

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D-4098 of 2024
(*Mehboob Khan versus The Director General Intellectual Property Organization & others*)

Date	Order with signature of Judge(s)
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Before:

Mr. Justice Muhammad Karim Khan Agha

Mr. Justice Adnan-ul-Karim Memon

Date of hearing and order:- 30.10.2025

M/s. Iqbal Ahmed and Aurangzeb advocate for the petitioner

Ms. Wajiha M. Mehdi, Assistant Attorney General

ORDER

Muhammad Karim Khan Agha, J:

The petitioner has prayed as

under:

1. *That the writ petition in hand may very kindly be accepted, and respondent No.2 may kindly be directed to decide the application of the petitioner by promoting him as "Trademark Examiner IPS-I/BPS-16 since 6th June 2023, in the supreme interest of justice.*
2. *To direct the respondents to promote the petitioner according to the law.*

2. The petitioner's case is that he has served the Intellectual Property Organization (IPO) of Pakistan since 2006. He was appointed as Assistant Examiner (BPS-13/IPS-II) on 6 June 2023, and his case for promotion was submitted as his performance and ACRs were satisfactory. However, he was deferred without any valid reason. Although a provisional seniority list was issued on 7 November 2023, the final list has yet to be released. In June 2023, promotions from IPS-II/BPS-13 to IPS-I/BPS-16 were granted at IPO Headquarters, Islamabad, but not at the Trademark Registry, Karachi, where the petitioner serves.

3. The petitioner's counsel argued that deferring the petitioner's promotion without justification violated the law and caused financial loss. He submitted that the petitioner cannot be penalized for departmental delays and is entitled to *promotion*, citing *Hameed Akhtar v. Secretary Establishment (1996 SCMR 1185)*. He further contended that juniors have been promoted, and the denial of similar treatment breaches equality before the law. He pointed out that under the relevant Service Rules and Policy of IPO-Pakistan, an employee having five years' service in IPS-II along with an LL.B degree becomes eligible for promotion to Examiner (IPS-I/BPS-16). He next submitted that the petitioner, fulfilling these conditions, submitted an application to Respondent No. 2 for promotion, which remains undecided. The respondents, by ignoring the relevant laws, judicial precedents, and equitable principles, have discriminated against the petitioner in violation of Articles 4, 17, and 25 of the Constitution, and have disregarded Articles 37 and 38, which obligate the State to promote

social justice and ensure expeditious redressal of grievances. He next argued that being a citizen of Pakistan, the petitioner is entitled to equal protection under Articles 4 and 25. He added that denying his legitimate right to promotion and *proforma promotion* while promoting his juniors is discriminatory and contrary to the Constitution. He emphasized that under Article 14, the dignity of man is inviolable. Forcing the petitioner into litigation to claim his due rights after 18 years of service is unjust and unbecoming of public functionaries. He lastly submitted that Respondent No. 2, by failing to decide the petitioner's application, has violated Articles 4 and 25 of the Constitution and Section 24-A of the General Clauses Act, 1897, which require public officers to decide matters with due application of mind. Reliance is placed on **2011 SCMR 1** and **1998 SCMR 2268**. He prayed to allow this Petition.

4. The learned Assistant Attorney General submitted that the petitioner was initially appointed on contract as Database Supervisor on 1 June 2006, later regularized as Sr. IT Assistant w.e.f. 1 July 2008. After issuance of IPO Service Rules, 2022 (SRO 1622(I)/2022), 27 officials, including the petitioner, were adjusted in various cadres by the IPO Policy Board on 6 April 2023. She contended that the petitioner's claim of being considered for promotion is false as the seniority list issued on 30 October 2023 is still under review due to objections. Furthermore, the petitioner does not meet the requirement of five years' service as Assistant Examiner or Sr. IP Assistant as per the Service Rules. Hence, she prayed for dismissal of the petition.

5. We have heard learned counsel for both sides and examined the record with their assistance.

6. In view of the above facts and legal position, the petitioner has *prima facie* shown that he fulfilled the eligibility criteria for promotion to the post of *Trademark Examiner (IPS-I/BPS-16)* under the IPO-Pakistan Service Rules and Policy, having served more than five years in IPS-II with an LL.B qualification. The continued inaction and failure of Respondent No. 2 to decide the petitioner's promotion request, despite his seniors and juniors having been considered and promoted, if not decided earlier, amounts to discrimination and violation of the petitioner's service rights.

7. It is a settled principle of law that a civil/public servant cannot be penalized for departmental delay or negligence, and where such delay occurs without lawful justification, the employee is entitled to even *proforma promotion* with all consequential benefits, as affirmed in the

case of Hameed Akhtar v. Secretary Establishment (1996 SCMR 1185) and 2011 SCMR 1.

8. In such Circumstances, without touching the merits of the case, the competent authority of the respondents is directed to consider and decide the petitioner's pending application (Annex-C) strictly in accordance with law. In case the petitioner is found entitled and eligible under the applicable service rules and policy, he shall be considered for promotion to the post of *Trademark Examiner (IPS-I/BPS-16)*, subject to law, with all consequential benefits as admissible under the law. This exercise shall be undertaken within three months, keeping in view the order dated 6.10.2025 passed by this Court in C.P No.D-4397 of 2024.

9. This Petition stands disposed of in the above terms.

HEAD OF CONST. BENCHES

JUDGE

Shafi