fully eligible for promotion and senior in the cadre. The respondents have neither

convened the DPC nor considered the petitioners for acting charge or regular promotion against sanctioned and vacant posts available in BPS-19. It is the case of the petitioners that similarly placed officers of the Solicitor Wing, namely Deputy District Attorneys and District Attorneys, were granted time-scale incentive promotions to higher grades pursuant to the judgment of this Court dated 01.06.2021, passed in C.P. No. D-1736/2013, followed by approval of the competent authority and issuance of notifications by the Government of Sindh. However, despite repeated representations and recommendations made by the department itself in favour of extending the same benefit to Prosecutors of the Criminal Prosecution Service, the petitioners have been denied equal treatment without any reasonable basis. The petitioners further submit that summaries recommending grant of time-scale promotion to Prosecutors were moved by the administrative department and endorsed by the Services Department, yet no final decision was taken by the competent authority. Petitioner No.1 had earlier approached this Court through C.P. No. D-3377 of 2022, wherein directions were issued to the Chief Secretary, Government of Sindh, to decide the representation in accordance with the law. However, the same was rejected vide order dated 16.02.2026 on the ground that the Prosecution Service has a distinct statutory framework. The petitioners contend that the impugned order is arbitrary, discriminatory, contrary to the earlier judgment of this Court, and violative of Articles 4, 25, and 27 of the Constitution. The petitioners maintain that the Criminal Prosecution Service forms part of the Law, Parliamentary Affairs and Criminal Prosecution Department, and the nature of duties performed by the Prosecutors is substantially similar to those performed by officers of the Solicitor Wing. Therefore, denial of time-scale incentive and regular promotion to the petitioners, while granting the same to similarly situated officers, amounts to hostile discrimination and unequal treatment. The respondents themselves have repeatedly recommended the grant of time-scale promotion and convening of the Departmental Promotion Committee for eligible Prosecutors, acknowledging the petitioners' entitlement under the applicable rules. The petitioners further submit that most officers of the cadre have either retired or are nearing superannuation without receiving a single promotion during their entire service career. Petitioner No.1 is also approaching retirement in the year 2027. The petitioners, therefore, seek directions for the grant of regular promotion and/or time-scale promotion from BPS-18 to BPS-19 along with all consequential and pensionary benefits, in accordance with law and on the principle of equality and fair treatment guaranteed under the Constitution of the Islamic Republic of Pakistan, 1973.

3. Learned counsel for the petitioners submitted that the impugned order dated 16.02.2026, passed by the Chief Secretary, Government of Sindh, is arbitrary, discriminatory, contrary to the directions issued by this Court in C.P. No. D-3377 of 2022, and violative of the settled principles of service jurisprudence. It was argued that the said order has already been declared liable to be annulled by this Court in a judgment dated 18.03.2026, passed in C.P. No. D-1544 of 2025, wherein this Court observed that the impugned order reflected non-application of mind, misapplication of service law principles, and violation of Articles 4 and 25 of the Constitution. Learned

counsel further contended that the respondents wrongly distinguished the Criminal Prosecution Service from the Solicitor Wing based on separate statutory frameworks, even though both cadres perform analogous prosecutorial and legal functions under the same administrative department. Reliance was placed upon the judgments reported as PLD 2001 SC 720, 1996 SCMR 1185, and 2009 SCMR 1 to submit that similarly placed employees performing similar duties cannot be subjected to discriminatory treatment in matters of service benefits and promotions without any intelligible differentia. It was further submitted that the petitioners have been continuously serving since 2007 with unblemished records and have completed the requisite qualifying service for promotion and time-scale incentive under the Sindh Prosecutors (Appointment and Conditions of Service) Rules, 2006. He argued that despite the availability of sanctioned and vacant posts in BPS-19, the respondents failed to convene the Departmental Promotion Committee and unlawfully deprived the petitioners of regular promotion as well as time-scale benefit, thereby causing prolonged stagnation in their service careers. Learned counsel argued that similarly situated officers of the Solicitor Department, namely Deputy District Attorneys and District Attorneys, were granted time-scale promotions pursuant to the judgment dated 01.06.2021 passed in C.P. No. D-1736 of 2013, whereas the same benefit has been unlawfully denied to the petitioners, although they are attached to the same Law, Parliamentary Affairs and Criminal Prosecution Department, and perform substantially similar duties. Such differential treatment, according to learned counsel, amounts to hostile discrimination prohibited under Articles 4, 25, and 27 of the Constitution. It was also contended that instead of considering the petitioners for promotion in accordance with seniority and eligibility, the respondents have adjusted junior officers against higher assignments, thereby superseding the petitioners without lawful justification. Learned counsel emphasized that many officers of the cadre are nearing retirement without receiving a single promotion during their entire service, and therefore, the petitioners are also entitled to proforma promotion, time-scale benefit, and all consequential monetary and pensionary benefits from the date of their due eligibility. Based on the above submissions, learned counsel prayed that the impugned order dated 16.02.2026 be declared illegal and of no legal effect; the respondents be directed to grant the petitioners time-scale promotion from BPS-18 to BPS-19 on parity with Deputy District Attorneys; and further grant all consequential benefits, including arrears, seniority fixation, re-fixation of pay, pensionary benefits, and retiral dues in accordance with law.

