

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No. D-6481 of 2024

[Shahnawaz Abro V. The Province of Sindh and others]

Date	Order with signature of Judge(s)
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Before:
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Zulfiqar Ali Sangi

Date of hearing and Order: 30.04.2026

Mr. Kamran Ali, Advocate for the Petitioner.
M/s. Abdul Jalil Zubaidi, and Faizan Hussain Memon,
Additional Advocate General Sindh

ORDER

Adnan-ul-Karim Memon, J. – The petitioner prays that this Court to direct the respondent departments to revisit and amend the impugned Notification dated 05.01.2018 (FD (SR-I) (52)/2010 Part-I, Karachi) to the extent that the petitioner, in view of his long and meritorious service of 35 years in the Education & Literacy Department, Government of Sindh, be granted time scale benefits and proforma promotion in BPS-17. It is further prayed that the respondents be directed to extend the benefit of proforma promotion in BPS-17 to the petitioner, who has already retired on 31.12.2024, on the ground that he was deprived of due promotional avenues during his service tenure, and that such relief may now be granted for the limited purpose of pensionary and financial benefits.

2. The petitioner, a Primary School Teacher (BPS-16) in the Education & Literacy Department, Government of Sindh, asserts that he has rendered approximately 35 years of continuous and satisfactory service since 07.11.1989. He submits that he is duly qualified, holding multiple academic and professional degrees, including B.A., B.Ed., and M.Ed., and has remained dedicated to the education sector throughout his career. In principle, the petitioner invokes constitutional equality and equity to claim notional upgradation for pensionary benefits, while the respondents resist the claim on the grounds of policy limitation, absence of legal provision for proforma promotion, and financial and administrative constraints.

3. It is his case that under the Time Scale Promotion Policy introduced by the Government of Sindh, Primary School Teachers were granted upgradation up to BPS-16. However, he contends that Secondary School Teachers (HSTs) have been extended more beneficial service benefits, including up to BPS-20, which, according to him, creates an arbitrary and discriminatory classification between similarly placed teaching cadres. He argues that such differential treatment

offends Articles 25 and 27 of the Constitution, which guarantee equality and equal opportunity in public employment. The petitioner further highlights that he has repeatedly represented his grievance before the competent authorities, but no relief was granted. As he had already attained the age of superannuation on 31.12.2024, he contends that he has been left without any further promotional avenue. Therefore, he seeks a proforma promotion in BPS-17 solely for pensionary and financial benefits, relying on principles of equity, justice, and prior judicial precedents.

4. The learned counsel for the petitioner submits that the Time Scale Promotion Policy of the Government of Sindh, to the extent it creates a distinction between Primary School Teachers (PSTs) and High School Teachers (HSTs) in granting higher time scale benefits, is arbitrary, unreasonable, and violative of Articles 25 and 27 of the Constitution of the Islamic Republic of Pakistan, 1973, which guarantee equality before law and equality of opportunity in public employment. It is further contended that the petitioner, having rendered 35 years of continuous and satisfactory service as a Primary School Teacher in the Education & Literacy Department, has been deprived of fair and equal promotional opportunities despite being similarly placed within the teaching cadre. The grievance raised is purely monetary in nature, seeking proforma promotion in BPS-17 for pensionary and financial benefits, without any claim to administrative elevation. The counsel emphasizes that the petitioner has reached the age of superannuation on 31.12.2024, and due to the discriminatory policy framework, he is likely to suffer irreparable financial loss as he was not afforded promotional progression during his service tenure. It is further argued that the impugned policy results in an unjustified disparity among teachers performing identical duties of educating the nation's youth, thereby violating the principle of equal treatment under the law. Reliance is placed on the judgment passed in Constitutional Petition No. D-2707/2019 (*Re-Shah Muhammad vs. Province of Sindh & others*), decided by this Court on 02.04.2021, to contend that similarly placed employees have been granted relief in analogous circumstances based on constitutional equity and fairness. He prayed to allow this petition.

