

# THE HIGH COURT OF SINDH, KARACHI

**Before:**

**Justice Mohammad Karim Khan Agha**  
**Justice Adnan-ul-Karim Memon**

## **CP No D-2923 of 2020**

[Altaf Hussain v. Federation of Pakistan and others]

Petitioner : through Mr. Talha Abbasi advocate.

Respondent No. 2 to 5 through Ms. Wajiha Mehdi, Assistant Attorney General

Dates of hearing : 08-05-2025

Date of order : 08-05-2025

## **ORDER**

**Adnan-ul-Karim Memon, J.** Altaf Hussain, a Director (Investigation) BPS-20 in Federal Investigation Agency (FIA), submits that the failure to consider his promotion to Additional Director General FIA, BS-21 during the Central Selection Board (CSB) meeting of January 27-29, 2020, despite an existing vacancy, was illegal, malafide, arbitrary, discriminatory, and violated principles of natural justice, equity, and fairness.

2. A regular FIA Investigation Group employee petitions for promotion to Additional Director General (BS-21), citing his clear record and eligibility under the 2019 Civil Servants Promotion Rules. Despite his case being initially listed for the January 2020 CSB meeting and other eligible Directors being promoted, he was overlooked. He averred that this non-consideration, especially with his impending retirement (July 10, 2020), is illegal, mala fide, discriminatory, and violates his vested right, causing financial detriment. His representation to the Secretary of Establishment remains unanswered. He requests a declaration of the illegality of his non-consideration, a directive for his immediate promotion in BS-21, and a bar on further promotions to the post without considering his case.

3. The learned counsel for the petitioner submitted that under fundamental rule the petitioner is entitled for proforma promotion after his retirement in 2020. We reminded him that the said fundamental rule has been omitted however he insisted that petitioner was not at fault when the subject post taken out from the consideration of CSB at the time of considering the case of the civil servants including the petitioner. He prayed for allowing the instant petition.

4. The learned AAG submits that this petition is inadmissible. She submitted that it concerns a service matter, which falls exclusively under the purview of the Federal Service Tribunal according to Article 212(2) of the Constitution, and that the Petitioner lacks a valid legal basis for filing this petition. She refuted his claim, explaining that the promotion item for Additional Director General FIA (BS-21) was withdrawn by the Secretary of the Interior Ministry (the designated Departmental Representative) and thus was never presented to the Central Selection Board for consideration. Citing the Civil Servants Act and Appeal Rules, she asserted that decisions regarding promotion fitness are not subject to appeal including filing of the petition as the subject post is selection post based on pure merit not fitness basis. Consequently, she requests the Court to dismiss the petition for lack of proper jurisdiction, referencing the precedent set in I.A. Sherwani's case (1991 SCMR 1041).

5. We have heard Learned Counsel for Petitioner, Learned Assistant Attorney General, and examined the record and the case law on the subject issue.

6. The notion of granting pro forma promotion or promotion with retrospective effect to a retired civil servant is not recognized under the prevailing legal framework. The Civil Servants Act 1973 and Rules framed thereunder, which govern appointments and promotions, do not include any provision that entitles a civil servant to proforma promotion after retirement. Without any legal basis conferring such a right to retired civil servants, this Court cannot issue a directive compelling the respondent establishment to undertake an action that is otherwise impermissible by law. Guidance on this matter can be found in the judgments of the Supreme Court in the cases of Secretary Ministry of Finance, Finance Division, Government of Pakistan Versus Muhammad Anwer (2025 SCMR 153), National Bank of Pakistan through its President Versus Sajjad Ali Khaskhelli and another (2024 PLC (CS) 276), and Inspector General of Police Punjab versus Waris Ali (2024 SCMR 1109).

7. The Supreme Court has repeatedly held that promotion is not a guaranteed right for civil servants. We observe that the Department acted lawfully in the Petitioner's case, adhering to the relevant regulations. The Petitioner's counsel failed to demonstrate any deviation from these rules by the Respondents. Therefore, given this legal precedent and the Department's lawful actions, no declaration can be issued in the Petitioner's favor as the subject post is the selection post based on pure merit besides the subject post was taken out from the consideration of CSB at the relevant time, as such no vested right can be claimed based on the aforesaid analogy.

8. Regarding the Petitioner's counsel's argument for proforma promotion to Grade-21 with back benefits based on Fundamental Rule – 17, which allowed such promotion when an employee was denied promotion without fault, we note that the relied-upon proviso of Fundamental Rule 17 was omitted by the Finance Division through SRO No 965(I)/2022 dated May 20, 2022, as such no reliance can be placed on such repealed proviso of the fundamental rule.

9. In the case of National Bank of Pakistan (Supra), the Supreme Court held in Paragraph 3 that the Respondent's unchallenged supersession in 2010 rendered his subsequent constitutional petition before the High Court time-barred (suffered from laches). Furthermore, the Respondent's claim for pro forma promotion lacked basis in the relevant service rules. Considering his retirement and receipt of all due benefits, the Supreme Court found the High Court's intervention unsustainable under the relevant law and rules governing the Bank's employees. Consequently, the petition was converted into an appeal, allowed, and the Peshawar High Court's judgment was set aside.

10. Based on the aforementioned discussion and keeping in view the legal position of the case, we find no merit in this petition that justifies intervention by this Court. Consequently, the Constitution Petition and any pending applications are dismissed.

JUDGE

HEAD OF CONST. BENCHES