4. Learned A.A.G., while relying upon the order dated 16.02.2026 passed by the Chief Secretary, Government of Sindh, submitted that the petitioners' claim for grant of time-scale/incentive promotion on parity with Deputy District Attorneys is misconceived and legally untenable. It was contended that the benefit granted to District Attorneys and Deputy District Attorneys was based on the peculiar structure of their cadre, wherein no further promotional avenues were available after BPS-19, whereas a separate statutory framework with a distinct hierarchical and recruitment structure and independent promotional channels governs the Criminal Prosecution

Service. Learned A.A.G. further submitted that merely because the petitioners and District Attorneys hold similar pay scales or designations does not entitle them to claim parity, as the governing statutes, service structures, and promotional mechanisms of both cadres are materially different. It was argued that the grant of time-scale promotion to the petitioners would require amendment in the relevant laws, rules, and service structure, which could not be undertaken through an individual representation or by way of judicial intervention in the absence of a specific statutory provision. It was also submitted that the representation of one of the petitioners, Muhammad Arif Sitai, was duly considered by the Chief Secretary in compliance with the order passed by this Court in C.P. No. D-3377 of 2022, and after affording personal hearing as well as examining the record and stance of the Law, Parliamentary Affairs & Criminal Prosecution Department, the same was lawfully declined vide order dated 16.02.2026. he prayed to dismiss this petition. He submitted that under the Recruitment Rules, 2016, appointments to the posts in the Criminal Prosecution Service are to be made through initial appointment by the Sindh Public Service Commission, promotion on seniority-cum-fitness basis, or transfer, as prescribed for each post. The Rules also provide the requisite qualifications, experience, and age limits. He contended that since a regular channel of promotion exists, the petitioner cannot claim time-scale benefits, and therefore prayed for dismissal of the petition.

5. During the proceedings, the Law Officer of the Law Department, Govt. of Sindh, relied upon the Sindh Government Gazette notification dated 28.11.2016, contending that the petitioners were required to await consideration of their promotion cases by the competent authority. He emphasized that the Chief Secretary of Sindh denied the relief to one of the petitioners primarily on the ground that the Criminal Prosecution Service is governed by a distinct statutory framework, under which promotions are to be made strictly in accordance with the Sindh Prosecutors (Appointment and Conditions of Service) Rules, 2006, and the subsequent notification dated 28.11.2016. It was observed that a complete promotional hierarchy already exists within the service structure, including promotional avenues from BS-17 onwards through the Departmental Promotion Committee (DPC), on seniority-cum-fitness basis against sanctioned posts. He emphasized that the Chief Secretary further held that since the Rules provide a regular channel of promotion, the petitioners were required to await consideration of their cases by the competent authority in accordance with law, and therefore they could not claim time-scale promotion or automatic upgradation merely based on length of service. It was also reasoned that time-scale benefits granted to District Attorneys or officers of other legal cadres could not be extended to prosecutors as a matter of right because those cadres operate under separate service structures, rules, and policy frameworks. Another ground taken was that the grant of time-scale promotion or restructuring of the cadre involved policy considerations and financial implications falling within the domain of the Government. According to the Chief Secretary, such relief could only be extended after approval of the competent authority and formulation of a proper service structure by the Government. Until such a policy decision, the petitioners' claim for time-scale

promotion was considered premature. The Chief Secretary also relied upon the fact that promotions in the prosecution service are vacancy-based and subject to the availability of sanctioned posts, recommendation of the DPC, and fulfillment of eligibility criteria. Accordingly, it was concluded that the petitioners had no vested right to claim promotion or time-scale benefits merely because they had completed long years of service. On these grounds, the claim of the petitioners was declined.

