

IN THE HIGH COURT OF SINDH, KARACHI

**Constitutional Petition No.D-4991 of 2023**  
*[Muhammad Khan Magsi versus Province of Sindh and others]*

Before:  
**Justice Muhammad Karim Khan Agha**  
**Justice Adnan-ul-Karim Memon**

Mr. Abdul Sami, advocate, and Mr. Ahsan Anwar Memon, advocate for the petitioner  
 Mr. Ali Safdar Depar, Assistant AG  
 Mr. Masroor Ahmed advocate for the respondent / KW&SC

**Dates of hearing & Order: 11.9.2025**

-----

**ORDER**

**Adnan-ul-Karim Memon, J.** Petitioner requests this court to:

- i. Hold that the act of respondents not convening the departmental promotion committee DPC-I to consider the Petitioner for proforma promotion to the post of Deputy Managing Director RRX (BS-20) without any lawful authority; therefore, the act of the respondents is illegal, unlawful, violation of natural justice, and has no legal effect.
  - ii. Hold that the petitioner is the senior-most Director BPS-19 as per the seniority list entitled for pro forma promotion to the post of Deputy Managing Director RRG (BS-20), but due to failure of the respondents, the Petitioner stood retired on 04.10.2023 without promotion in BPS-20.
  - iii. Direct Respondents to immediately convene a meeting of the Departmental Promotion Committee (DPC-1) to consider the Petitioner for pro forma promotion to the post of Deputy Managing Director RRG (BPS-20) on account that one post of Deputy Managing Director BPS-20 is lying vacant on the retirement of Mr. Waqar Ahmed Hashmi.
  - iv. Grant any other appropriate relief.
2. It is the case of the petitioner that he holds an M.Sc. degree and was a long-serving employee of the Karachi Water & Sewerage Board/Corporation (KW&SC), retired on October 4, 2023, as a Director (BPS-19). He is the most senior Director in the Revenue and Resource Generation (RRG) wing. The core of his petition is that he was unjustly denied a promotion to the BPS-20 position before his retirement. He alleges that despite the existence of a BPS-20 vacancy and his position at the top of the seniority list, the respondents failed to convene a

Departmental Promotion Committee (DPC-1) meeting. Such meetings are typically held at the start of each year, but none had been convened for over two years. The petitioner made multiple written requests between August and September 2023 to the authorities to schedule the meeting and consider his promotion. Despite his repeated applications and a reminder, the respondents did not take any action. Instead, they issued an office order confirming his retirement, thereby depriving him of a promotion to which he believes he was legally entitled.

3. The petitioner's counsel argues that the respondents deliberately failed to convene a DPC-1 (Departmental Promotion Committee) meeting to consider the petitioner for promotion to BPS-20, a position he was legally eligible for as the most senior BPS-19 Director. The counsel asserts that this inaction was done with "malafide intention" and was "illegal, unlawful, and discriminatory," as it deprived the petitioner of a promotion that was his legal right. A vacancy in the BPS-20 position became available after the retirement of another officer, but the respondents ignored the petitioner's multiple applications and requests for promotion. The counsel highlights that the respondents have not held a DPC-1 meeting since 2021, which resulted in the petitioner being forced to retire without the promotion he was entitled to. This has caused him financial loss. The counsel references several legal precedents to support the claim that the petitioner should be granted a "proforma promotion" to BPS-20, meaning he should be considered promoted from the date he was eligible, even after his retirement. In support of his contentions, learned counsel for the petitioner has relied upon the case of *Federation of Pakistan v. Jahanzeb* (2023 PLC (C.S.) 336, *Bashir Ahmed Anjum v. Province of Punjab* (2025 SCMR 206), *Zakir Hussain Samo v. Province of Sindh* (2025 PLC (C.S.) 634 and order dated 04.6.2025 passed by the Honourable Supreme Court in Civil Petition No.550-K of 2022.

4. The learned AAG, assisted by learned counsel for Karachi Water & Sewerage Corporation (KW&SC), argues that promotion is not an employee's vested right. He claims that the petitioner was promoted to Director (BPS-19) on his turn in 2022 and retired on October 4, 2023. The AAG contends that because the DPC-1 meeting never happened, the petitioner is not eligible for a pro forma promotion. As per learned counsel for KW&SC, a pro forma promotion is only possible if the DPC-1 had recommended his name before his superannuation. Therefore, they argued that the petitioner's claim is unfounded and the petition may be dismissed.

5. We have heard learned counsel for the parties and considered the material available on record.

6. The petitioner, who began as a Deputy Director (BPS-17) in 1994 at the Karachi Water and Sewerage Board, and the same position was upgraded to BPS-18 in 2008. Subsequently, he was promoted to Director (BPS-19) on January 5, 2022, and retired on October 4, 2023.

7. In public service, BPS-20 promotion requires a minimum of 17 years in BPS-17 and above, satisfactory performance (PERs), mandatory training (SMC/NMC), and approval from a selection board. The petitioner, who served for 29 years in BPS-17 and higher grades from 1994 to 2023, meets the service length requirement. This short period prima facie, suggests that a Departmental Promotion Committee (DPC) meeting for BPS-20 promotions may not have occurred during this window, or his case was not taken up, which could be classified as an "administrative slip-up, error, or delay."

8. The Supreme Court in the case of *Bashir Ahmed Anjum* (2025 SCMR 206) has held that an employee may be considered for a proforma or notional promotion if an administrative error or delay caused him to retire before being considered for a promotion he was otherwise entitled to. This compassionate principle, embedded in Fundamental Rule 17 of the FR&SR, can be invoked when a civil servant, through no fault of his own, missed a promotion despite meeting all eligibility, fitness, and seniority requirements. In such cases, the employee has a legitimate expectation to be granted the promotion and its benefits. The Supreme Court in the case of *Federation of Pakistan v. Jahanzeb* (2023 PLC(CS) 336) has repeatedly affirmed that proforma promotion is applicable when an employee is not considered for a deserved promotion due to administrative delays or errors, leading to their retirement without the promotion. This ruling emphasizes that such delays cause "significant hardship" for civil servants and lead to "unnecessary litigation." In the case of *Homoeo Dr. Asma Noreen Syed v. Government of the Punjab* (2022 SCMR 1546), the Supreme Court established that a retired civil servant may be granted a proforma promotion if his/her right to that promotion matured before his/her retirement but was not realized due to administrative errors. The case was remanded to the Service Tribunal for a fresh decision, confirming the validity of such claims.

9. Since the petitioner had fulfilled all the seniority and service length requirements, he had a "legitimate expectation" to be considered for the BPS-20 promotion before his retirement. The failure to do so, if not due to any fault of the petitioner (e.g., poor performance or pending disciplinary action), would make his case for a proforma promotion strong. Therefore, the petitioner's claim for a proforma promotion rests on the administrative failure that prevented him from being considered for the BPS-20 position, despite having met all the necessary eligibility criteria.

10. We for the aforesaid reasons dispose of this constitutional petition and direct the competent authority/respondents to reconsider the case of the petitioner for proforma promotion in BS-20 in terms of the Supreme Court decisions as discussed supra, by way of circulation, if he is found eligible under the law. As the petitioner has already retired, therefore, his proforma promotion will not affect the seniority of any person already in service and they would be entitled to their emoluments and pensionary benefits.

**JUDGE**

**HEAD OF CONST. BENCHES**