JUDGEMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

JUDICIAL DEPARTMENT

Writ Petition No. 3110 of 2026

Dr. Inamullah

VERSUS

Islamic Idealogy Council, Islamabad through its Chairman

PETITIONER BY:	Mr. Muhammad Bashir Khan, Advocate
RESPONDENT BY:	Syeda Fouzia Jalal Shah, D.G. Law, Council of Islamic Idealogy.
DATE OF DECISION:	30.09.2026

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AYYAZ SHAUKAT, J:- Through the instant petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 **("the Constitution"**), the petitioner, Dr. Inamullah, seeks, inter alia, ante-dated promotion to the post of Director General (Research) (BS-20) with effect from 20.10.2015, together with all consequential and back benefits. He has further impugned the notification dated 31.10.2019, to the extent that it does not accord him promotion and attendant benefits from the date claimed, and seeks its modification accordingly.

2. Learned counsel for the petitioner, while tracing the background of the controversy, submits that the petitioner had acquired eligibility for promotion to the post of Director General (Research) (BS-20) in the year 2015, but was not considered for, or accorded, promotion from the date on which, according to him, such right had accrued. Being aggrieved thereby, the petitioner approached the Federal Service Tribunal **("FST")**, which, vide judgment dated 07.04.2016, allowed his appeal. The said judgment was subsequently assailed by the respondent before the Hon'ble Supreme Court of Pakistan through a Civil Petition for Leave to Appeal **("CPLA")**. However, the CPLA was dismissed as withdrawn vide order dated 21.02.2018.

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Learned counsel, therefore, contends that the judgment rendered by the FST attained finality and became binding upon the parties, leaving no lawful justification for withholding from the petitioner the benefit claimed thereunder.

3. The Director General (Law) of the respondent Council appeared and opposed the petition, submitting that the earlier judgment dated 07.04.2016, passed by the FST, merely directed that the petitioner be considered for promotion, subject to fulfilment of the prescribed qualification requirements, and did not confer any vested right to ante-dated promotion.that the earlier judgment dated 07.04.2016 passed by the FST merely directed consideration of the petitioner for promotion, subject to fulfillment of the prescribed qualification, and did not confer any vested right to ante-dated promotion. Pursuant thereto, the petitioner's case was considered by the Departmental Promotion Board on 18.12.2018, but he was found ineligible for want of the requisite research publications, which decision was never challenged and attained finality. It was only after relaxation of the publication criterion on 25.02.2019 that the petitioner became eligible and was consequently promoted as Director General (Research) (BS-20) vide notification dated 31.10.2019. Learned counsel further maintained that holding additional charge of the higher post did not create any right to regular or retrospective promotion. Lastly, it was contended that, the petitioner's subsequent appeal having already been dismissed by the FST on 20.05.2026, the present petition is not maintainable and cannot be employed to revive a stale claim for ante-dated promotion.

4. Having heard the learned counsel for the parties and examined the record with their able assistance, the controversy essentially requires determination of the legal effect of the judgment dated 07.04.2016

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rendered by the learned Federal Service Tribunal and whether the said judgment, in the circumstances obtaining thereafter, could constitute the basis for claiming promotion to the post of Director General (Research) (BS-20) with retrospective effect from 20.10.2015. The answer necessarily depends upon the nature of the relief actually granted by the Tribunal, the eligibility requirements governing promotion at the relevant time, the manner in which the said judgment was implemented by the respondent, and the subsequent events culminating in the petitioner's eventual promotion in the year 2019.

5. The record reflects that following withdrawal of the CPLA, the petitioner's case was placed before the Departmental Promotion Board on 18.12.2018. The Board considered his case for promotion to the post of Director General (Research) (BS-20), but found him deficient in the prescribed criterion relating to the requisite number of research publications in National/International Research Journals under the applicable Recruitment Rules. This circumstance is material because the grievance cannot be examined on the premise that the judicial direction for consideration remained unattended. The consideration contemplated by the judgment did, in fact, take place; however, it did not at that stage translate into promotion on account of the petitioner's position vis-à-vis the qualification criterion then in force. It is well settled that promotion is not a vested right, and that a civil servant who is otherwise eligible is entitled only to be considered for promotion in accordance with law and the rules applicable to the post *(Tariq Aziz-ud-Din and others, In re: Human Rights Cases, 2010 SCMR 1301; Secretary Agriculture, Peshawar v. Anees Ahmad, 2021 SCMR 1266)*. Equally relevant is the fact that the determination made by the Departmental Promotion Board in 2018 was not independently called in question by the petitioner at the relevant time. The subsequent development in the year 2019 requires separate consideration. The record