6. With respect, the submissions of the Chief Secretary are not sustainable in law. The existence of a promotional hierarchy under the 2006 Rules does not absolve the respondents from their duty to operationalize it within a reasonable time through regular convening of the DPC. A promotional channel that remains ineffective for 17–18 years cannot be treated as a meaningful remedy, and such prolonged stagnation due to administrative inaction offends Articles 4 and 25 of the Constitution. The petitioners cannot be penalized for the respondents' failure to convene DPCs or finalize the service structure. Once statutory eligibility is met, consideration for promotion becomes a legal obligation within a reasonable time. The plea that time-scale benefits are barred due to a separate service structure is misconceived, as structural differences cannot justify discrimination where similarly placed officers face identical stagnation. Likewise, reliance on policy or financial constraints is untenable, as executive policy cannot override statutory rights or justify the denial of accrued benefits. The distinction between vacancy-based regular promotion and stagnation-based time-scale benefit is well recognized; the respondents cannot rely on the non-availability of vacancies where the promotional process itself has remained dormant for years. Earlier judgments of this Court, particularly in C.P. Nos. D-3377 of 2022 and D-1544 of 2025 have already directed the removal of stagnation and finalization of service structure, which remain unimplemented. Hence, continued reliance on the 2016 notification is misconceived, as executive instructions cannot override statutory rules or defeat accrued rights under the 2006 framework.

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

8. We have been informed that the Prosecutor General's Office, Sindh, addressed the letter to the competent authority with the narration that although the office functions under the Sindh Criminal Prosecution Service Act, 2009, the requisite service rules had not yet been framed and, for the time being, administrative arrangements were being regulated under the Sindh Civil Servants Act, 1973 and the rules framed thereunder. The department acknowledged that the posts of Additional Prosecutor General and District Public Prosecutor (BPS-19) are isolated posts having no further promotional avenues, due to which officers serving in BPS-19 for long periods remain deprived of advancement to the next higher grade. In these circumstances, the office recommended grant of one-time scale promotion to officers who had completed the qualifying length of service, including officers serving in BPS-19 for more than ten years, as a fair and non-discriminatory measure. It was further

recommended that Deputy District Public Prosecutors (BPS-18), who had already completed the minimum qualifying service of seven years prescribed for promotion, be considered for promotion to the next higher post on seniority-cum-fitness basis and that the Departmental Promotion Committee be constituted accordingly. The department also referred to the summary moved before the worthy Chief Minister on 17.11.2022, wherein it was proposed that no direct recruitment through the Sindh Public Service Commission be made against posts in BPS-18 and BPS-19 in the Criminal Prosecution Service and that such posts be reserved exclusively for promotion from lower tiers. In view thereof, the department requested that prosecutors already serving in the department and having qualified the requisite length of service be considered for promotion against available vacancies instead of filling such posts through direct recruitment.

9. Let the first instance look into the legal aspect of the case. The Sindh Criminal Prosecution Service (Constitution, Functions and Powers) Act, 2009 was enacted to establish and regulate the Sindh Criminal Prosecution Service throughout the Province of Sindh with effect from 29.10.2009. The Act provides for the constitution, administration, powers, and functions of the Prosecution Service and defines various prosecutorial offices, including the Prosecutor General, Additional Prosecutor General, District Public Prosecutor, Deputy District Public Prosecutor, and other prosecutors appointed under the Act. Under Sections 3 and 4, the Government is mandated to establish and maintain the Sindh Criminal Prosecution Service, consisting of different prosecutorial tiers. Section 5 further provides that the administration and superintendence of the Service vest exclusively in the Government, and all prosecutors perform their functions under the control and administration of the Government. The Act also prescribes the mechanism for appointments and promotions within the Service. Section 8 provides that appointments to prosecutorial posts are to be made in the prescribed manner and specifically stipulates that, after initial recruitment, fifty percent of vacancies in higher posts, including District Public Prosecutor and Deputy District Public Prosecutor, are to be filled through promotion. The Act further recognizes the continuation of persons already performing prosecutorial functions regularly in the Province. Sections 9 to 11 define the powers, duties, and responsibilities of prosecutors, including conduct of prosecutions on behalf of the Government, scrutiny of police reports, supervision of criminal cases, reporting obligations, and performance of functions in a fair, honest, and diligent manner in the public interest. Importantly, Section 14 of the Act provides that, subject to the provisions of the Act and rules, members of the Service are to be appointed and promoted under the Sindh Civil Servants Act, 1973, and the rules framed thereunder. The Act thus contemplates a regular service structure with promotional avenues for members of the Prosecution Service under the administrative control of the Government.

