

IN THE HIGH COURT OF SINDH, KARACHI

C. P. NO. D-3124 / 2026

(Dr. Tauqeer Ahmed Vs. Federation of Pakistan & Others)

Present:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Muhammad Jaffer Raza

Date of hearing and order:-19.08.2026.

Mr. Tariq Majeed Memon, Advocate for Petitioner.

Ms. Wajiha Mehdi, Deputy Attorney General.

Mr. Azain Nadeem, Advocate for Respondent No. 3.

Adnan-ul-Karim Memon, J. The Petitioner Dr. Tauqeer Ahmed has filed this Petitions under Article 199 of the Constitution of Islamic Republic of Pakistan seeking the following reliefs:-

- “a) To set aside the impugned notification's dated.18-7-25 being unlawful, ultra-virus, void ab initio.
- b) To hold and declare that the petitioner was entitled for promotion to BPS 22 w.e.f 18-7-2025 when the high Powered Board was held and his juniors were promoted.
- c) To hold and declare that deferment for promotion of the petitioner in BPS-22 being senior, eligible and qualified officer without assigning any reason was against the principle of natural justice and rules.
- d) To direct the respondents to consider the promotion/ Proforma promotion of the petitioner from the date of his eligibility i.e. 18.7.2025, and issue notification in this regard.”

2. At the very outset, we asked learned counsel for the petitioner to satisfy the Court regarding the maintainability of the petition, as the petitioner had already availed the departmental remedy by submitting an appeal dated 18.07.2025 to the Prime Minister, through the Chairman FBR, against his non-consideration/deferment for promotion from BS-21 to BS-22. He submitted that the petitioner, then serving as Chief Commissioner Inland Revenue (BS-21), asserted that despite having an unblemished service record, outstanding/very good PERs and seniority over the officers promoted by the High Powered Selection Board on 27.06.2025, he was bypassed without being assigned any reasons. He further contended that, being due to retire in May 2026, non-consideration for promotion would permanently deprive him of his alleged legitimate right to promotion, and therefore sought reconsideration of his case on merit

3. Learned counsel for the petitioner submitted that the petitioner, a senior officer of the Income Tax Group, joined the civil service through CSS in 1991 and remained posted in BPS-21, having earned timely promotions throughout his career. He maintained an unblemished service record, with consistently “Very Good/Outstanding” PERs, and was never subjected to any disciplinary proceedings, inquiry or adverse action. Counsel contended that the petitioner, being senior at Serial No.11 in the cadre, was eligible and qualified for promotion to BPS-22 and fulfilled all prescribed requirements. However, in the 29th meeting of the High Powered Selection Board held on 27.06.2025, the petitioner was not considered, whereas four of his juniors, namely respondents No.3 to 6, were recommended and subsequently promoted through notifications dated 18.07.2025. It was argued that no reason for the petitioner’s non-consideration or deferment was ever communicated to him. Learned counsel further submitted that the impugned notifications were arbitrary, discriminatory, unlawful and violative of the principles of natural justice and Articles 4, 9, 14, 25 and 27 of the Constitution. According to counsel, an eligible and qualified senior officer could not lawfully be superseded or deferred in favour of juniors without recording and communicating cogent reasons, particularly in the absence of any adverse material, pending inquiry or disciplinary proceedings. The authorities were bound to consider the petitioner’s seniority, service record, PERs, experience and fitness objectively, fairly and in accordance with the applicable promotion rules. It was further argued that the petitioner retired on attaining the age of superannuation on 13.05.2026 and, therefore, the failure to consider him for promotion before retirement also adversely affected his post-retirement benefits. Counsel maintained that the action of the respondents reflected non-application of mind, discrimination and colourable exercise of authority, and that the petitioner had at least a lawful right to fair and objective consideration for promotion. It was also contended that the petition was maintainable before this Court as the controversy involved assessment of the petitioner’s fitness and the legality of the decision-making process, which, according to counsel, was not within the exclusive jurisdiction of the Federal Service Tribunal. On these grounds, learned counsel prayed that the impugned notifications dated 18.07.2025 be set aside to the extent of promotions granted to the petitioner’s juniors; the petitioner be declared entitled to promotion to BPS-22 with effect from 18.07.2025, or be granted proforma promotion from the date of eligibility; and any other appropriate relief be granted in the circumstances.

4. After arguing the matter at some length, both parties present in court, however, agreed for disposal of the petition in terms that a decision be made by

the appellate authority on the appeal of the petitioner in one month. The request seems to be reasonable.

5. We have heard the learned counsel for the parties present in Court and have examined the available record as well as the statutory scheme governing promotion to BS-22.

6. It is not disputed that the petitioner had already availed the departmental remedy by submitting an appeal/representation dated 18.07.2025 against his non-consideration/deferment for promotion.