5. On the other hand, the official respondents through learned AAG oppose the petition, submitting that the petitioner has already availed all benefits under the applicable time scale policy, including running pay scales and upgradation up to BPS-16. It is contended that under the Finance Department's policy dated 21.07.2014, Primary School Teachers are eligible to progress only up to BPS-16, which has already been implemented, and there is no provision under the existing service rules for the grant of proforma promotion to BPS-17. It is further argued that no unconstitutional discrimination is involved, as all teachers are treated under a uniform policy framework based on rational service distinctions, while

matters of financial implications and policy formulation fall within the exclusive domain of the executive. The AAG adds that the issue of PSTs' service structure is under consideration for review at the appropriate level in consultation with stakeholders, keeping in view fiscal constraints. It is also emphasized that the petitioner has already retired on 31.12.2024 and has been granted all admissible post-retirement benefits. Moreover, a large number of similarly placed PSTs, including over 1900 officials in BPS-16, are governed by the same policy framework. In view of the above, it is prayed that the petition be dismissed with costs and any other relief deemed just and proper.

6. We have heard the learned counsel for the parties and perused the record with their assistance and case law cited at the bar.

7. The Finance Department Memorandum No. FD (SR-I) 1(52)/2010 dated 07.06.2010, a time scale mechanism was introduced for Primary School Teachers providing progression from BPS-07 to BPS-10 after 09 years, BPS-10 to BPS-11 after 14 years, BPS-11 to BPS-14 after 21 years, and BPS-14 to BPS-15 after 25 years of service. Thereafter, the Chief Minister, Sindh, in continuation of the said policy, approved the upgradation of PSTs to BPS-16 through time scale vide Notification dated 05.01.2018, which was duly implemented. Pursuant thereto, the Director of Education (Primary), Hyderabad Region, issued a Notification dated 27.01.2018 granting time scale from BPS-07/09 to BPS-16, wherein the petitioner's name appeared at Serial No. 42 among 157 beneficiaries. It is further submitted that while similar time scale benefits up to BPS-20 were later introduced for Secondary School Teachers vide Notification dated 29.03.2019, under the existing policy framework for PSTs, there is no provision for any further upgradation beyond BPS-16. The petitioner, however, invokes principles of equity and parity, contending that the same rationale applied to Secondary School Teachers should also be extended to Primary School Teachers, with reference to earlier notifications, thereby entitling him to a similar benefit.

8. After examining the record, this Court is of the considered view that the claim of the petitioner for proforma promotion in BPS-17 is not legally sustainable for the reason that the entire service structure of Primary School Teachers is governed by the Finance Department's policy framework, particularly the Memorandum dated 07.06.2010 and subsequent Notification dated 05.01.2018, whereby the cadre was specifically provided time scale progression only up to BPS-16. The said policy has been uniformly applied and implemented across the board, and the petitioner has admittedly benefited therefrom, having already been placed in BPS-16.

9. It is well-settled that in matters relating to service structure, pay scales, and financial upgradation, the Courts exercise restraint, as such domains fall

within the exclusive competence of the executive unless a clear case of arbitrariness, mala fides, or violation of a statutory provision is established. In the present case, no statutory rule or binding policy has been shown that entitles Primary School Teachers to further upgradation beyond BPS-16, nor has any enforceable legal right been demonstrated in this regard.

10. The contention of discrimination is also not tenable. The distinction between Primary and Secondary School Teachers is based on rational classification having nexus with service structure and administrative requirements. Mere difference in time scale ceilings, without violation of any fundamental or constitutional right, does not constitute unlawful discrimination under Articles 25 and 27 of the Constitution.

11. Moreover, it is an undisputed fact that the petitioner has already retired from service on 31.12.2024 after attaining the age of superannuation and has received all admissible post-retirement benefits. The relief sought, being like a proforma promotion for pensionary benefits, cannot be granted in the absence of any statutory backing, particularly when the governing policy expressly caps progression at BPS-16.

12. The reliance placed on parity with Secondary School Teachers is also misconceived, as each cadre is governed by its own distinct policy framework. Equality under the Constitution does not mandate identical treatment of dissimilar service structures, especially where financial and policy considerations differ and fall within the exclusive domain of the executive authority.

13. The judgment relied upon by the petitioner is distinguishable on the facts and does not advance his case in the absence of a corresponding legal entitlement under the applicable rules.

14. In view of the above discussion, we find no illegality, arbitrariness, or constitutional infirmity in the impugned policy or the actions of the respondents. The petition, being devoid of merit, is accordingly dismissed along with pending application(s). However, in the circumstances, there shall be no order as to costs.

JUDGE

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