

**IN THE SUPREME COURT OF PAKISTAN**

(Appellate Jurisdiction)

**Present**

Mr. Justice Muhammad Ali Mazhar  
Mr. Justice Syed Hasan Azhar Rizvi  
Mr. Justice Aqeel Ahmed Abbasi

**Civil Petition No.550-K of 2022**

(On appeal against the judgment dated  
27.01.2022 passed by the High Court of  
Sindh, Karachi in C.P. No. D-184 of 2018)

Ghulam Qadir Thebo

*...Petitioner*

***Versus***

Islamic Republic of Pakistan through Secretary, Establishment  
Division, Government of Pakistan and others

*... Respondents*

For the Petitioner: Malik Naeem Iqbal, ASC  
Mrs. Abida Parveen Channar, AOR

For the Respondent No. 1 Mr. Mohsin Shahwani, Addl. AGP  
and 2: Mr. Ghulam Rasool Mangi, AOR

Date of Hearing: 04.06.2025

**Judgment**

**Muhammad Ali Mazhar, J.-** This civil petition for leave to appeal is brought to challenge the judgment dated 27.01.2022, passed by the learned Division Bench of the High Court of Sindh in C.P. No. D-184 of 2018.

2. According to the backdrop of the *lis*, the petitioner, prior to reaching the age of superannuation was serving in BS-21 as Additional IG Police. After qualifying the Central Superior Services (**CSS**) examination in 1985, he joined the Police Service of Pakistan (**PSP**) and was promoted to the post of DIG on 18.12.2006. Thereafter, he was further promoted to BS-21 on 03.04.2013. According to the Civil Servants (Promotion to the post of Secretary, BS-22 and equivalent) Rules, 2010 ("**Rules of 2010**"), a comprehensive procedure to fill the post of BS-22 has been prescribed, including the method of promotion, length of service, constitution of the High-Powered Selection Board ("**HPSB**"), etc. The petitioner was superseded thrice from

consideration for promotion without assigning any reason. Though in the second meeting of the HPSB convened on 05.10.2017, the petitioner's name appeared at Sr. No. 07 in the seniority list of BS-21 officer, despite the fact the officers who were junior to the petitioner were promoted. In the third meeting, his name was at Sr. No. 04, yet once again, his case was not considered by the HPSB, and two more officers junior to him were promoted. The petitioner submitted departmental representations to the Prime Minister of Pakistan and Secretary Establishment Division; however, no response was received. According to the petitioner, the denial of promotion by the HPSB was in utter disregard of his fundamental rights enshrined in Articles 4, 9, 10-A, 18 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973 ("**Constitution**"). Therefore, he filed CP No. D-184 of 2018 before the learned Sindh High Court. During the pendency of the petition, the HPSB again considered the petitioner's case and in the comments submitted by the respondents, certain allegations regarding his performance and integrity were levelled, which were entirely outside the dossier. However, without appreciating the facts and applicable law, learned Sindh High Court dismissed the petition *vide* the impugned order dated 27.01.2022.

3. The learned counsel for the petitioner argued that the recommendations of the HPSB in its various meetings regarding supersession of the petitioner are flawed. It was further contended that the HPSB ignored the quantification in the service record covering the entire spectrum of his performance and conduct, and its decision that the petitioner did not enjoy good reputation was based on no material evidence. Therefore, the conclusions drawn by the HPSB were based on surmises and conjectures. It was further averred that all Performance Evaluation Reports ("**PERs**") of the petitioner, ranging from 2013 to 2018, were outstanding and carried no stigma. However, without considering the PERs, certain adverse remarks were made in the minutes of meeting without any lawful justification. As far as the non-availability of the PERs of 2019 is concerned, it was argued that no field posting had been assigned, and therefore, the PER for the said year could not be completed.

4. The learned Additional Advocate General ("**AAG**") argued that the petitioner was retired from service in BS-21 on attaining the age of superannuation on 18.07.2020. He was included in the panel for placement before the HPSB on several occasions, in order of seniority, for consideration of his promotion to BPS-22. However, his case was not recommended for promotion on merits. It was further averred that the yardstick for selection and promotion is based on eligibility, integrity, leadership, decision-making ability, competence, training evaluations, and spirit of public service. He further argued that since the petitioner could not qualify for promotion on merits, his case was not recommended. It was also contended that no one can claim a vested right in promotion/policy decision of the Government relating to terms and conditions for promotion to a higher grade. A civil servant cannot claim promotion as a right and the grant or refusal of promotion is a matter that falls exclusively within the domain of the Government/Executive Authority and there is no fundamental right in respect of posting, transfer or promotion. In support of his contention, he referred to Alam Chand Vs. Jamil Ahmad (2008 SCMR 980), Abid Hussain Sherazi Vs. Secretary M/O Industries and Production (2005 SCMR 1742), Secretary to Government of Punjab, Health Department Vs. Dr. Abida Iqbal (2009 SCMR 61), and Federal Public Service Commission Vs. Shiraz Manzoor (2023 SCMR 2087).

