

IN THE HIGH COURT OF SINDH AT KARACHI
C.P.No.D-2001 OF 2025

Date

Order with Signature of Judge

PRESENT:

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

Haji Ahmed
versus
Province of Sindh and another

Date of Hearing 26-01-2026.

Malik Naeem Iqbal, Advocate for the Petitioner.
Mr. Ali Safdar Depar, AAG.

ORDER

ZULFIQAR ALI SANGI, J: Through instant petition the Petitioner has prayed for the following relief:-

A. **Declare that the withholding of retirement notification and pensionary benefits is without lawful authority and contrary to the settled principles of law and equity.**

B. **Direct the Respondents to forthwith issue the Petitioner's retirement notification in BS-19 with effect from 06.05.2025, along with full and lawful disbursement of all admissible pensionary and retirement benefits including but not limited to pension, gratuity, leave encashment, and commutation.**

C. Declare that the Petitioner was entitled to consideration for promotion to BS-20 during service, and direct the Respondents to process his case for pro forma promotion to BS-20 with effect from the date when his junior officers were promoted, and upon fulfillment of criteria, grant him pro forma promotion with all consequential benefits, including national fixation of pay and pension.

D. Grant any other relief(s) deemed just, appropriate, and equitable in the circumstances of the case.

E. Award costs of the Petition”

2. Briefly stated, the facts as narrated in the memo of petition are that the petitioner is a citizen of the Islamic Republic of Pakistan and a civil servant belonging to the erstwhile Executive Provincial Civil Service. At the relevant time, he was serving in BS-19 and attained the age of superannuation on 07.05.2025. Despite the lapse of the statutory period, neither his retirement notification nor his pensionary benefits have been issued by the respondents in respect of BPS-19.

3. It is contended that earlier the petitioner had applied for correction of his date of birth; however, instead of deciding the matter in accordance with law, a show cause notice dated 13.04.2023 was issued to him, followed by a notification dated 10.07.2023 whereby he was directed to undergo MCMC training, despite being entitled to exemption under the applicable rules. The petitioner challenged the aforesaid actions before this Court as well as before the Sindh Service Tribunal, where the matters are admittedly pending adjudication. Owing to these proceedings, the petitioner was also denied consideration for promotion, whereas his juniors were promoted. It is further averred that even otherwise, the impugned notification itself provides that the petitioner would retire in BS-19; therefore, the continued withholding of his retirement notification and pensionary benefits is illegal, arbitrary and without lawful justification, compelling him to invoke the constitutional jurisdiction of this Court.

4. Learned counsel for the petitioner argued that the petitioner attained the age of superannuation on 06.07.2025, yet his retirement notification and pensionary benefits have unlawfully been withheld in respect of BPS-19. It is submitted that even if the notification dated 10.07.2023 is presumed to be valid, the consequences flowing therefrom were operative only during the subsistence of service and could not lawfully extend beyond the date of retirement so as to deprive the petitioner of his vested retirement benefits. Learned counsel further contended that no disciplinary proceedings are pending against the petitioner and that the continued withholding of his benefits is without lawful authority, violative of Articles 4, 9 and 24 of the Constitution, and contrary to the Sindh Civil Servants Act and the rules framed thereunder. It was also urged that denial of consideration for promotion and pro forma promotion to BS-20, while his juniors were promoted, is arbitrary and discriminatory, thus warranting interference by this Court.

5. Per contra, learned Assistant Advocate General, Sindh, appearing on behalf of the official respondents, submitted that the petitioner deliberately misrepresented his date of birth in order to portray himself as over fifty years of age and thereby unlawfully obtained exemption from mandatory MCMC training, on the basis of which he was promoted to BS-19. After securing promotion, he sought correction of his date of birth, which disclosed misconduct, leading to the issuance of a show cause notice and conditional approval of correction subject to completion of mandatory training. It is contended that despite repeated nominations, the petitioner failed to complete the mandatory trainings and instead challenged the proceedings before various forums; his review was also rejected by the Hon'ble Chief Minister, Sindh. Consequently, due to non-completion of mandatory training, the petitioner was lawfully retired in BS-18 with effect from 06.05.2025. It was argued that the petitioner has no vested right to retirement in BS-19 or to pro forma promotion to BS-20; hence, the petition is liable to be dismissed.

