HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.D-2249 of 2025

[Mst. Shahnaz Akhtar vs. Federation of Pakistan and others]

Before:

JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE MUHAMMAD JAFFER RAZA

Petitioner:	Through Mr. Ghulam Mohiuddin advocate
Respondent No.1	Through Mr. Shamsudin Rajper Deputy Attorney General
Respondents 2&3:	Through Ms. Sania Qayoom Hussain advocate
Date of hearing & Decision	27.10.2026

O R D E R

ADNAN-UL-KARIM MEMON J The case of the petitioner is that she is a retired Middle School Teacher. She was appointed in BPS-09 on 14.01.1988 and subsequently acquired B.Ed. degree. She was granted BPS-15 with effect from 14.10.1991, which was later modified by the respondents. In Constitutional Petition No. D-804 of 2009, this Honourable Court, vide order dated 22.10.2018, set aside the modified order and restored her BPS-15 with effect from 14.10.1991, along with consequential service benefits. The said order was upheld by the Supreme Court vide order dated 16.07.2019. The petitioner alleges that although the respondents subsequently restored her BPS-15, they failed to grant her selection grade in BPS-17 with effect from 01.07.1999 with consequential arrears, proforma promotion and revision of her pension, in addition to the benefits already granted pursuant to the earlier judgments which relief was given to the similarly placed junior teachers, hence the instant petition.

2. Learned A.A.G contest the petition on the grounds of maintainability, limitation and laches, contending that service matters fall within the exclusive jurisdiction of the Service Tribunal under Article 212 of the Constitution; that the earlier judgment has been implemented in letter and spirit and that no relief remains outstanding; that the selection grade / move-over scheme was discontinued with effect from 01.12.2001, that the petitioner was granted time-scale upgradation to BPS-17 in 2017, and that she has failed to establish any legal entitlement to the claimed arrears, proforma promotion or revised pension. Accordingly, he seeks dismissal of the petition.

3. We have heard learned counsel for the petitioner and learned AAG and examined the available record. The controversy primarily concerns whether the petitioner is entitled to selection grade in BPS-17 with effect from 01.07.1999, together with consequential arrears, proforma promotion and revision of her pension, in addition to the benefits already granted pursuant to the earlier judgments.

4. The record reflects that this Court, vide order dated 22.10.2018 passed in C.P. No. D-804 of 2009, restored the petitioner's placement in BPS-15 with effect from 14.10.1991, and the said order was upheld by the Supreme Court vide order dated 16.07.2019. However, the grant of selection grade in BPS-17 cannot automatically be presumed merely from the restoration of BPS-15. The petitioner's entitlement to such additional benefit must be determined by the competent authority in accordance with the precise terms of the earlier judgment, the applicable service rules and policy, and the relevant eligibility criteria, as this court under Article 199 of the Constitution cannot undertake such exercise in earlier disposed of matter.

5. It is also significant that the petitioner was granted time-scale upgradation to BPS-17 vide order dated 25.10.2017, whereas the respondents assert that the selection grade/move-over scheme had been discontinued with effect from 01.12.2001. The grant of time-scale upgradation, by itself, neither establishes nor extinguishes any entitlement to an earlier selection grade; the matter requires examination by the competent authority under the applicable rules and the terms of the previous judicial directions as discussed supra. Similarly, the alleged grant of benefits to other employees cannot, without proof of their relevant service particulars and eligibility, independently confer a right upon the petitioner to claim such benefit after her retirement in the year 2019.

6. The earlier judgment having attained finality, the respondents are bound to comply with its operative directions and cannot disregard or dilute any benefit expressly granted therein. Nevertheless, such compliance cannot be extended to an independent service benefit unless it is supported by the judgment, the applicable rules or another lawful basis. The objection under Article 212 of the Constitution is not tenable under the law after retirement of petitioner as the mere description of the matter as a service dispute does not dispense with examination of the petitioner's claim to enforcement of an existing final judicial order by the competent authority.

7. In these circumstances, the petitioner's claim for selection grade in BPS-17 with effect from 01.07.1999, consequential arrears, proforma promotion and revised pension cannot be allowed at this stage solely on the basis of restoration of BPS-15 or the asserted treatment of other employees. Accordingly, the petition is disposed of leaving the petitioner to agitate her claim before the competent authority and just upon approach a reasoned decision be made.

JUDGE

JUDGE

Karar_Hussain/PS*