

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

Date

Order with Signature of Judge

PRESENT:

**MR. JUSTICE ADNAN-UL-KARIM MEMON, J.  
MR. JUSTICE ZULFIQAR ALI SANGI, J.**

C.P. No. D-1716 OF 2026

**Zain Zafar  
Versus  
Province of Sindh and others**

**Date of hearing and order:- 05.05.2026**

Mr. Muhammad Talha Abbasi, advocate for petitioner.

Mr. Ali Safdar Debar, Assistant AG along with Sajid Gujjar,  
SPS DSP/Legal CPO on behalf of AIGP Legal, CPO Sindh.

**O R D E R**

**ZULFIQAR ALI SANGI, J:** Through the instant Constitution Petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner has sought, inter alia, declaration regarding entitlement of late Shaheed DSP Zafar Ali Mithani to posthumous promotion from BS-17 to BS-18 with effect from 24.10.1997, setting aside of the decision of Provincial Selection Board-II (PSB-II), and consequential monetary and service benefits.

2. Briefly stated, the facts of the case are that the petitioner is the son of late DSP Zafar Ali Mithani, who was appointed as DSP on 16.06.1991 and expired on 15.03.2004 while serving in the line of duty. Subsequently, he was declared Shaheed vide notification dated 28.07.2014 under the Sindh Shaheed Recognition & Compensation Act, 2014. The claim of the petitioner is that in terms of Section 3(2) of the Act, 2014 read with Rule 8(1) of the Rules, 2023, his late father is entitled to posthumous promotion on the basis of seniority with his batchmates. The matter was processed at different levels; however, the Provincial Selection Board-II, vide its decision dated 19.09.2025, declined the request

primarily on the ground that the deceased had passed away prior to promulgation of the relevant law and that the claim involves retrospective effect. The said decision has been impugned before this Court.

3. Learned counsel for the petitioner has contended that the impugned decision is contrary to law, particularly the provisions of the Act, 2014 and the Rules, 2023, and further that the opinion of the learned Advocate General Sindh, supporting the claim of the petitioner, has been unlawfully ignored. It has also been argued that denial of posthumous promotion amounts to discrimination and violates Article 25 of the Constitution.

4. Conversely, learned Advocate General Sindh, appearing on behalf of the respondents, has opposed the petition and contended that the case of the petitioner was duly considered by the competent forum, i.e., PSB-II, which, after examining all relevant aspects, declined the request on valid legal grounds. It is further contended that no vested right accrued to the petitioner's predecessor-in-interest at the relevant time, and the claim, being retrospective in nature, does not fall within the purview of the Act, 2014. It is also argued that no illegality, mala fide, or jurisdictional defect has been pointed out so as to warrant interference by this Court in constitutional jurisdiction.

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

6. At the outset, it may be observed that the grant of promotion, whether regular or posthumous, is not an automatic or vested right but is subject to fulfillment of statutory conditions, availability of vacancy, fitness, and recommendation by the competent authority. In the present case, the matter was placed before the Provincial Selection Board-II, which is the competent forum to consider such cases, and the said forum, after due deliberation, has declined the request by assigning reasons. This Court, in exercise of its constitutional jurisdiction, does not sit as an appellate forum over such administrative or service matters to reappraise the merits of the decision, unless the same is shown to

be without lawful authority, suffering from mala fide, or coram non iudice.

7. Admittedly, the deceased official expired on 15.03.2004, whereas the Sindh Shaheed Recognition & Compensation Act, 2014 was promulgated subsequently, and the Rules were framed much later in 2023. The declaration of Shaheed was also made in the year 2014, long after the demise of the deceased. The claim of the petitioner essentially seeks conferment of promotion with retrospective effect from 24.10.1997, i.e., a period much prior even to the death of the deceased as well as the promulgation of the governing statute. Such a claim, in our considered view, squarely falls within the domain of retrospective operation of law.

8. It is a settled principle of law that unless expressly provided, a statute is presumed to operate prospectively and not retrospectively, particularly where it affects substantive rights or creates new obligations. Nothing has been pointed out from the Act, 2014 or the Rules, 2023 to demonstrate that the legislature intended to grant posthumous promotions with retrospective effect in respect of cases where the death had occurred prior to the enactment of the law. The interpretation advanced by the learned counsel for the petitioner, if accepted, would amount to giving the statute a retrospective effect which is neither expressly provided nor can be implied.

9. As regards the opinion of the learned Advocate General Sindh, it is by now well-settled that such opinion is advisory in nature and is not binding upon the competent statutory forum. The Provincial Selection Board-II was within its jurisdiction to independently evaluate the case in light of the applicable legal framework and arrive at its own conclusion. Therefore, mere non-acceptance of such opinion does not render the impugned decision illegal.

10. We also do not find any substance in the contention regarding violation of Article 25 of the Constitution. The petitioner has failed to demonstrate that any other similarly placed person, whose death had occurred prior to the enactment of the law, has

been granted posthumous promotion in identical circumstances. In absence of such material, the plea of discrimination is misconceived.

11. Furthermore, it is evident from the record that the petitioner has already approached the competent authority by way of appeal before the Chief Minister, which is stated to be pending. Without awaiting the outcome of the said statutory/administrative remedy, invocation of constitutional jurisdiction is premature. It is a settled principle that where an adequate alternate remedy is available, this Court ordinarily refrains from exercising jurisdiction under Article 199 of the Constitution.

12. In view of the foregoing, we are of the considered opinion that the petitioner has failed to make out any case of illegality, jurisdictional defect, or violation of fundamental rights warranting interference by this Court. The impugned decision of the Provincial Selection Board-II appears to have been taken within the framework of law and after due consideration of the relevant facts.

13. Consequently, this petition, being devoid of merit, is hereby **dismissed**, along with all pending applications.

**JUDGE**

**JUDGE**