10. The Sindh Criminal Prosecution Service (Constitution, Functions and Powers) Act, 2009, along with the Sindh Prosecutors (Appointment and Conditions of Service)

Rules, 2006, establishes a separate statutory framework governing the prosecution service in Sindh. The Act creates the Sindh Criminal Prosecution Service comprising the Prosecutor General, Additional Prosecutors General, Deputy Prosecutors General, District Public Prosecutors, Deputy District Public Prosecutors, and Assistant District Public Prosecutors, while vesting overall administration and supervision of the service in the Government and subsequently in the Prosecutor General through amendments introduced in 2016. The law further defines the powers, duties, and functions of prosecutors in relation to criminal prosecutions, scrutiny of police reports, conduct of cases before courts, supervision of investigations, and coordination with law enforcement agencies. The Rules of 2006 regulate appointments, promotions, and conditions of service of prosecutors. They provide that appointments may be made through initial recruitment, promotion, or transfer, while prescribing separate eligibility criteria and minimum qualifying service for promotion to higher grades. Under the Rules, promotions to BPS-19 and BPS-20 are subject to completion of prescribed service tenure and recommendations of the competent promotion authorities. The Rules further recognize the distinction between regular promotions and acting charge arrangements and regulate contractual appointments, duties, emoluments, and disciplinary matters of prosecutors. Through the Sindh Criminal Prosecution Service (Constitution, Functions and Powers) (Amendment) Act, 2015, further amendments were introduced whereby the Prosecutor General was vested with administrative control and supervisory powers over prosecutors and members of the service, including powers relating to posting, transfer, and assignment of work. The amendments also expanded the authority of prosecutors regarding scrutiny of investigations, prosecution management, and coordination with investigating agencies. The statutory framework thus reflects that the prosecution service is governed by a distinct hierarchy, separate recruitment structure, and independent service regime under the Act and Rules framed thereunder. The Sindh Criminal Prosecution Service (Constitution, Functions and Powers) (Amendment) Act, 2025 further amended the Sindh Criminal Prosecution Service Act, 2009. Through the amendment, Section 5 was revised to provide that Prosecutors and all other members of the service shall perform their functions under the control and supervision of the Prosecutor General while remaining under the general superintendence of the Government. The amendment also modified subsection (4) by clarifying that prosecutors within a district shall work under the supervision of the District Public Prosecutor, subject to subsections (1) and (2) of Section 5. Further, subsection (5) of Section 5, which previously empowered the Prosecutor General regarding transfer and posting matters, was omitted. The amendment further omitted subsection (6) of Section 6 of the parent Act, thereby withdrawing the provision relating to the delegation of powers and functions by the Prosecutor General. The 2025 amendment thus redefined the balance of administrative control between the Government and the Prosecutor General within the prosecution service framework.

11. It appears that in the case of (*re-Jawed Akhtar Khichi versus Province of Sindh & Others*), in a Constitutional Petition No. D-1544 of 2025, the petitioner sought

enforcement of his service rights relating to the grant of promotion/time scale benefits within the Sindh Criminal Prosecution Service, claiming parity with similarly placed officers and seeking consequential monetary and service benefits against the Province of Sindh and other concerned authorities, wherein the Acting Prosecutor General Sindh, filed comments stating that the petitioner was serving as District Public Prosecutor (BPS-19) in the Criminal Prosecution Service Department and the factual aspects of the petition was largely admitted. It was submitted that due to the absence of an effective service structure and promotional avenues for officers appointed in BPS-19, promotions within the Criminal Prosecution Service had remained delayed. The Acting Prosecutor General admitted that under the Sindh Prosecutors (Appointment and Conditions of Service) Rules, 2006, the petitioner becomes eligible for promotion from BPS-19 to BPS-20 after completion of the prescribed qualifying service. It was specifically stated that the petitioner had already completed more than the required length of service and was therefore entitled to consideration for promotion to BPS-20. It was further contended that the relief claimed by the petitioner is in accordance with the statutory rules and the judgments already passed by this Court, which remain operative and have not been challenged before any higher forum. Consequently, the prayer made in the petition was not opposed by Respondent No.5.

