

HIGH COURT OF SINDH CIRCUIT COURT, MIRPURKHAS

C.P No.D-770 of 2024

[Dr. Shanker Lal and Others vs. Province of Sindh and Others]

Before:

JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE RIAZAT ALI SAHAR

Mr. Shanker Lal Meghwar, advocate for petitioner(s)
Mr. Muhammad Sharif, Assistant A.G. Sindh

Date of hearing & decision: 19.11.2025

ORDER

ADNAN-UL-KARIM MEMON J.- Through this Constitutional Petition the petitioners pray that this Court may be pleased to direct the respondents to award/grant proforma promotion from BPS-19 to BPS-20 to the petitioners in the Health Department of Sindh as per their service tenure and also award all associated arrears and benefits of BPS-20 accordingly

2. The case of the petitioners is that they are retired medical officers of Health Department, Government of Sindh, who allege that they were denied their rightful promotions during their service. Petitioner No.1 (Dr. Shankar Lal) was appointed in BPS-17 on 4.3.1999, received two promotions and retired in BPS-19 on 21.10.2024, holding Seniority No.643. Petitioner No.2 (Dr. Harchand) was appointed in BPS-17 on 05.08.1996, retired in BPS-19 on 8.8.2023, with Seniority No.408. Petitioner No.3 (Dr. Pirbhu Lal) was appointed in BPS-17 on 06.08.1996, retired in BPS-19 on 01.01.2023. Petitioner No.4 (Dr. Sital) was appointed in BPS-17 on 18.10.1993, retired in BPS-19 on 10.2.2024 holding Seniority No.124 and Petitioner No.5 (Dr. Poonam Chand) was appointed in BPS-17 on 7.8.1996, retired in BPS-19 on 3.2.2024 with Seniority No.416. The petitioners assert that despite serving diligently, they were denied timely promotions due to delay in convening the Departmental Promotion Committee (DPC). They seek proforma promotions from BPS-19 to BPS-20, along with all associated arrears and benefits. They further claim that this denial violates Articles 4, 9, 25, and 38 of the Constitution and rely on Supreme Court precedents that recognize the entitlement to proforma promotions in cases of administrative delays.

3. Learned A.A.G submitted that Promotions are based on seniority-cum-fitness, length of service and availability of vacant posts. Petitioners were not promoted because their names were not in the promotion zone as per seniority list dated 11.01.2023. There is no legal provision under the Sindh Civil Servants Act, 1973, or the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974, to grant promotions after retirement. He cited the precedent of order passed in C.P. No. D-819 of 2024; where this Court allowed retirees to file a representation but dismissed the petition for lack of legal provision. He lastly submitted that the petitioners' demand for post-retirement promotion cannot be entertained as per the existing law and service rules.

4. The seniority numbers of Dr. Shankar Lal is at S.No. 643, Dr. Sital at No.124 prima facie suggest they were well in the seniority lists; yet they were excluded from the "promotion zone," which points to structural and procedural failure rather than lack of eligibility. The key allegation is that the Departmental Promotion Committee (DPC) was not convened timely manner or promotion opportunities were delayed. This is consistent with a "departmental lapse" rather than any fault of the petitioners.

5. We agree with learned A.A.G that no employee has a vested right to promotion. On the other hand, an employee's promotion cannot be denied due to lethargy and inefficiency of the competent authority. In this case, the petitioners were regular employees who sought promotion to the next grade during service; however, their cases were not considered in time by the department. When a regular employee has devoted long years of unblemished service, he / she should not be deprived of the opportunity of promotion simply because the DPC was not timely convened. Rather, the obligation is on the part of DPC to decide petitioner's case before he retires, especially when they are well aware of the date of petitioner's superannuation. Rule 7-A of the Rules of 1974 allows the appointing authority to approve promotion from the date of recommendation by the DPC or Selection Board, even if the formal notification comes later. Therefore, under Sindh APT Rules, there *is* a provision that can support retroactive/proforma promotions for those who were recommended by DPC/ Board but retired before being officially placed into the higher scale. The Supreme Court of Pakistan has clearly recognized proforma promotions in cases of administrative oversight or delay in DPC / Selection Board as a legitimate remedy. In a recent case of Ghulam Qadir Thebo, the

Supreme Court remanded the case to the High-Powered Selection Board (HPSB) for *fresh consideration de novo*, emphasizing fair, impartial consideration and applying Fundamental Rule 17.

6. In the light of the position explained above, it is concluded that a civil servant has a fundamental right to be promoted even after his retirement by awarding proforma promotion; provided, the right of promotion accrued during his service but could not be considered for no fault of their own and meanwhile, they retired on attaining the age of superannuation without any shortcoming on their part about deficiency in the length of service or in the form of inquiry and departmental action was so taken against their right of promotion. Thus, we are inclined to entertain the request of the petitioners in these matters for proforma promotion. On the aforesaid proposition, we are fortified by the decisions of Supreme Court rendered in the cases of Dr. Syed Sabir Ali v. Government of Punjab through Secretary Health Punjab and others [2008 SCMR 1535], Federation of Pakistan and others v. Amir Zaman Shinwari, Superintending Engineer [2008 SCMR 1138] and Dr. Muhammad Amjad v. Dr. Israr Ahmed, [2010 SCMR 1466]

7. In view of the foregoing, it appears that the petitioners having served diligently and meritoriously in the Health Department, were denied their rightful promotions due to administrative delays. While learned A.A.G has contended that promotions are governed by seniority-cum-fitness, availability of posts, and that there is no provision for the post-retirement promotions under the Sindh Civil Servants Act, 1973, or the Rules of 1974. However, in light of the recent Supreme Court judgment in the case of Ghulam Qadir Thebo, the petitioners are entitled to proforma promotions as a legitimate recognition of their service. This court directs the competent authority of the respondents to reconsider the matter and grant proforma promotion from BPS-19 to BPS-20 to the petitioners, along with all consequential benefits and arrears, by way of a circular within three months, in accordance with the principles laid down by the Supreme Court.

8. The petition stands disposed of in the above terms.

JUDGE

JUDGE