

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

C.P. No. 1653 of 2026

(Abid Mehmood vs The President of Pakistan and others)

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing and order: 27.08.2026.

Mr. Imtaiz Ali Solangi, Advocate for the petitioner
Ms. Wajiha Mehdi, Assistant Attorney General

ORDER

Adnan-ul-Karim Memon, J. Petitioner Abid Mehmood has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 with the following prayer: -

a. Direct the respondents to promote the petitioner as Director General (BPS-20) with effect from the date of the initial vacancy June, 2018 in pursuance of DSB's recommendation dated 16.6.2022 alongwith all consequential benefits, including arrears of salary, allowances, seniority and pensionary entitlements.

2. The petitioner is now a retired public servant with over 37 years of service served as Director (BPS-19) at the Federal Tax Ombudsman (FTO), Regional Office, Karachi. Under the FTO Staff Service Rules, 2006, he became eligible for promotion to BPS-20 in June 2018 and claims to be the senior-most eligible officer. He submits that despite his eligibility, his case was not considered, and the BPS-20 post was proposed to be filled on deputation. His representation dated 06.09.2018 remained unattended, followed by a representation to the President in 2019, which was forwarded to the FTO for necessary action, but no effective decision was taken. A Departmental Selection Board (DSB) subsequently considered the matter on 16.05.2022 and recommended upgrading the petitioner's post from Director (BPS-19) to Director (BPS-20). The summary was forwarded through the Ministry of Law to the Prime Minister instead of the President, who, according to the petitioner, was the competent authority. The Establishment Division sought various clarifications, which the FTO claims to have furnished. The petitioner alleges that the matter thereafter remained pending for several years. A fresh DSB was convened on 05.09.2025, recommending the petitioner's promotion as Director General (BPS-20). However, the Establishment Division returned the summary on 18.12.2025, reiterating its earlier observations. The petitioner maintains that the prolonged delay, despite his eligibility and DSB recommendations, caused financial and seniority loss, particularly as he reached superannuation in the intervening period. He, therefore, seeks now pro forma /regular promotion to BPS-20, after his retirement, from the date of the vacancy in June 2018, with all consequential benefits.

3. Learned counsel for the petitioner submitted that the respondents had unjustifiably delayed the petitioner's promotion to BPS-20 despite his eligibility,

seniority, fitness and the recommendations of the Departmental Selection Board, thereby acting arbitrarily and in violation of the petitioner's constitutional rights. He contended that, having fulfilled the prescribed qualifying service under the FTO Staff Service Rules, 2006, the petitioner had a legitimate expectation of timely consideration, and departmental inaction could not defeat his entitlement to promotion and consequential benefits. Relying upon the cited judgments, counsel argued that where delay in promotion is attributable to the department and not the employee, retrospective promotion from the date of vacancy or eligibility, with arrears and seniority, may be granted. Counsel further submitted that repeatedly returning the promotion summary and keeping it pending amounted to administrative failure and denial of fair treatment. He argued that filling the BPS-20 post on deputation while overlooking the senior-most eligible internal candidate was contrary to the service rules and the principle of merit, particularly in view of *Ghansham Das v. Government of Khyber Pakhtunkhwa* (2024 SCMR 188). According to counsel, the prolonged delay had caused the petitioner financial loss, loss of seniority and other consequential prejudice. He, therefore, prayed that the petitioner be promoted as Director General (BPS-20) with effect from the initial vacancy in June 2018, along with all consequential benefits, including arrears, seniority and pensionary benefits. He lastly submitted that now the petitioner has reached the age of superannuation, therefore, the case of the petitioner needs to be considered for proforma promotion as due to lethargic attitude of the department the actual promotion could not be actualized in time.

4. The learned Assistant Attorney General (AAG) disputes the petitioner's claim and states that the FTO's summary dated 07.06.2022 was examined pursuant to directions of the Prime Minister's Office and that several clarifications and supporting documents were sought from the FTO. She adds that according to the Establishment Division, the replies were unsatisfactory and a meeting was held on 16.05.2023 to convey the outstanding observations. The summary was subsequently referred back to the FTO in January 2025, and the FTO informed the Division of its withdrawal in September 2025. She further states that the FTO later resubmitted the matter, but the clarifications remained inadequate and the summary was initially submitted in hard form instead of through the prescribed e-office procedure. Although a fresh summary was submitted through the Ministry of Law on 20.10.2025, it was returned on 18.12.2025 because the earlier queries had not been satisfactorily addressed. She maintains that nothing remains pending on its part and accordingly seeks dismissal of the petition.

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

6. The admitted position is that the petitioner became eligible for consideration for promotion to BPS-20 and that the matter was placed before the Departmental Selection Board. However, mere eligibility or recommendation by the DSB does not, by itself, confer an absolute or vested right to promotion, unless the competent authority has finally approved the promotion in accordance with the applicable rules. The record further shows that the promotion summaries remained subject to observations and clarifications raised by the Prime Minister's Office and Establishment Division, which, according to the respondents, were not satisfactorily addressed. The subsequent summary was also returned for procedural and substantive deficiencies.

7. The petitioner has nevertheless demonstrated that his case remained under consideration for a considerable period and that he ultimately retired during the pendency of the process. In these circumstances, this Court cannot itself substitute its discretion for that of the competent authority or direct substantive promotion merely on the basis of the DSB recommendations. However, at the same time, the petitioner cannot be deprived of lawful consideration merely because the administrative process remained incomplete; therefore, the department needs to reconsider the decision afresh to the extent of proforma promotion in terms of recommendations of DSB.

8. Accordingly, the petition is disposed of with a direction to the competent authority to re-examine the case of the petitioner and decide the petitioner's claim now for pro forma/retrospective promotion to BPS-20 strictly in accordance with the FTO Staff Service Rules, 2006, and the DSB recommendations. If the competent authority finds that the petitioner was/is eligible, fit and otherwise entitled to promotion during his service and that the delay was attributable to administrative reasons and not to any fault on his part, the competent authority shall pass an appropriate order regarding his pro forma promotion and consequential pensionary/seniority benefits in accordance with law. This exercise shall be completed within [six] weeks from receipt of a copy of this order.

9. With the above direction, the petition stands disposed of.

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