12. It is emphasized that the Government of Sindh, Law Department, vide Notification dated 18.11.2016 issued under Rule 3 of the Sindh Criminal Prosecutors (Appointment and Conditions of Service) Rules, 2006, read with Rule 3(2) of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, prescribed the method of appointment, qualifications, experience, and age limits for various posts in the Criminal Prosecution Service Wing. Under the said notification, appointments to the posts of Additional Prosecutor General (BS-19), Deputy Prosecutor General (BS-18), Assistant Prosecutor General (BS-17), District Public Prosecutor (BS-19), Deputy District Public Prosecutor (BS-18), Assistant District Public Prosecutor (BS-17), Director (MI&E) (BS-19), Deputy Director (MI&E) (BS-18), Assistant Director (MI&E) (BS-17), and Computer Programmer (BS-17) are to be made either through initial appointment by the Sindh Public Service Commission, promotion on seniority-cum-fitness basis, or transfer from eligible civil servants, depending upon the nature of the post. The notification further provides the requisite qualifications and experience for appointment, which primarily include a law degree from a recognized university, along with the prescribed standing at the Bar and experience as an Advocate of the High Court. In certain cases, relaxation of two years in the required standing at the Bar is available to candidates possessing Barrister-at-Law or postgraduate law qualifications. The prescribed age limit for most initial appointments is 28 to 35 years, whereas for the post of Computer Programmer (BS-17), the age limit is 30 to 40 years.

13. The respondents' reliance upon the notification dated 28.11.2016 is misconceived, as the said notification merely prescribes the mode of appointment, qualifications, and eligibility criteria for posts in the Criminal Prosecution Service. It neither curtails the statutory promotional rights of the petitioners under the Sindh

Prosecutors (Appointment and Conditions of Service) Rules, 2006, nor bars the grant of time-scale or incentive benefits in cases of prolonged stagnation. The petitioners' grievance is not the absence of a promotional channel, but the respondents' continuous failure to convene the Departmental Promotion Committee despite the petitioners having completed the qualifying service under Rule 10 of the 2006 Rules. The mere existence of promotional posts cannot justify stagnation for 17-18 years. The notification itself recognizes promotion as part of the service structure; therefore, the respondents were legally bound to consider eligible officers within a reasonable time. Their failure cannot prejudice the petitioners' accrued rights or consequential benefits. Accordingly, the notification dated 28.11.2016 does not bar the petitioners' entitlement to promotion and/or time-scale benefits, particularly where prolonged administrative inaction has resulted in unlawful stagnation despite their admitted eligibility under the Rules.

14. Additionally, a regular promotion is granted against an available sanctioned post in the higher cadre through the recommendation of the Departmental Promotion Committee (DPC), based on seniority-cum-fitness, merit, eligibility, and vacancies. Such promotion carries the duties, powers, status, and seniority of the higher post and forms part of the normal service hierarchy. In contrast, a time-scale promotion is a financial or personal upgradation granted after completion of a specified period of service to remove stagnation caused by non-availability of posts or prolonged failure to convene the DPC. Unlike regular promotion, it does not necessarily depend upon the availability of a vacant post and generally confers only higher pay-scale benefits while the employee continues to hold the same substantive post. Thus, regular promotion is vacancy-based and cadre-oriented, whereas time-scale promotion is stagnation-oriented and intended to prevent employees from suffering due to the administrative inaction of the department.

15. We have noticed that the colleagues of the petitioners, Jawed Akhtar Khichi, also invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution, by filing CP No. D-1544 of 2025, seeking promotion from BPS-19 (District Public Prosecutor) to BPS-20 on a time-scale basis, along with consequential back benefits. He relied on earlier judgments and the Sindh Prosecutors (Appointment and Conditions of Service) Rules, 2006, contending that after more than 17 years of service without promotion, he had become entitled to the next grade. It was argued that similarly placed officers in other legal cadres (such as District Attorneys) had been granted time-scale benefits, and denial of the same to prosecutors amounted to discrimination under Articles 4, 25, and 27 of the Constitution. The respondents opposed the claim, stating that the prosecution service operates under a distinct statutory and hierarchical framework, and any time-scale promotion would depend on policy decisions and amendments to the relevant rules. The Government maintained that the benefit granted to District Attorneys was based on their separate service structure and cannot automatically be extended to prosecutors. This Court noted that although the petitioner had rendered long service without promotion, the issue of time-

