

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.D-2305 of 2022

[Ghulam Nabi Channa vs. Province of Sindh and Others]

Before:

JUSTICE ADNAN-UL-KARIM MEMON

JUSTICE MUHAMMAD JAFFER RAZA

Petitioner:	By Mr. Dilbar Khan Laghari advocate
Respondents	By Mr. Ayaz Ali Rajper Assistant A.G Sindh a/w Assistant Director Regional Directorate of Colleges Aleena Shah
Date of hearing	15.10.2026
Date of Decision	15.10.2026

O R D E R

ADNAN-UL-KARIM MEMON J:- Learned counsel for the petitioner contends that the petitioner, while serving as Associate Professor (BPS-19) in the College Education Department, submitted his ACRs for promotion to BPS-20 in February 2012; however, the Departmental Promotion Committee meeting was repeatedly postponed, and its result was announced on 20.02.2013, after his retirement on 30.11.2012. He claims that the delay was attributable to the respondents and relies upon the Supreme Court's decision allowing retrospective promotion to eligible employees who retired before the DPC result, as well as the benefit allegedly extended to a similarly placed employee through notification dated 09.12.2021. He added that despite repeated representations and favourable letter issued by respondent No.4, his application dated 17.03.2022 remained undecided. He therefore seeks promotion to BPS-20 retrospectively from the date of retirement, with all consequential and pensionary benefits. In support of his contentions, he relied upon the case of Dr. Syed Sabir Ali v. Government of Punjab through Secretary, Health Punjab and others (2007 PLC (C.S) 957, Iftikharullah Malhi v. Chief Secretary and another (1998 SCMR 736) and Federation of Pakistan v. Amir Zaman Shinwari, Superintending Engineer (2008 SCMR 1138).

2. Learned AAG questions the maintainability of the petition and contends that, having retired on 30.11.2012, the petitioner cannot claim retrospective promotion. He further submits that the petitioner did not agitate his grievance during service and approached this Court after approximately ten years of retirement; hence, the petition is barred by laches and liable to be dismissed.

3. We have heard learned counsel for the petitioner and learned AAG and have perused the available record.

4. The petitioner seeks retrospective promotion from BPS-19 to BPS-20 with effect from the date of his retirement on 30.11.2012, along with consequential pensionary benefits, on the ground that the meeting of the Departmental Promotion Committee was delayed by the respondents. The record, however, reflects that the petitioner retired from service on 30.11.2012, whereas the result of the DPC was announced on 20.02.2013. Admittedly, the petitioner did not obtain any order of promotion during his service and has approached this Court after an extraordinary delay of approximately ten years, seeking to reopen the matter relating to his service career after its cessation.

5. It is a settled principle of law that promotion is not a vested right; an employee has, at best, a right to be considered for promotion in accordance with the applicable rules and policy. Mere eligibility, submission of ACRs or pendency of a DPC does not confer an automatic right to promotion, much less retrospective promotion after retirement. The petitioner was required to establish that, under the applicable service rules and the relevant judgment of Honourable Supreme Court, he was legally entitled to retrospective consideration or promotion notwithstanding his retirement before announcement of DPC result. The alleged delay attributable to the respondents, by itself, does not establish such entitlement. Similarly, the benefit allegedly extended to another employee through notification dated 09.12.2021 cannot, without establishing that the cases are identical in all material respects and that the benefit was lawfully granted under the governing rules, furnish an independent basis for claiming the same relief.

6. The petition is further afflicted by unexplained and inordinate delay and laches. The cause of action, if any, arose when the petitioner retired on 30.11.2012, and the DPC result was subsequently announced on 20.02.2013. Nevertheless, he approached this Court after approximately ten years. The submission that his representation dated 17.03.2022 remained undecided does not, by itself, revive a stale claim or extend the limitation of time indefinitely. A subsequent representation or correspondence cannot ordinarily furnish a fresh cause of action in respect of a grievance that had already accrued and remained unchallenged for years. The petitioner has neither demonstrated any legally sufficient explanation for the prolonged silence nor established any continuing legal obligation that would justify entertaining the claim at this belated stage. Such delay is particularly material where the relief sought would require reconsideration for promotion exercise conducted years earlier and alteration of the petitioner's service and pensionary position.

7. The favourable letter allegedly issued by respondent No.4 also does not, in the absence of a competent and legally enforceable order of promotion or proof of authority under the applicable rules, create an enforceable right to retrospective promotion. Similarly, the judgment of Honourable Supreme Court relied upon by

the petitioner can avail him only if its ratio applies to the facts and governing rules of his case; it cannot be treated as conferring an automatic right to promotion merely because the petitioner retired before announcement of DPC result. No such entitlement can be presumed without examining the relevant judgment, applicable service rules and the circumstances in which the alleged similarly placed employee was granted the benefit.

8. In view of the foregoing, we are of the considered opinion that the petitioner has failed to establish an enforceable legal right to retrospective promotion to BPS-20, while his claim is also barred by inordinate and unexplained delay and laches. The petition, having been instituted approximately ten years after the petitioner's retirement, cannot be entertained merely based on subsequent representations or an alleged favourable treatment extended to another employee.

9. Accordingly, the instant Constitution Petition is dismissed as not maintainable on account of delay and laches, as well as for failure to establish a legally enforceable right to the relief claimed. There shall be no order as to costs

JUDGE

JUDGE