

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-4611 of 2025
(*Masroor Ali Memon versus Federation of Pakistan and others*)

Date	Order with signature of Judge
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Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order: 20.4.2026

Mr. Ali Asadullah Bullo advocate for the petitioner
Ms. Wajiha Mehdi, Assistant Attorney General

Order

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

a. Declare the impugned office order dated 08.08.2025 as illegal, violative of the Judgment of the Federal Service Tribunal, against the dicta laid down by the Hon'ble Supreme Court of Pakistan, and set aside the same.

b. Direct the Respondents to issue a promotion order against the post of Senior Patrolling Officer of the Petitioner from the date his juniors were promoted alongwith all consequential benefits.

c. Direct the Respondents to conduct themselves strictly in accordance with law and not to take any coercive action against the Petitioner.

2. The learned counsel for the petitioner submits that the petitioner was appointed in 2002 as Sub-Inspector/Patrolling Officer (BS-14) through a regular competitive process and has since served with dedication and an otherwise unblemished record. It is submitted that in 2010, an FIR was registered against the petitioner alleging issuance of fake traffic challans, whereupon a show cause notice was issued, and subsequently, he was dismissed from service. However, upon departmental appeal, the petitioner was provisionally reinstated, and a de novo inquiry was initiated. During the pendency of such proceedings, the petitioner was honorably acquitted by the competent criminal court in 2014 on the same allegations. It is further contended that despite acquittal and completion of required training and courses, the petitioner was repeatedly denied promotion on the basis of pending disciplinary proceedings, alleged adverse ACR entries, and his provisional reinstatement status. The petitioner was subjected to multiple show-cause notices on identical allegations and was ultimately removed from service in 2016. However, upon departmental appeal, the punishment was modified, and he was reinstated with a minor penalty and placed under observation. Learned counsel submits that thereafter the petitioner was repeatedly deferred and superseded in departmental promotion committees from 2014 onwards on grounds which were either non-existent, redundant, or already

adjudicated, including alleged blemished service record and pending proceedings. It is emphasized even adverse remarks were relied upon despite the petitioner's acquittal and departmental reinstatement orders. It is further argued that the petitioner approached the learned Federal Service Tribunal, by judgment dated 18.07.2024, had already declared the allegations and objections against the petitioner to be of no legal effect and directed his consideration for promotion in next rank. Despite this, the respondents again ignored the petitioner's case and continued to rely on the same set of allegations that had attained finality. Learned counsel contends that the repeated supersession of the petitioner is mala fide, arbitrary, discriminatory, and in violation of Articles 4 and 25 of the Constitution, as well as settled principles of natural justice. It is argued that the petitioner has been deprived of promotion despite seniority, eligibility, and comparative fitness, while juniors have been promoted. It is further submitted that discretionary powers have been exercised arbitrarily and capriciously, contrary to settled law that discretion must be exercised fairly, reasonably, and on relevant considerations. In view of the above, it is prayed that the impugned order dated 08.08.2025 be declared illegal and set aside, and the respondents be directed to consider and grant promotion to the petitioner as Senior Patrolling Officer from the date his juniors were promoted, along with all consequential benefits. He prayed to allow this petition.

3. At the very outset, learned AAG submitted that the present constitutional petition is not maintainable before this Court in view of Article 212 of the Constitution of the Islamic Republic of Pakistan, 1973, as the matter squarely relates to the terms and conditions of service of a civil servant. It is submitted that the petitioner, being an employee of the National Highways and Motorway Police (NHMP), falls within the exclusive jurisdiction of the Federal Service Tribunal under the Service Tribunals Act, 1973. Reliance is also placed on Section 2-A of the Act, which brings such employees within the ambit of "civil servants" for adjudication before the Serviv Tribunal. It is further objected that the petitioner has no cause of action, no locus standi, and has approached this Court without coming with clean hands; as such the petition is liable to be dismissed on preliminary grounds alone on merits. In fact, it is submitted that the petitioner was found involved in serious misconduct involving the issuance of fake traffic challans and possession of bogus challan books during his posting at N-5 South Zone, Karachi. The allegations were substantiated through departmental inquiry as well as forensic expert reports. Consequently, an FIR was also registered, and criminal proceedings were initiated. It is further stated that parallel departmental proceedings were lawfully conducted in accordance with Establishment Division O.M. dated 17.06.1969, which clearly permits continuation of disciplinary action independent of criminal proceedings. It is emphasized that the petitioner was afforded due process, including a show cause notice and personal hearing;