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

7. The requirement of MCMC training is provided under Rule 19 of the Sindh Civil Servants (Promotion from BPS-18 to BPS-21) Rules, 2022, which stipulates that, except for civil servants belonging to specialist cadres as mentioned in Rule 15, every civil servant shall successfully undergo the mandatory trainings specified for promotion to the next higher BPS. As per Serial No. 2 of the table appended thereto, MCMC training is required for promotion from BPS-18 to BPS-19. However, Rule 21 of the same Rules provides an exemption from mandatory training and stipulates that, subject to the provisions of clause (b) of Rule 8, an officer who is likely to retire within two years on attaining the age of superannuation shall be exempted from the mandatory training. Rule 8(b) provides that a civil servant may be superseded if he or she fails thrice, for any reason, to attend the mandatory training. In the present case, there is no material on record to show that the petitioner refused to attend the mandatory training or that he failed thrice to attend the same. On the contrary, it is evident that upon being nominated for MCMC training, the petitioner applied for exemption under Rule 21 by approaching the competent authority, i.e., the Chief Minister, as required under Rule 22 of the Rules. In these circumstances, we are of the considered view that the petitioner

squarely falls within the ambit of Rule 21 and is entitled to the benefit of exemption from mandatory training.

8. The petitioner has admittedly attained the age of superannuation. Once a civil servant reaches the age of retirement, the respondents are under a statutory obligation to issue his retirement notification and to release all admissible pensionary and retirement benefits in accordance with law. Pension and retirement benefits are not a bounty but a vested right, earned by long years of service, and cannot be withheld except in accordance with law. In the absence of any lawful impediment or concluded disciplinary proceedings warranting such deprivation, the withholding of the petitioner's retirement notification and benefits of BPS-19 is unsustainable in law.

9. As regards the petitioner's claim for pro forma promotion, it is well settled that promotion is a natural progression in the service of a civil servant and an integral incident of service. Every civil servant who fulfils the prescribed criteria of eligibility, fitness and seniority has a legitimate expectation to be considered for promotion within a reasonable time. When such consideration is delayed or denied due to administrative inaction, inefficiency or poor management, it adversely affects the civil servant's right to fair treatment and constitutes arbitrariness. Where promotion is lost solely on account of administrative delay, such as failure to convene meetings of the Departmental Promotion Committee, despite the officer being otherwise eligible, principles of fairness and equity require that the omission be remedied. Unjustified delay in promotion matters causes serious hardship, particularly to officers who are nearing or have attained retirement, and gives rise to avoidable litigation. Sanctioned posts are meant to be filled to meet functional requirements and cannot be kept vacant so as to defeat legitimate service rights. Unexplained delay in decision-making affecting career progression undermines equality of opportunity and violates Articles 4 and 25 of the Constitution. The State, as an employer, is expected to act as a model employer and is held to a higher standard of fairness, reasonableness and accountability. It cannot take advantage of its own inaction or inefficiency to deny lawful consideration for promotion once the prescribed criteria are fulfilled.

10. In the circumstances, the petitioner's case for pro forma promotion cannot be brushed aside without lawful consideration. The

competent authority is required to examine the petitioner's claim objectively and pass a reasoned and speaking order in accordance with law.

11. For the foregoing reasons, this petition is allowed in the following terms:

(i) The respondents are directed to issue the petitioner's retirement notification in BS-19 forthwith and to release all admissible pensionary and retirement benefits, including pension, gratuity, leave encashment and commutation, strictly in accordance with law, within a reasonable period.

(ii) The competent authority is further directed to consider the petitioner's case for grant of pro forma promotion to BS-20 and to pass a reasoned and speaking order within three months from the date of receipt of this j order.

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