

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-4460 of 2026
(Muhammad Ali versus Federation of Pakistan & others)

Date	Order with signature of Judge
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Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing and decision: 12.8.2026

Mr. Ghulam Sarwar Chandio, Advocate for the petitioner

ORDER

Adnan-ul-Karim Memon, J. Petitioner Muhammad Ali has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking the following relief: -

- i) *To declare the impugned order dated 02.7.2026 setting aside / withdrawing the promotion of the petitioner as Reader as illegal, unlawful, without jurisdiction having been exercised in a colorable exercise of powers and as such not sustainable in law.*
- ii) *To suspend the operation of the impugned order to the extent of the petitioner till final disposal of the petition.*

2. We asked learned counsel for the petitioner about the maintainability of the petition in view of the decision of the learned Acting Chairman, NIRC on the premise that pursuant to the Ministry's letter dated 09.06.2026, an inquiry was conducted into the upgradation of eight Readers from BPS-14/15 to BPS-17, as well as the redesignation of Mr. Usman Alam as Deputy Director (IT), BPS-17, and promotion of Mr. Muhammad Ali from BPS-03 to BPS-14. After issuing notices, affording personal hearing on 02.07.2026 and examining the record, the inquiry found these actions contrary to law and rules, inter alia, for want of approval of the Upgradation Committee, Ministry and Finance Division, absence of requisite rules, person-specific upgradation and lack of sanctioned post/competent authority. Consequently, the order dated 07.01.2026 upgrading the eight Readers was set aside and the matter referred to the Ministry for consideration in accordance with policy; the re-designation order dated 13.01.2026 of Mr. Usman Alam and promotion order dated 20.05.2025 of Mr. Muhammad Ali were also withdrawn/set aside with immediate effect.

3. Learned counsel for the petitioner submitted that the petitioner was initially appointed as Chowkidar (BPS-01) in the National Industrial Relations Commission (NIRC) vide appointment letter dated 05.08.2016, subsequently upgraded to BPS-03, but owing to shortage of staff and his satisfactory performance, he was continuously assigned the duties of Clerk and Reader.

Counsel submitted that the petitioner had acquired substantial experience while performing the duties of Reader and, being eligible, was promoted to the vacant post of Reader (BPS-14) vide office order dated 20.05.2025 by the competent authority after completion of the requisite formalities. He was placed on probation for one year, which had already expired, and his salary was duly fixed in BPS-14. Counsel further submitted that the petitioner was thereafter transferred to NIRC Karachi Bench vide order dated 24.09.2025 against the vacant post of Reader and continued to draw salary of the promoted post, as reflected in the AGPR pay slips. However, vide impugned order dated 02.07.2026, Respondent No.2, who was merely performing the functions of Chairman as a stopgap arrangement, withdrew/set aside the petitioner's promotion without any lawful justification. It was contended that Respondent No.2, being only a Member entrusted with the stopgap responsibility of performing the functions of Chairman, lacked lawful authority to exercise substantive administrative powers relating to appointments and promotions, particularly to undo a promotion validly made by the competent authority. Counsel further argued that the petitioner had served as Reader for more than one year after his promotion and his probation had expired; therefore, his promotion could not be arbitrarily withdrawn. Learned counsel also submitted that the impugned action was taken in violation of the principles of natural justice, as the petitioner was neither served with a show-cause notice nor charge-sheeted nor afforded a meaningful opportunity of defense. He was instead directed, at very short notice, to appear from Karachi at Islamabad for a personal hearing on 02.07.2026, which was practically impossible for a low-paid employee. It was therefore argued that the impugned order was passed in haste, without lawful authority, in a colorable exercise of jurisdiction and in violation of due process. On these grounds, learned counsel prayed that the impugned order dated 02.07.2026, to the extent it withdrew the petitioner's promotion as Reader (BPS-14), be declared illegal, unlawful and without lawful authority, its operation be suspended, and the petitioner be granted consequential relief. In support of his contentions, he relied upon the order passed by the learned Islamabad High Court and submitted that the petitioners, in that case also, challenged the NIRC order dated 30.06.2026 whereby the entire recruitment process of 2025 was declared void ab initio and set aside, except in respect of the post mentioned at Sr. No.10. The Islamabad High Court issued notices to the respondents for submission of report and para-wise comments within one month and adjourned the matter after Summer Vacations, 2026. In C.M. No.02/2026, notice was issued and, until the next date of hearing, operation of the impugned order dated 30.06.2026 was suspended to the extent of the petitioners, and the case of the petitioner is akin to that case.

4. We have heard the learned counsel for the petitioner on the maintainability of the petition as well as on merit and perused the record with his assistance and the case law cited at the bar.

5. The controversy is not whether the petitioner served as Reader or received salary in BPS-14, but whether his promotion from Chowkidar (BPS-03) to Reader (BPS-14) had any lawful basis. The petitioner failed to identify any recruitment rule, statutory provision, sanctioned post or prescribed promotional channel authorizing such promotion. The general powers of the Chairman NIRC under the 2016 Regulations to create, abolish, upgrade or downgrade posts could not dispense with recruitment rules or create a new promotional avenue. Creation or upgradation of a post is distinct from appointment or promotion against it. Likewise, performance of higher duties, experience as Reader, pay fixation, completion of probation, subsequent posting and continued receipt of BPS-14 salary could not confer a vested right where the original promotion itself lacked legal foundation. The office order dated 20.05.2025 and subsequent pay fixation were therefore subject to scrutiny, particularly when the inquiry found absence of requisite rules, sanctioned post and competent approvals.

6. The objections regarding the authority of Respondent No.2, colorable exercise of power, violation of natural justice and absence of disciplinary proceedings are also without substance.

7. The record shows that the inquiry was initiated pursuant to the Ministry's directions, notices were issued, the petitioner was afforded an opportunity of hearing, and the relevant record was examined before the impugned action was taken.

8. The withdrawal of the promotion was administrative reconsideration of an allegedly unlawful appointment rather than a disciplinary punishment requiring a charge-sheet.

9. The interim order of the Islamabad High Court in another matter also does not establish any substantive right in favour of the petitioner.

10. Since the petitioner failed to establish that his promotion to Reader (BPS-14) was made under applicable recruitment rules, against a sanctioned post and through the prescribed procedure, no enforceable right accrued merely through passage of time or receipt of benefits.

11. Accordingly, the impugned order dated 02.07.2026 cannot, at this stage, be regarded as without jurisdiction, arbitrary or colourable.

12. The constitutional petition under Article 199 is, therefore, found devoid of merit and is also dismissed in limine, along with the listed applications, with no order as to costs.

JUDGE

JUDGE

Zahid/*