scale promotion is linked to the absence of a notified service structure and requires policy-level consideration. While examining prior judgments and administrative decisions, the Court observed that parity cannot be claimed solely on designation when service frameworks differ. However, it also emphasized the need for the Government to address stagnation in the prosecution service. Ultimately, the petition was disposed of vide order dated 18.03.2026 with directions to the competent authorities to expeditiously consider and finalize a proper service structure for the Criminal Prosecution Service, in light of earlier judgments and observations, and thereafter consider the petitioner's case for all consequential benefits, including pensionary relief, on merits.

16. It is noted that an earlier Constitutional Petition No. D-3377 of 2022 filed by the petitioner had already been disposed of, and the subsequent speaking order passed by the Chief Secretary was set aside in Constitutional Petition No. D-1544 of 2025, where this Court held the order to be arbitrary, discriminatory, and violative of Articles 4 and 25 of the Constitution. In that judgment, this Court observed that similarly placed employees, including District Attorneys, were entitled to similar benefits, and further directed the Government to address the issue of stagnation and finalize a proper service structure along with consequential benefits as discussed in the preceding paragraph.

17. Under Rule 10 of the 2006 Rules, eligibility for promotion from BPS-18 to higher grades is clearly prescribed upon completion of the qualifying service, coupled with consideration through the Departmental Promotion Committee. Once eligibility and vacancies exist, the respondents are under a legal duty to convene the DPC and consider eligible officers. Prolonged failure to do so amounts to administrative inaction and results in unlawful stagnation, which has repeatedly been disapproved by the Supreme Court.

18. The plea that the Prosecution Service operates under a distinct statutory framework and therefore parity cannot be claimed is also untenable. This Court has already held in C.P. No. D-1544 of 2025 that a mere difference in the statutory framework does not justify discriminatory treatment where duties and functions are substantially similar. Both cadres belong to the same departmental setup and perform comparable prosecutorial functions; therefore, denial of time-scale promotion solely on structural distinction amounts to hostile discrimination, contrary to Articles 4 and 25 of the Constitution. The principle of valid classification requires intelligible differentia having a rational nexus, which is absent in the present case.

19. The argument that the grant of time-scale promotion depends on policy decision is equally without force. It is settled law that executive policy cannot override statutory entitlements or fundamental rights, and financial or administrative constraints cannot justify denial of lawful service benefits. Similarly, failure to convene DPC for a prolonged period despite eligibility and vacancies violates

legitimate expectation and due process, as repeatedly recognized in service jurisprudence.

20. It is also an admitted position that petitioners have served for 17-18 years without promotion, although they are eligible under the Rules. Such inaction has resulted in stagnation, which has already been addressed by this Court in earlier proceedings, particularly C.P. Nos. D-3377 of 2022 and D-1544 of 2025, wherein it was held that similarly placed officers are entitled to parity and that the Government is obliged to finalize a proper service structure. These findings operate as binding precedent under the Constitution.

21. In view of the foregoing, the impugned denial based on the 2016 Gazette notification and alleged structural differences is legally unsustainable. The petitioners are entitled to consideration for promotion and/or time-scale benefit strictly in accordance with Rule 10 of the 2006 Rules, along with all consequential benefits. The respondents' inaction is arbitrary, discriminatory, and violative of Articles 4 and 25 of the Constitution, and the petitioners cannot be deprived of their lawful promotional rights due to administrative delay or absence of policy finalization.

22. Accordingly, the petition is disposed of with direction to the competent authority of respondents to convene the Departmental Promotion Committee within three weeks and consider the petitioners' case for promotion from BPS-18 onwards strictly in accordance with law. In case the DPC is not convened within three weeks, the petitioners shall be extended time-scale/incentive benefits on parity with similarly placed officers in terms of judgment dated 01.06.2021, and orders passed in C.P. No. D-1736 of 2013, C.P. Nos. D-3377 of 2022 and D-1544 of 2025, along with all consequential service benefits. The impugned order dated 16.02.2026 is accordingly declared to be contrary to settled principles of service jurisprudence and the ratio of the judgments of this Court in C.P. No. D-1736 of 2013 and C.P. No. D-1544 of 2025.

23. All pending application(s), if any, stand disposed of in the above terms.

JUDGE

JUDGE