ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-5968 of 2017.
(Irshad Hussain and another vs The Secretary Statistics Division and others)

DATE	**ORDER WITH SIGNATURE OF JUDGE**

Present:
Mr. Justice Riazat Ali Sahar
Mr. Justice Ali Haider 'Ada'

1. *For hearing of CMA No. 19191/2019*
2. *For hearing of main case*

27.10.2026

M/s Hafiz Abdul Rahim and Muhammad Yaqoob, Advocates for Petitioners

Ms. Wajiha Mehdi Assistant Attorney General for Pakistan.

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ORDER

Ali Haider 'Ada', J.- The petitioners are serving in the Pakistan Bureau of Statistics. Their grievance, in essence, is that various posts, including Statistical Assistants, Ministerial Assistants, Head Draughtsman and KPVOs, have been upgraded, whereas the posts of Supervisors Printing, against which the petitioners are serving, have not been accorded similar treatment. Learned counsel for the petitioners contends that, in view of the relevant Office Memorandums issued by the Finance Division and the Pakistan Bureau of Statistics, the petitioners' posts also merit consideration for upgradation on the principles of parity and equal treatment.

2. The comments filed on behalf of the Pakistan Bureau of Statistics reflect that upgradation of posts is not intended to confer an individual benefit upon any particular employee. However, in response to paragraph No. 11, the Department has acknowledged that the case for upgradation of the posts in question, as claimed by the petitioners, was forwarded to

the competent authority, namely, the Establishment Division, for consideration.

3. Learned counsel for the petitioners submits that their claim for upgradation is not founded merely upon personal benefit but upon the policy under which posts of a similar nature have already been upgraded. It is contended that the exclusion of the petitioners' posts from similar consideration, without applying the same criteria, has resulted in discriminatory treatment. Accordingly, it is prayed that the petitioners' case be considered for upgradation in accordance with the applicable policy.

4. Conversely, learned Assistant Attorney General for Pakistan submits that upgradation of posts is a matter of policy and cannot be claimed as an entitlement by individual employees. She, however, confirms, as per comments of the Department, that the matter has already been referred to the Establishment Division for examination of the proposal in accordance with the applicable rules and policy.

5. Heard and perused the record.

6. At the outset, the concept of upgradation of posts is addressed in the ESTA Code, Edition 2026, at Serial No. 25-A. For ready reference, the relevant provision is reproduced as under:

> ***Sl. No. 25-A***
> ***Upgradation of Posts***
>
> *In continuation of Establishment Division's OM. No. 8/130/91-R.I, dated 3rd December, 1991, it is staled that the President under sub-para 'F' of para 3 of the Presidential directive No. 57/1/CMLA, dated 2nd August 1979 had, inter-alia, frozen upgradation of posts till further orders. Prior to this, the upgradation of posts used to be made with the approval of the Finance Division and Establishment Division. However, after the directive, all the cases of upgradation of posts are submitted to the Prime Minister for approval, in relaxation of the above Presidential directive with the concurrence of Finance Division and Establishment Division*

2. It has come to the notice of the government that Ministries/Divisions/Departments etc. are upgrading the posts without the approval of the competent authority i.e. the Prime Minister and concurrence of the Finance Division (Regulations Wing) and Establishment Division. Similarly, the appointments against the upgraded posts are being made by the Ministries/Divisions/Departments etc. without going through the prescribed selection process or approval of the competent authority. It may be pointed out that the upgradation of posts does not mean automatic upgradation of the incumbents. The appointment against the upgraded post will have to be made in the manner prescribed in the recruitment rules for that post and with the approval of the competent authority. Therefore, upgradations of posts made by the Ministries/Divisions/Departments etc. and appointment of their incumbents against such posts without going through the prescribed selection process or approval of the competent authority are irregular.

3. In view of the above, Ministries/Divisions are requested not to make any upgradation without the concurrence of Finance Division (Regulations Wing) and Establishment Division and the approval of the Prime Minister. The upgradation of posts, made by the Ministries/ Divisions without this process, may be submitted for regularization etc. in the prescribed procedure and for approval of the competent authority. The above position may also be brought to the notice of all Departments / Autonomous / Semi-Autonomous Bodies /Corporations etc. under the administrative control of the Ministries/Divisions.

[Authority-Estt. Div's OM No. 8/130/91-R.1, dated 12th May, 1992]

7. Furthermore, the policy governing upgradation of posts is also set out at Serial No. 25-B of the ESTA Code, Edition 2026. For ready reference, the relevant provision is reproduced as under:

S No. 25-B
<u>Policy for Upgradation/Redesignation of Posts</u>

On a summary submitted recently to the Chief Executive, he has been pleased to approve the policy for upgradation/re-designation of posts as indicated in the proceeding paragraphs.

2. Henceforth, the upgradation of posts shall be considered in the following cases only.

(a) When it is considered necessary to up-grade certain posts in order to rationalize the administrative structure of a Ministry/Division or a Department to make it more effective or to bring about uniformity of pay scales of similar posts in different organizations.

(b) Where the duties and responsibilities attached to a post have considerably increased.

(c) Where pay scale of a post is considered grossly incommensurate with the qualifications and experience prescribed for appointment to that post.

(d) Up-gradation of a post on personal basis may not be allowed except if any officer, already holding on regular basis a higher grade post, is posted against a post, carrying lower grade, due to exigencies of service.

3. Subject to the observance of the parameters referred to in sub-paras (a)-(d) above, the future proposals for the up-gradation/re-designation of posts shall be processed as under-

(i) The cases for up-gradation/re-designation of the posts in BPS 1 to 19 will be decided by the Finance Division in consultation with the Establishment Division. However, the decision about the proposed up-gradation/re-designation of posts in BPS 1 to 19 will be taken at the level of Secretary, Finance Division and the Secretary Establishment Division.

(ii) Cases of up-gradation/re-designation of posts in BPS 20 and above will be submitted to the Chief Executive for approval but after seeking the concurrence of Finance Division and the Establishment Division.

*4. [When the competent authority approves the up-gradation of a post in the situations mentioned in sub-paras (a), (b) and (c) of para 2, appointed to the up-graded post should be made in accordance with the provisions of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973**, and the specific rules which regulate appointment to the post.]*

5. The above instructions may please be noted by the Ministries/Divisions for strict compliance.

*6 ***[1]*

[Authority-Estl. Div's O M.No.F8/36/2000-R1, dated 20.1.2001]. *(Bold emphasized)*

8. A perusal of the aforesaid provisions reveals that a proposal for upgradation of posts is required to be initiated and processed through the Administrative Department in accordance with the prescribed procedure. The proposal is thereafter to be examined by the Finance Division in consultation with the Establishment Division, in accordance with the applicable policy and relevant rules. Accordingly, the petitioners' claim for upgradation of their posts is required to be examined by the competent authorities in the light of the aforesaid provisions, the relevant Office Memorandums and the treatment accorded to similarly placed posts. Needless to observe that such consideration must be objective, fair and in accordance with law.

9. In view of the foregoing, the Secretary, Establishment Division (respondent No. 4), the Secretary, Finance Division (respondent No. 5), and the Secretary, Statistics Division (respondent No. 1), being the Administrative Department, are directed to examine and decide the petitioners' claim for upgradation of the posts of Supervisors Printing in accordance with the mechanism prescribed under the law. The aforesaid exercise shall be completed within a period of three (03) months from the date of receipt of a copy of this order.

10. In the above terms, the instant constitutional petition, along with the listed application, stands disposed of.

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