7. In these circumstances, the question before us, at this stage, is not whether the petitioner is himself entitled to promotion to BS-22, but whether this Court should exercise its constitutional jurisdiction when the statutory/departmental remedy invoked by the petitioner is still pending before the competent authority.

8. Under Section 9 of the Civil Servants Act, 1973, promotion is a matter governed by the prescribed rules and is not an automatic consequence of seniority alone as the promotion in BS-22 is based on merits alone. The Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 provide the statutory framework for promotion, while promotion to BS-22 is specifically regulated by the Civil Servants (Promotion to the post of Secretary, BS-22 and equivalent) Rules, 2010. Under rule 3 thereof, posts in BS-22 are to be filled by promotion from amongst eligible officers with the approval of the appointing authority on the recommendations of the High Powered Selection Board. Thus, neither seniority nor possession of favourable PERs, by itself, creates an indefeasible vested right to promotion in BS-22.

9. At the same time, the statutory scheme does require that an eligible officer falling within the zone of consideration be considered in accordance with the applicable rules. The promotion authority is therefore required to examine the case objectively, upon the relevant service record and the criteria prescribed by law. The fact that a senior officer has not been recommended while juniors have been promoted may call for examination of the decision-making process, but it does not, by itself, confer upon such officer a constitutional or statutory right to promotion. The Supreme Court has also recognized that promotion to BS-22 is subject to the statutory scheme and that the Court cannot grant promotion contrary to the conditions prescribed by the governing rules.

10. The statutory framework further demonstrates that the High Powered Selection Board is the specialized forum constituted for evaluating the suitability of officers for promotion to BS-22, while the ultimate promotion takes effect only

upon approval of the competent appointing authority. The Establishment Division's statutory material likewise records that the recommendations of a selection board do not by themselves constitute the final promotion and that the competent authority possesses powers concerning approval of such recommendations.

11. Consequently, this Court, in exercise of jurisdiction under Article 199 of the Constitution, would not ordinarily substitute its own assessment of the petitioner's fitness, merit or suitability for that of the forum which the law has specifically entrusted with the function of considering promotion. Nor would it be appropriate at this stage to declare the petitioner entitled to promotion with effect from 18.07.2025 merely on the basis of his seniority or the promotion of his juniors. Such a declaration would, in substance, amount to the Court itself undertaking an exercise which the statutory authorities are required to perform in accordance with the prescribed promotion mechanism.

12. The position, however, is different insofar as the petitioner has already invoked the departmental appellate/remedial jurisdiction by filing his appeal dated 18.07.2025 as now he has retired from service and demands proforma promotion. The pendency of that appeal cannot be permitted to render the petitioner's grievance infructuous, particularly when the petitioner has subsequently attained the age of superannuation. The appellate authority is competent to examine whether the petitioner's case was duly placed before and considered by the High Powered Selection Board; whether he fulfilled the prescribed eligibility requirements; whether the applicable rules and criteria were correctly applied; whether there existed any lawful basis for his deferment/non-recommendation; and whether, in accordance with law, any consequential relief, including review/reconsideration or proforma promotion, is available to him under the FR-17.

13. It is, therefore, appropriate that the petitioner should first obtain a decision from the competent appellate authority on the very grievance which he has already raised before that authority to decide his appeal on the merits. The appellate authority shall independently examine the entire record, including the proceedings/minutes of the High Powered Selection Board, the petitioner's seniority position, PERs, eligibility, service record, the reasons, if any, recorded for deferment/non-recommendation, and the applicable statutory rules/promotion policy prevailing on the relevant date. The appellate authority shall also examine the legal effect, if any, of the petitioner's retirement on the relief claimed by him, including any claim for proforma promotion or consequential pensionary benefits.

14. It is particularly significant that the Rules governing BS-22 promotion confer the relevant decision-making function upon the High Powered Selection Board and the competent appointing authority. Therefore, unless the decision-making process is shown to have suffered from illegality, mala fide, violation of the prescribed rules, non-consideration of relevant material, consideration of irrelevant material or some other recognized jurisdictional defect, this Court cannot sit as an appellate forum over the assessment of suitability made by the competent authority.

15. In view of the above, and particularly keeping in view that the petitioner has already availed the departmental remedy, we deem it appropriate to dispose of this petition with a direction to the competent appellate authority to decide the petitioner's appeal dated 18.07.2025 within one month from the date of receipt of a copy of this order, strictly in accordance with law and the applicable statutory rules, after examining the complete record and affording the petitioner an opportunity of meaningful hearing. However, the decision shall be a speaking and reasoned order, dealing specifically with the petitioner's assertions regarding his seniority, eligibility, service record, non-consideration/deferment, promotion of his juniors, the reasons recorded by the High Powered Selection Board/competent authority, and his claim for promotion/proforma promotion and consequential benefits, if otherwise permissible under law.

16. Without touching the merits of the case and with consent of the parties present in Court the petition is accordingly disposed of in the above terms.

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