however, he failed to respond satisfactorily, leading to his dismissal from service on 06.12.2010. It is clarified that upon departmental appeal, the petitioner was provisionally reinstated and a de novo inquiry was ordered. However, the inquiry once again found him guilty. After issuance of a proper show cause notice and personal hearing, a major penalty of removal from service was imposed, which was later modified in appeal by the competent authority to stoppage of increment for one year, along with an observation condition. It is added that the said penalty was never challenged by the petitioner and thus attained finality, thereby affirming the findings of misconduct. It is submitted that promotion in civil service is not a vested right but is subject to fitness, eligibility, integrity, and overall service record. She argued that the petitioner's case was repeatedly considered by various Departmental Promotion Committees (DPCs) but was deferred/superseded on account of his blemished service record, pending disciplinary proceedings, incomplete ACRs, and adverse integrity assessment. It is further submitted that even after reinstatement, the petitioner remained under observation for two years as per the appellate order, and therefore was/is not eligible for promotion. His repeated non-consideration was based purely on lawful criteria under NHMP Promotion Policy and APT Rules. It is specifically contended that, despite an acquittal in criminal proceedings, departmental proceedings lawfully continued as both operate in different fields. The petitioner's acquittal was not considered "honourable exoneration" in a departmental sense, as misconduct was independently proved through inquiry. It is further submitted that in compliance with the judgment of the Federal Service Tribunal dated 18.07.2024, the petitioner's case was reconsidered by DPC. However, upon re-evaluation of his service record, integrity issues, and established misconduct, the committee again found him unfit for promotion. The decision was taken in accordance with law and relevant judicial principles, including the settled law that members of disciplined forces must possess unimpeachable integrity. Learned AAG denied that any malafide, arbitrariness, or discrimination has been committed by the department. All actions were taken strictly in accordance with rules, policy, and due process, and the petitioner was considered in every DPC meeting according to his seniority. In view of the above, it is submitted that the petitioner is not entitled to any of the reliefs prayed for, and the constitutional petition is liable to be dismissed as being misconceived, without merit, and not maintainable.

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

5. During proceedings, we have been informed that the learned Federal Service Tribunal, while deciding Appeal No. 59(K)CS/2022, examined the petitioner's grievance against non-consideration for promotion vide order dated

28.12.2021. The petitioner, a Sub-Inspector/Patrolling Officer (BS-14), was appointed in 2002 and had faced departmental proceedings arising from allegations of issuance of fake traffic challans, leading to dismissal from service, subsequent reinstatement, and repeated deferments in promotion on grounds of pending proceedings, alleged blemished record, and incomplete ACRs. The Tribunal noted that although the petitioner had been subjected to disciplinary proceedings and penalties, the major punishment of dismissal was later modified by the appellate authority, and the petitioner had also been acquitted in the related criminal case. It was further observed that once the basis for adverse remarks and penalties ceased to exist, the same could not be repeatedly used to deny promotion. The Tribunal held that pending or past proceedings, once concluded or rendered redundant, cannot be relied upon to continuously defer consideration for promotion. The Tribunal further held that the responsibility for completion of ACRs lies with the department, and an employee cannot be deprived of promotion solely on that basis where no other valid impediment exists. It was also observed that the petitioner's right to fair consideration for promotion stood revived after the removal of legal and disciplinary hurdles. Accordingly, the Tribunal accepted the appeal and directed the department to place the petitioner's case before the Departmental Promotion Committee for reconsideration for promotion to the rank of Inspector/Senior Patrol Officer (BS-16) from the date his juniors were promoted, within three months. It was further directed that his seniority be determined in accordance with the Civil Servants (Seniority) Rules, 1973. The matter was thus disposed of with no order as to costs.

6. Surprisingly, in purported compliance with the judgment dated 18.07.2024 passed by the Federal Service Tribunal in Appeal No. 59(K)CS/2022, the Departmental Promotion Committee (DPC) of NHMP reconsidered the petitioner's case for promotion to the rank of Inspector/Senior Patrol Officer (BS-16) with effect from 22.08.2017, i.e., the date his juniors were promoted. The DPC, while examining the service record of the petitioner, considered again his past disciplinary proceedings, alleged involvement in corrupt practices regarding the issuance of fake/bogus challans, and his overall integrity report. Relying upon the available record and the judgment of the Supreme Court reported as 2022 SCMR 1770, the Committee observed that integrity and spotless character are essential requirements for members of a disciplined force like NHMP. It was further noted that the petitioner had earlier been superseded in DPC meetings held on 28.09.2021 and 21.02.2024, and although reconsidered in compliance with the Tribunal's directions, his service record was still found to be blemished and his integrity unsatisfactory, as also reported by the DIG N-5 South Zone. Accordingly, the DPC unanimously concluded that the petitioner was not fit for promotion to BS-16 and recommended his supersession from promotion. Necessary entries were directed to be made in his service record, and the order

