

IN THE HIGH COURT OF SINDH, KARACHI
Constitutional Petition No.D-3990 of 2023
[Muhammad Tariq & others versus Province of Sindh and another]

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

Date of hearing & order: 15.10.2025

Mr. Asif Ali Abro advocate for the petitioners
 Mr. Ali Safdar Depar, Assistant AG alongwith
 Mr. Imran Ahmed Khan Abro, Assistant AG
 Mr. Riaz Alam Khan advocate for respondent No.2

ORDER

Muhammad Karim Khan Agha, Petitioners have filed this Constitutional Petition with the following prayer(s): -

- (a) *To set aside / recall the impugned order dated 19.10.2022 by declaring being illegal, unlawful and null and void without reasoning.*
- (b) *To allow this petition with back benefits from the effected 08.10.2022 for eligibility of up-gradation from BPS-18 to 19 and 19 to 20.*
- (c) *To restrain and prohibit the respondents for taking any illegal acts till the final decision / disposal of this petition.*

2. It is the case of the petitioners that on 13.10.2021, the Syndicate of respondent No.2, via Resolution No.5, approved an up-gradation policy for BS-01 to BS-15 and BS-16 and above. The petitioners, being eligible, were upgraded vide notification dated 19.10.2022. However, the notification was withdrawn the same day without providing any reasons or opportunity for hearing. Despite representations dated 17.1.2023 and 05.7.2023, no action or reply has been given. Other employees were upgraded under the same policy through notifications on 15.9.2022 and 26.9.2022, which were fully implemented. Similar petitions in the past have resulted in Court directions for timely up-gradation of employees.

3. Learned counsel for the petitioners contends that the petitioners are being denied their vested rights despite eligibility based on service and an unblemished record. The withdrawal of the up-gradation notification dated 19.10.2022 without any reason violates their fundamental rights under Article 10-A of the Constitution and obligations under section 24-A of the General Clauses Act. This action amounts to discrimination, as other employees were upgraded under the same policy, and thus contravenes Articles 25 and 27 of the Constitution. Counsel prayed for the petition to be allowed.

4. Learned counsel for respondent No.2 contends that the impugned notification was issued by the then Acting Registrar without approval of the competent authority and was withdrawn the same day when noticed by the Vice Chancellor. The petitioners had already availed one-time time-scale upgradation

in 2017, and a second upgradation for BPS-17 and above is not permissible under law. The Syndicate had resolved that time-scale upgradation applies only to BPS-1 to 15 staff without promotional avenues. No fundamental rights were violated, and the notification was issued illegally, hence the petition is liable to be dismissed.

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

6. The petitioners are challenging the withdrawal of the upgradation notification dated 19.10.2022 by respondent No.2. Primarily, upgradation is a policy decision to address stagnation for employees without promotional avenues. The Supreme Court has clarified that time-scale promotions are not equivalent to promotions under the law. However, the Supreme court also noted that such promotions cannot be claimed as a matter of right and are subject to policy decisions by the competent authority.

7. The petitioners' claim for a second-time scale upgradation to BPS-17 and above, after having already availed a one-time upgradation in 2017, warrants examination regarding the legality of the withdrawal.

8. It is well settled that once an employee has received a time-scale promotion, they are generally not eligible for another under the same policy, as time-scale upgradation is a policy-based financial benefit intended for employees without regular promotional avenues. In the present case, the notification dated 19.10.2022 was issued by the then Acting Registrar without the approval of the competent authority (Vice Chancellor/Chairman Syndicate) and was withdrawn when the Vice Chancellor noticed the irregularity. Administrative notifications issued without proper authority can lawfully be withdrawn to maintain institutional integrity, and notifications must comply with the proper authority and procedural requirements. The petitioners had already benefited from a one-time upgradation in 2017, and the Syndicate's policy restricts time-scale upgradation to BPS-1 to 15 employees without promotional avenues; employees in BPS-17 and above are not eligible for a second upgradation. Issuing a notification contrary to policy and subsequently withdrawing it aligns with administrative and legal correctness. In these circumstances, the withdrawal is upheld on grounds of policy and authority of the syndicate of the respondent university under the General Clauses Act, and the petition is found to be not maintainable under Article 199 of the Constitution and is accordingly dismissed along with all pending applications.

HEAD OF CONST. BENCHES

JUDGE