

IN THE HIGH COURT OF SINDH, KARACHI

C. P. NO. D-62 / 2026

(Irfan Ahmed Vs. The Secretary Health Government of Sindh & Another)

Present:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Muhammad Jaffer Raza

Date of hearing and order:- 18.08.2026.

Mr. Irfan Ahmed, Advocate for Petitioner.

Mr. Abdul Jalil Zubedi, Assistant Advocate General Sindh.

Adnan-ul-Karim Memon, J.

The Petitioner Irfan Ahmed has filed this Petition under Article 199 of the Constitution of Islamic Republic of Pakistan seeking the following reliefs: -

- “1. To direct the respondents that they may provide service benefits with existing financial rates to the legal heirs of deceased employee according to his grade BPS-19 which was due before his death on dated 01.12.2001.”
2. The petitioner, Irfan Ahmed, claims to be the eldest son and legal heir of late Dr. Badaruddin, who was appointed in the Health Department on 08.09.1987 and was serving as Senior Medical Officer at Taluka Hospital Gambat-cum-Gambat Institute of Medical Sciences when he died in service on 20.03.2002. According to the petitioner, his father had completed the requisite service for move-over/promotion to BPS-19, due from 01.12.2001, but the benefit was not granted due to administrative delay and non-convening of the Departmental Promotion Committee in time. The petitioner therefore seeks revision of the deceased employee's pensionary and other service benefits on the basis of BPS-19, contending that the employee should not suffer for any fault or delay attributable to the department. He prayed to allow this petition.
3. The Health Department, in its para-wise comments, has opposed the petition. It admits the basic service particulars of the deceased but disputes the petitioner's claim regarding move-over/promotion. It submits that the Government of Sindh, Finance Department, had already discontinued the Basic Pay Scales and Move Over Scheme through Office Memorandum dated 06.11.2001, before his due date of promotion. Therefore, no benefit under the discontinued scheme could legally be claimed or granted. The department further states that the alleged Letter No. SO.III(H)2011 is not available in its official record and, in the absence of an authenticated document, no legal right can accrue on its basis. The learned AAG further contends that promotion or move-over is not an automatic or vested right and remains subject to the applicable rules, policy and prescribed procedure. It denies that the deceased employee was deprived of promotion due to administrative delay, asserting that the relevant scheme itself

had already been discontinued. It also maintains that all admissible pensionary and service benefits were duly calculated and paid to the legal heirs in accordance with the rules applicable at the relevant time. According to the department, financial hardship cannot create an entitlement contrary to the governing rules, nor can a retrospective benefit be granted under a discontinued scheme. Consequently, the Health Department submits that the petitioner's claim for service and pensionary benefits on the basis of BPS-19 is misconceived, unsupported by the official record and without lawful justification, and accordingly prays for dismissal of the petition.

4. Upon consideration of the pleadings, the para-wise comments and the material placed on record, this Court is of the view that the petitioner has failed to establish any enforceable legal right in favour of the deceased employee for grant of BPS-19 or for revision of his pensionary and other service benefits on that basis.

5. It is not disputed that late Dr. Badaruddin was a government employee and died while in service; however, the mere fact that he had rendered the requisite length of service does not, by itself, confer an automatic or vested right to promotion or move-over to the next pay scale. Such benefit could only accrue in accordance with the service rules, applicable government policy and the procedure prescribed for consideration of promotion.

6. In the present case, the principal basis of the petitioner's claim is that the deceased was allegedly entitled to BPS-19 with effect from 01.12.2001. However, the respondents have specifically relied upon the Office Memorandum dated 06.11.2001 issued by the Finance Department, Government of Sindh, whereby the Basic Pay Scales/Move Over Scheme had already been discontinued. Thus, the alleged date from which the benefit is claimed falls subsequent to the discontinuation of the scheme. Once the scheme had ceased to operate, no vested or accrued right could be claimed thereunder unless the petitioner was/is able to demonstrate, through cogent and authenticated material, that the deceased had already acquired an enforceable right before its discontinuation. No such material has been produced, in absence no conclusive findings could be given on the subject issue under Article 199 of the Constitution.

7. The petitioner has also relied upon an alleged Letter No. SO.III(H)2011; however, the Health Department has categorically stated that no such letter is available in its official record. In the absence of production and verification of the original or duly authenticated document, no substantive legal right can be founded upon an unverified document. Moreover, there is no material showing that a Departmental Promotion Committee had actually considered the deceased employee and recommended his promotion to BPS-19 before the discontinuation

of the relevant scheme. Mere eligibility for consideration is legally distinguishable from an accrued right to promotion in higher rank.

8. It is also settled that promotion is ordinarily not a matter of right; at the highest, an employee may possess a right to be considered for promotion in accordance with the applicable rules. The petitioner, being the legal heir, cannot acquire a better or higher right than that which had legally accrued to the deceased during his lifetime. Consequently, a claim for retrospective revision of pension and service benefits can succeed only where the deceased employee had acquired a lawful and enforceable entitlement to the higher scale at the relevant time. No such entitlement has been established in the present case.

9. The contention that the deceased should not suffer on account of departmental delay is also of no assistance to the petitioner, as the record does not establish that any departmental delay prevented an otherwise completed promotion process. On the contrary, the respondents' case is that the very scheme under which the alleged move-over is claimed had already been discontinued. In these circumstances, this Court cannot create or revive a financial benefit which was/is no longer available under the governing policy. Likewise, equitable considerations or financial hardship cannot override the statutory rules and binding financial instructions governing public service benefits.

10. It is further significant that the respondents have stated that all admissible pensionary and other service benefits were calculated and released to the legal heirs in accordance with the rules applicable at the relevant time. The petitioner has not produced any authoritative departmental order, promotion notification, DPC recommendation, seniority determination or other contemporaneous record establishing that late Dr. Badaruddin had actually been promoted or had acquired an indefeasible right to BPS-19 before his death by order of DPC / PSB.

11. Accordingly, the petitioner has failed to demonstrate violation of any vested legal or constitutional right, illegality, arbitrariness or mala fide exercise of authority on the part of the respondents. The relief sought would, in substance, require this Court to confer retrospectively a benefit under a scheme which had already been discontinued, which cannot be done in constitutional jurisdiction in the absence of a clear statutory or vested entitlement. The petition, therefore, is devoid of merit and does not warrant interference under Article 199 of the Constitution. Consequently, the petition is dismissed, with no order as to costs.

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