

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

PRESENT:

Mr. Justice Syed Mansoor Ali Shah Mr.

Justice Aqeel Ahmed Abbasi

Civil Petitions No. 954, 981 to 983 of 2022

(Against the judgment dated 26.01.2022 passed by the Federal Service Tribunal, Islamabad in Appeal Nos. 1563(R)CS to 1566(R)CS/2019)

Naeem Khan Niazi (*in CPLA No. 954/2022*) Muhammad Noman (*in CPLA No. 981/2022*) Iftikhar Naseeb Khan (*in CPLA No. 982/2022*) Muhammad Shafiq (*in CPLA No. 983/2022*)

Versus

Federal of Pakistan through Secretary, Ministry of Interior, Govt. of Pakistan, Islamabad and another

(in call cases)

Petitioners: In Person

(in all cases)

For the Respondents:

Munawwar Iqbal Duggal, Addl, AGP

a/w Jair Nasrani, DD HR, FIA

a/w Sajjad Hussain, Deputy Dir. (Law), FIA

(in call cases)

Date of Hearing: 30.09.2025

ORDER

Syed Mansoor Ali Shah, J.- The case of the petitioners, who were then Sub-Inspectors, was that the promotion of the petitioners to the post of Inspector (BPS-16) should have been considered from August, 2015 when 25 vacancies to the post of Inspector occurred. It is an admitted position between the parties that in August, 2015, there were 25 vacancies for the post of Inspectors. However, due to pending litigation where stay orders were granted by the High Court and subsequently by the Federal Service Tribunal, Departmental Promotion Committee (DPC) could not be held till 10.10.2017. The reason behind the grant of stay orders was that Federal Service Tribunal through its decision dated 08.04.2015, decided that the seniority list of the Sub-Inspectors including women and men officers ought to be combined, which was finally resolved through the Anomaly Committee and the consolidated seniority list was issued on 03.04.2017 and the stay orders were finally vacated on 24.07.2017. As a result, the DPC was held

immediately thereafter on 10.10.2017 and the petitioners were promoted to the post of Inspector.

2. The petitioners (in person) have argued that even if the DPC was to be held on 10.10.2017, which was delayed for almost two years, is for no fault of theirs and they should have been considered for promotion with effect from August, 2015 when admittedly 25 vacancies of inspectors were available. They relied on *Asad*¹, wherein this Court has held that seats have to be filled from the date of the vacancy. They have taken us through the minutes of the DPC held on 10.10.2017 and pointed out that 42 seats were to be filled in the said DPC. We have noticed that the 04 petitioners before us fell in the top 25 of the 42 seats to be filled in the DPC held on 10.10.2017 after disregarding the candidates deferred in the said meeting. Hence, it is argued that had the same DPC been held in 2015, the four petitioners would have been entitled to be considered for promotion against 25 posts. In this case, the vacancy admittedly occurred in August, 2015 and all of the petitioners qualified within the 25 slots available in August, 2015. Therefore, the petitioners should have been promoted with effect from August, 2015.

3. Learned Additional Attorney General has placed reliance on *Asad Hussain vs. The Controller General of Accounts, Federal Co-operative Building Sector G-5, Islamabad and another* (2025 SCMR 1515), *Naseem Khan vs. The Government of Khyber Pakhtunkhwa through Chief Secretary KPK Peshawar and others* (2024 SCMR 1341), *Muhammad Amjad vs. The Director General Quetta Development Authority and another* (2022 SCMR 797) and contends that in this particular case the delay in the DPC was for no fault of the Government, therefore, the benefit of granting promotion to the petitioners from the date when vacancies were available is not permissible.

4. We have heard the learned counsel for both the parties and have examined the record in detail.

¹ *Asad Hussain vs. The Controller General of Accounts, Federal Co-operative Building Sector G-5, Islamabad and another* (2025 SCMR 1515)

5. It is a well-settled principle, recognized in our jurisprudence and consistently affirmed in comparative public law, that a civil servant's claim to promotion crystallises the moment a vacancy within their quota arises, provided they meet the prescribed eligibility criteria. At that stage, a corresponding duty is cast upon the competent authority to consider the officer's case fairly and in good time. Administrative indecision, internal disputes, or managerial laxity cannot be pleaded as excuses to defer the process once a substantive vacancy exists. The failure to act amounts to arbitrariness and undermines the doctrine of legitimate expectation, which demands that civil servants be treated in accordance with established norms of fairness and predictability.

6. The settled principle of public administration is that every sanctioned post exists to serve a functional need of the State, and must be filled within a reasonable time after falling vacant. Unless a post has been lawfully abolished, frozen pursuant to a demonstrable policy of fiscal constraint, or withheld due to overriding and transparent public exigencies, the administration is bound to proceed with filling it. Vacancies left unaddressed foster ad-hocism, informal delegation, and opacity, which in turn open the door to nepotism and favouritism. Such practices not only corrode the principles of merit and transparency but also offend the guarantees of equality before law and equal protection of law under Articles 4 and 25, as well as the constitutional injunction of Article 27 that no citizen shall be discriminated against in appointments to the service of Pakistan. Nepotism and favouritism strike at the heart of constitutional morality: they transform public office from a position of trust into a tool of patronage, thereby weakening institutional integrity and eroding public confidence in the fairness of the system.

7. Public institutions are not the private preserves of those who manage them, but repositories of public trust. Their strength lies in the timely and transparent deployment of sanctioned human resources. Failure to fill vacancies without lawful justification not only diminishes institutional performance but also undermines the confidence of civil servants and the public alike. A vacancy is not an empty formality: it represents the

people's need for service, which the State is constitutionally bound to meet. see *Asad*.

8. Petitioner has relied on the phrase “unjustified delays” in the afore-cited judgment to argue that the delay was due to the grant of stay orders by the Court, hence it was no fault of the department. It is a settled principle of service jurisprudence that when a vacancy arises it must be filled without *unjustified delay*, for timely consideration is an essential incident of service and an element of fair treatment under Articles 4 and 25 of the Constitution. The delay in the present case cannot be regarded as justified. It was occasioned by litigation arising out of irregularities in the seniority list prepared by the Department itself, which litigation was ultimately decided against the Department. The stay orders, therefore, were a direct consequence of the Department's own flawed exercise and not of any conduct attributable to the petitioners. To describe such delay as “justified” would, in effect, permit the administration to take advantage of its own wrong and visit innocent officers with the adverse consequences of disputes in which they had no role. This would be wholly inequitable and inconsistent with the doctrine of legitimate expectation, which entitles civil servants to be considered for promotion as soon as vacancies arise.

9. Delay must always be assessed through a civil servant-centric lens: Was the officer in any way responsible for the obstruction? If not, the protection of his rights cannot be made contingent upon protracted departmental disputes or collateral litigation. In this case, the petitioners were blameless, and the delay—spanning over two years—was excessive by any standard of reasonableness. To accept the Department's argument would mean that even if such litigation dragged on for a decade or more, eligible officers would be deprived of promotion until the very end of their careers, thereby reducing the constitutional guarantee of fair consideration to a mere formality. Such an outcome cannot be countenanced. The fair and lawful course, therefore, is to reckon the petitioners' promotion from the date the vacancies first arose in August 2015, notwithstanding the intervening delay.

10. For the above reasons, impugned judgment dated 26.01.2022 passed by the Tribunal is set aside and the instant petitions are converted into appeal and allowed.

Judge

Judge

Islamabad 30.09.2025

APPROVED FOR REPORTING

Tanveer Ahmed