was issued with the approval of the Inspector General, NHMP, and later on was not considered for promotion as he had already been superseded by the DPCs held on 28.09.2021, 21.02.2024, and 19.11.2024. Meanwhile, vide impugned order dated 08.08.2025, his colleagues were considered for promotion. Prima facie, the reasoning of the committee is absurd and cannot be a basis for either deferment or supersession which needs to be set at naught.

7. The core controversy is whether the respondents could lawfully deny consideration of the petitioner for promotion based on earlier supersessions and alleged “blemished service record”, despite a binding judgment of the Federal Service Tribunal dated 18.07.2024.

8. It is an established principle of service jurisprudence that once a competent forum of final adjudication, such as the Federal Service Tribunal, has determined that adverse material has lost its legal effect, the executive authorities are bound to implement such findings in letter and spirit. The Tribunal in its judgment specifically held that once the basis of disciplinary stigma, criminal allegations, or adverse entries ceases to exist or stands neutralized through acquittal or appellate modification of penalty, the same cannot be repeatedly used to frustrate promotional consideration. This finding attained finality and was binding on the respondents under Article 189 of the Constitution, as repeatedly affirmed by superior courts.

9. The respondents’ stance that earlier supersessions in 2021, 2024, and 2025 independently justify denial of promotion cannot be sustained in law. Supersession is not a perpetual disqualification; rather, it is a conditional administrative assessment subject to re-evaluation whenever the defect or deficiency forming its basis is cured or declared non-existent. The Hon’ble Supreme Court has held that administrative observations or penalties, once modified or set aside, cannot be kept alive in future DPC deliberations as a permanent stigma.

10. Similarly, reliance by the respondents on “blemished service record” is legally misconceived. The record shows that the major punishment of dismissal was modified in appeal, and criminal proceedings ended in acquittal. The settled law, as reiterated in 2022 SCMR 1770, is that while integrity is crucial in disciplined forces, such assessment must be based on subsisting and lawful material, not on extinguished or redundant allegations. Once the foundation of stigma is removed, the consequential inference of “bad character” or “non-fitness” loses its legal efficacy.

11. Furthermore, the repeated reliance on prior supersession DPCs amounts to circular reasoning, which has been deprecated by superior courts. The Supreme

Court held that administrative authorities cannot perpetuate a past adverse decision as a self-sustaining bar to future consideration, particularly where judicial or appellate intervention has diluted or removed the original basis.

12. The argument of respondents that promotion is not a right is correct in principle but misapplied in this case. While promotion is not an enforceable right, consideration for promotion is a vested right, and such consideration must be fair, non-arbitrary, and in compliance with binding judicial directions. Denial of consideration on extraneous or already-decided grounds amounts to a violation of Articles 4 and 25 of the Constitution.

13. The impugned order dated 08.08.2025, read with the DPC proceedings, shows that the respondents again relied upon the very same grounds which were already declared redundant by the Federal Service Tribunal. This conduct is in direct contravention of the doctrine of finality of judgments and amounts to administrative overreach. The Supreme Court has consistently held that executive authorities cannot sit in appeal over judicial determinations.

14. In light of the above legal position, the repeated supersession of the petitioner, despite judicial directions and absence of subsisting legal impediment, is arbitrary, mala fide in law, and violative of settled principles of due process and equality.

15. The impugned order dated 08.08.2025 to the extent of the petitioner cannot be sustained as it is based on redundant and previously adjudicated grounds, violates the binding judgment of the Federal Service Tribunal dated 18.07.2024, and disregards settled principles laid down by the Supreme Court regarding promotion consideration, finality of judicial findings, and non-perpetuation of extinguished stigma.

16. Accordingly, the petitioner is entitled to be considered for promotion from the date his juniors were promoted, along with all consequential benefits, by way of circulation and the impugned order to the extent of petitioner is set aside as being without lawful authority and of no legal effect.

17. This petition stands disposed of along with pending application(s) in the above terms.

JUDGE

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