5. Heard the arguments. No doubt the question of eligibility correlates to the terms and conditions of service, whereas fitness for promotion is a subjective evaluation based on an objective criterion. Though consideration for promotion is a right, the promotion itself cannot be claimed as of right. There is no vested right in promotion or rules determining the eligibility for promotion. However, it cannot be lost sight of that an employee may, under the relevant law/rules, claim to be considered for promotion within the prescribed law, rules, regulations and policies providing criteria for promotion. As far as proforma promotion is concerned, one of us, in the case of Federation of Pakistan through Secretary, Ministry of National Health Services Vs. Jahanzeb and others (2022 SCMR 2020 = 2022 SCP 272),

held that if a person is not considered due to any administrative slip-up, error, or delay when the right to be considered for promotion has matured, and without such consideration, he reaches the age of superannuation, then obviously the avenue of proforma promotion comes into play for his rescue. If he lost his promotion on account of any administrative oversight or delay in the meeting of DPC or Selection Board, despite having fitness, eligibility, and seniority, then in all fairness, he has a legitimate expectation for proforma promotion with consequential benefits. The provision for proforma promotion is not alien or unfamiliar to the civil servant service structure but it is already embedded in Fundamental Rule 17 ("**FR 17**"), wherein it is lucidly enumerated that the appointing authority may, if satisfied that a civil servant who was entitled to be promoted from a particular date was, for no fault of his own, wrongfully prevented from rendering service to the Federation in the higher post, direct that such civil servant shall be paid the arrears of pay and allowances of such higher post through proforma promotion or upgradation arising from the antedated fixation of his seniority. We have often noted that unjustified delay in proforma promotion cases trigger severe hardship and difficulty for the civil servants and also creates multiplicity of litigation. It would be in the fitness of things that the competent authority fix a timeline, with strict observance, for the designated committees on proforma promotions in order to ensure rational decisions are made expeditiously and implemented swiftly, rather than dragging all such issues inordinately or without any rhyme or reason. This ultimately compels retired employees to knock on the doors of courts of law for their withheld legitimate rights, which could otherwise be granted to under the applicable service rules without prolonged litigation or court intervention.

6. In fact, the petitioner approached the High Court for his promotion from BPS-21 to BPS-22, and after attaining the age of superannuation, his case has become one of proforma promotion under FR 17. In paragraph 5 of the impugned judgment, an excerpt from the minutes of meeting has been reproduced by the High Court, carrying the reasons for not recommending the case of the petitioner for promotion. Quite the opposite, the learned counsel for the petitioner argued that all PERs of the

petitioner were outstanding without any stigma but while considering the said PERs, certain adverse remarks were jotted down in the minutes of meeting without any lawful justification. Except the 2019 PER, which, according to the learned counsel, had no field posting, all other PERs from 2013 to 2018 are available on record. The PERs attached with the record conspicuously expound that the performance of the petitioner was rated excellent and there is no issue mentioned relating to his reputation or integrity. When we confronted the learned AAG with these PERs, he could not point out any alleged deficiency or any adverse material attached with the concise statement regarding the petitioner's performance, integrity, or reputation. All these crucial aspects ought to have been examined by the learned High Court before nonsuiting the petitioner, but it seems that the learned High Court was influenced by remarks/notings made in the minutes of meeting without adverting to the actual PERs, whose impact is considered the bedrock and cornerstone for considering and recommending the case for promotion to the competent authority.

7. As a result of the above discussion, this Civil Petition is converted into an appeal and allowed. As a consequence thereof, the impugned judgment of the High Court of Sindh is set aside and the matter is remanded to the HPSB for considering the case of proforma promotion of the petitioner *de novo* in accordance with the exactitudes of FR 17 with fair, impartial and meaningful consideration and deliberation of all PERs of the petitioner and render a well-thought-out decision. The entire exercise should be completed within a period of two months from receiving the copy of this judgment.

Judge

Judge

Karachi,  
04.06.2025.  
Approved for Reporting  
*Tanveer Ahmed*

Judge