

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**

Constitutional Petition No. D-138 of 2024  
(Muhammad Hanif Sheikh versus Province of Sindh & 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:- 23.10.2025**

Mr. Ali Asadullah Bullo, advocate for the petitioner  
Ms. Saima Imdad Assistant Advocate General

**ORDER**

**Muhammad Karim Khan Agha, J:**                      The petitioner has prayed as  
under:

1.        *To declare the act of Respondents regarding non-consideration for promotion of the petitioner as unlawful, against the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974 and violative of the fundamental rights as guaranteed under the Constitution of Islamic Republic of Pakistan*
2.        *To direct the Respondents to consider the case of the petitioner against the post of BS-19 for promotion and grant the effect ad benefit from the date of occurrence of vacancy on performa basis under the Fundamental Rule 17.*
3.        *To direct the Respondents to release the admitted amount of leave preparatory to retirement of the petitioner along with interest.*

2.        The petitioner was appointed as Assistant Engineer (BS-17) (Civil) on 08.03.1993 under the Prime Minister’s Social Programme and, after training, was regularized in service. On 19.06.2017, he was promoted to Executive Engineer (BS-18) on a regular basis upon DPC recommendation and Chief Secretary Sindh’s approval. Subsequently, he was issued a show cause notice dated 25.09.2018 alleging misconduct for making advance payments without work completion, invoking disciplinary action under Rule 4-A r/w Rule 5(3) of the Sindh Civil Servants (E&D) Rules, 1973.

3.        Counsel for the petitioner argued that the respondents acted mala fide by withholding his promotion to BS-19 despite his seniority at Serial No.2 in the 2021 list, unblemished record, and withdrawal of the show cause notice on 06.09.2023 after retirement on 28.3.2022. The act, he contended, was arbitrary, without lawful authority, and amounted to misuse of power, warranting judicial interference.

4. The learned Assistant Advocate General contended that promotions from BS-18 to BS-19 are made by PSB-II, SGA&CD under the Chief Secretary. The petitioner was deferred due to pending disciplinary proceedings and missing ACRs/PERs per clause b (IV) of the revised promotion policy dated 24.10.2007. The disciplinary proceedings stemmed from allegations of Rs. 80,55,465/- advance payments without work execution and violation of SPPRA Rules 4.2 & 4.5. In the personal hearing on 23.05.2022, he failed to justify his actions, leading to imposition of recovery of Rs. 671,812/- under Rule 1.8(b) of the Civil Services Pension Rules, 1963, via order dated 30.06.2022. In support of her contention she relied upon the case of Bashir Ahmed Anjum v Province of Punjab through Chief Minister Punjab, Lahore & other **2025 SCMR** and Dr. Asma Noreen Syed v Government of the Punjab through its Secretary Health, Department and others **2022 SCMR 1546-2022 PLC (CS) 1390 ref.206**. She prayed to dismiss the petition.

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

6. The petitioner's deferral from promotion was prima facie, justified, as disciplinary proceedings were pending following the show cause notice dated 25.09.2018, in accordance with clause b(IV) of the 2007 promotion policy. The recovery penalty imposed under Rule 1.8(b) of the Civil Services Pension Rules, 1963, vide order dated 30.06.2022, established his misconduct.

**Rule 1.8(b):**

“If a retired government servant is found, after due inquiry, to have caused pecuniary loss to the government through misconduct, negligence, or breach of duty during his service, the competent authority may order recovery of the loss from his pension or gratuity.”

7. Rule 1.8(b) empowers the competent authority to recover losses from a retired officer's pension or gratuity, ensuring accountability even after retirement. The petitioner was found responsible for advance payments of Rs. 80,55,465/- without work execution, violating SPPRA Rules. After hearing, a recovery of Rs. 671,812/- was imposed under Rule 1.8(b), confirming his culpability. Such finding bars retrospective promotion, and withdrawal of the show cause notice later cannot nullify the recovery order unless formally set aside by a competent authority or court. Therefore, withdrawal of the show cause notice on 06.09.2023, after retirement, did not entitle him to retrospective promotion. Hence, his non-promotion to BS-19 was within the parameters of law and not mala fide. As a general principle under service law, disciplinary proceedings cannot be initiated against a government servant after retirement, because the employment relationship ceases once the officer retires, unless specific

rules expressly permit post-retirement action. Civil Servants (Efficiency & Discipline) Rules, 1973, govern disciplinary proceedings while the officer is in service. Once a civil servant retires, proceedings under these rules cannot ordinarily be initiated or continued, unless such proceedings were already pending before retirement. However it is made clear that if disciplinary proceedings were initiated before retirement, the department may continue to conclusion. If not initiated before retirement, they cannot be started afresh afterward under the E&D Rules. However, Civil Services Pension Rules, 1963 and Rule 1.8 is exception to the general rule. This provision does not amount to a full disciplinary proceeding, but rather a limited inquiry for the purpose of pension recovery. Thus, the competent authority can hold a post-retirement inquiry *only to the extent necessary* to determine financial liability or loss to government funds.

8. Accordingly, finding no illegality or arbitrariness in the respondents' actions, the petition is dismissed along with pending applications.

HEAD OF CONST. BENCHES

JUDGE