

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No. D-670 of 2023

[Shabana Yasmeen vs. Federation of Pakistan and Others]

BEFORE:

JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE RIAZAT ALI SAHAR

Petitioner: By Mr. Tarique Majeed advocate

Respondent No.1 Mr. Shamsuddin Rajpar, DAG

Respondents: By Mr. Ayaz Hussain Chandio advocate

Date of hearing: 22.12.2025

Date of decision: 22.12.2025

O R D E R

ADNAN-UL-KARIM MEMON, J:- Through captioned petition, the petitioner has prayed as under:-

- a) To hold and declare that the action of respondents of withdrawing one step time scale up-gradation in BPS-17 allow to petitioner is unlawful, void, ultra virus and without any lawful authority ab initio.
- b) To hold and declare that recovery of one step time scale up-gradation amount from the monthly salary of the petitioner w.e.f 07.12.2021 at the monthly rate of Rs13000/- is illegal, unilateral and without any lawful authority besides directing the respondents to immediately stop the illegal deduction and amount so recovered be refunded to the petitioner.
- c) To hold and declare that withdrawal of other allowances and benefits allowed to the petitioner in BPS-17 by the respondents are arbitrary, unlawful and excessive and be reimbursed to the petitioner being lawful ab initio.
- d) Any other relief which this honourable court deems appropriate and proper in the instant case.

2. Learned counsel for the petitioner submits that the petitioner was inducted by the respondents as a Primary School Teacher (BS-05) on 29.08.1984 and was subsequently promoted to Trained Graduate Teacher (BS-16) in March 1996 upon declaration of her BA and B.Ed. degrees. She was further granted one-step time scale from BS-16 to BS-17 vide Order dated 25.11.2019, a benefit also extended to other cadre employees based on completion of 20 years' service. The requirement of passing DPE/Training was waived by respondent No.3 while

granting the time scale. It is further submitted that the Office Order dated 27.01.2016, containing the criteria for time scale issued by the defunct PEPCO, was adopted by the Board of Directors of GHCL vide order dated 24.02.2017, and also by the Board of Directors of Jamshoro Power Company vide order dated 25.04.2017, and continues to remain in force. However, the CEO of the respondents, vide Office Order dated 07.12.2021, abruptly withdrew the petitioner's time scale of BS-17 without affording her an opportunity of hearing. The time scale granted to other cadre employees was not withdrawn, resulting in discrimination against the petitioner. Despite repeated representations, no relief was provided, and the respondents even deducted amounts previously granted on account of the time scale. Learned counsel contends that the actions of the respondents are discriminatory, arbitrary, and unlawful, thereby necessitating the present petition.

3. Learned counsel representing the respondents, Jamshoro Power Company, has raised objections regarding the maintainability of this petition, submitting that the respondent Company has no statutory rules and, therefore, a writ petition cannot lie against it in view of various pronouncements of the Apex Court as well as this Court. He further submits that the petitioner was granted the time scale of BS-17 on the condition that it could be reversed *ab initio* if any discrepancy was discovered at a later stage. It is contended that the petitioner did not pass the Departmental Promotion Examination (DPE) or the Elementary Management Course (EMC) Training, both of which were mandatory for time scale upgradation under the policy dated 21.10.2021; accordingly, her time scale upgradation was withdrawn. Learned counsel also submits that the two-step time scale upgradation is admissible to employees from BS-05 to BS-15 at 50% of the sanctioned strength, according to Office Memorandum dated 03.07.2015 and 27.10.2016. Since the petitioner was serving in substantive pay scale BS-16, employees in this category were exempt from the 50% quota and were subject to different prerequisites for upgradation. It is further submitted that, as per Office Memorandum dated 09.11.2016, GENCO officers in BS-17 and above are exempted from management training for the purpose of time scale upgradation. In view of the above, learned counsel contends that the petition is not maintainable and is liable to be dismissed.

4. Learned DAG adopted the arguments advanced by learned counsel for the respondents.

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

6. In view of the submissions and record, it is evident that the petitioner was granted the time scale upgradation from BS-16 to BS-17 by the competent authority, and its subsequent withdrawal is based on purported non-fulfillment of mandatory requirements, namely the Departmental Promotion Examination (DPE) and Elementary Management Course (EMC) Training, as per the policy dated 21.10.2021. Prima facie, the respondents have not acted in accordance with the applicable policy and office memorandum, and similar provisions have not been applied to employees in comparable categories.

7. Furthermore, the petitioner, being in substantive BS-16, was held entitled to automatic upgradation in terms of the prescribed criteria as conveyed by the competent authority vide letter dated 25.11.2019 and after its acceptance and acting upon with effect from 25.11.2019 and subsequent its cancellation vide office order dated 7.12.2021 without hearing the Petitioner is discriminatory attitude which needs to be set at naught. Since arbitrariness and illegality has been pointed out that warrants interference by this Court in terms of law laid down by the Supreme Court that once financial benefits granted and acted upon by the competent authority, the same cannot be revoked. It is well-settled law that the competent authority granted such time scale upgradation in favour of the Petitioner under the law and subsequent its withdrawal is not in consonance with law as such the principle of locus poententie can come into play in terms of Decision of the Supreme Court in the case of Shams ur Rehman (2020 SCMR 188)

8. Accordingly, the petition is disposed of with direction to the competent authority of the respondents to release such benefits if withheld and / or recovered from the salary / pension of the Petitioner after her retirement if any. The aforesaid exercise shall be undertaken within one month.

JUDGE

JUDGE