

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D-5627 of 2016
(Muhammad Kamaluddin v Federation of Pakistan & 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 21.4.2025

Mr. Mujtaba Sohail Raja advocate for the petitioner.
Mr. Mohsain Shahwani Additional Attorney General.

ORDER

Adnan-ul-Karim Memon, J: The petitioner has averred that his appointment as Accounts Assistant BPS-13 in 2000, based on his B.Com and 5 years of experience, was incorrect. He submitted that he should have been appointed at BPS-15 (or BPS-14) because a less experienced junior was later appointed as Assistant Accountant BPS-15 and ranked higher. Highlighting the potential non-existence of the BPS-13 post at his hiring, the petitioner pointed out that a subsequent promotion to BPS-15 in 2006 failed to rectify his seniority. Consequently, he requests the court to order the respondents to retroactively correct his initial BPS to BPS-15 from his appointment date and place him above Respondent No. 5 in the seniority list. Additionally, he seeks to prevent the promotion of any junior employee to Assistant Accounts Officer BPS-16 before his case is resolved.

2. Respondent No. 5 counters that the petitioner's initial appointment as Accounts Assistant BPS-13 was in line with the advertised qualifications, which included a Graduate degree OR a Diploma in Commerce with 5 years of experience. They added that the petitioner's appointment as Assistant Accountant BPS-15 followed a separate advertisement with different criteria, including a B.Com with 3 years of experience and a Punjab quota. The respondent emphasized that the petitioner's promotion to BPS-15 occurred through a Departmental Promotion Committee. They further clarified that a later upgrade of the BPS-13 post to BPS-14 was not applied retroactively. Respondent No. 5 asserted that the seniority as the highest-ranking official in the Assistant Accountant BPS-15 cadre, a point the petitioner never disputed before this petition. They alleged the petitioner's legal action is driven by ulterior motives, initiated after the respondent filed his petition. Additionally, Respondent No. 5 accused the petitioner of financial mismanagement and rule violations, submitted that petitioner does not meet BPS-16 promotion

criteria, and submitted that this Court's order dated 20.4.2017 passed in C.P D No. 3006 2016 in favor of the private respondent. Consequently, they requested the court to dismiss the petitioner's petition.

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

4. Previously, the private respondent (now relevant to the current petitioner's seniority claim) sought promotion as an Assistant Accountant BPS-15. This court, noting the official respondents' commitment to consider the promotion in an upcoming DPC within six months, disposed of that petition. Now, the current petitioner requests the court to retroactively correct his initial BPS to BPS-15 from his appointment date and place him above the private respondent in the seniority list. He also seeks to prevent the promotion of any junior employee to Assistant Accounts Officer BPS-16 until his case is resolved. The respondents submitted that the private respondent's BPS-15 appointment followed a different advertisement with distinct criteria and that the petitioner's promotion to BPS-15 was through a DPC. They also clarified that a later BPS-13 to BPS-14 upgrade was not retroactive. The private respondent asserted his seniority in the BPS-15 cadre, which the official respondents claimed the petitioner had never challenged before. They alleged the petitioner's current action is driven by ulterior motives following the private respondent's earlier petition and cite a previous court order (dated 20.4.2017 in C.P D No. 3006 2016) in their favor. This court concludes that this seniority issue needs to be resolved by the competent authority of the respondents after hearing both parties within three months. This petition stands disposed of in these terms.

5. A copy of this order shall be sent to the Secretary Ministry of Science and Technology for compliance.

JUDGE

Head of Constitutional Benches