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shows that the criterion pertaining to research publications was relaxed by the competent authority vide order dated 25.02.2019. It was thereafter that the petitioner's case came to be considered under the relaxed criterion and he was ultimately promoted as Director General (Research) (BS-20), vide notification dated 31.10.2019. The legal significance of a subsequent relaxation cannot, however, be determined independently of its temporal operation. Unless the instrument granting relaxation itself provides otherwise, a criterion subsequently relaxed cannot ordinarily be treated as though the relaxation existed on an earlier date. Eligibility for promotion has to be examined with reference to the rules and conditions applicable at the point of time for which such entitlement is asserted. A later alteration or relaxation of those conditions does not, merely by reason of its subsequent availability, establish fulfillment of the earlier criterion. The line of authority holding that a civil servant's promotion is to be considered from the date on which a vacancy arises in his quota is, in terms, conditional upon the officer being otherwise eligible on that date *(Asad Hussain v. Controller General of Accounts, 2025 SCMR 1515; Naeem Khan Niazi v. Federation of Pakistan, PLD 2026 SC 64; see also Province of Sindh v. Ghulam Shabbir, 2023 SCMR 686)*. The petitioner, who was found not to possess the prescribed publications at the relevant time, does not fall within that category.

6. The petitioner's reliance on the fact that he held additional charge of the post of Director General (Research) from 20.10.2015 also requires to be appreciated in its proper legal perspective. Assignment of additional charge serves an administrative purpose by enabling an officer to discharge the functions of another post without making a substantive appointment thereto. The authority to perform the duties attached to a higher post and the substantive right to occupy that post through regular promotion operate in different legal fields. The former emanates from an interim administrative

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arrangement, whereas the latter is governed by the applicable recruitment and promotion rules. Consequently, the mere performance of functions attached to the higher post cannot, without more, dispense with the eligibility requirements prescribed for substantive promotion or determine the date from which regular promotion is to take effect. The Supreme Court has consistently held that appointment on acting or current charge is a stop-gap arrangement which neither amounts to appointment by promotion on a regular basis nor confers any vested right to regular promotion to the post so held, while deprecating its unjustified prolongation *(Province of Sindh v. Ghulam Shabbir, 2023 SCMR 686; Pakistan Railways v. Zafarullah, 1997 SCMR 1730; see also Secretary to Government of the Punjab, Communication and Works Department v. Muhammad Khalid Usmani, 2016 SCMR 2125).*

7. Another aspect of the matter concerns the chronology of the petitioner's claim. The date from which retrospective promotion is sought is 20.10.2015. The petitioner's case was considered by the Departmental Promotion Board on 18.12.2018, while his eventual promotion followed in 2019. The present constitutional petition has been instituted in the year 2026. The objection of delay, therefore, cannot be examined merely by counting the number of years that have elapsed; rather, it has to be considered with reference to the point at which the petitioner became aware of an adverse determination affecting the asserted right and the remedies pursued by him thereafter. In service matters, a distinction also exists between a recurring consequence of an existing right and an attempt to reopen the foundational decision from which such consequences flow. The doctrine of laches, though not applied rigidly, is administered with regard to the nature of the claim and the prejudice occasioned by delay, and a claim relating to a recurring benefit stands on a different footing from one that seeks to unsettle a concluded decision (*see Umar Baz Khan v. Jehanzeb*

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and others, PLD 2013 SC 268). Subsequent representations, by themselves, do not necessarily shift the date on which the original cause of action arose.

8. There is yet another dimension which goes to the forum before which the controversy could appropriately be agitated. The relief claimed by the petitioner pertains to the effective date of his promotion, seniority and consequential service benefits, matters intrinsically connected with the terms and conditions of his service. More importantly, the record reveals that the petitioner subsequently approached the learned Federal Service Tribunal through Appeal No.625(R)CS/2025 in relation to his claim and the said appeal was decided vide judgment dated 20.05.2026. This subsequent adjudication cannot be treated as an inconsequential event while examining the competence of this Court to entertain the present challenge. The constitutional arrangement embodied in Article 212 of the Constitution has, therefore, to be read together with the remedy contemplated under Article 212(3) against a judgment rendered by the Service Tribunal. The jurisdiction invoked under Article 199 of the Constitution cannot be considered in isolation from that constitutional scheme or in a manner that results in parallel examination of a service controversy already brought before the forum specifically constituted for that purpose. It is by now well settled that Article 212 ousts the jurisdiction of the High Courts and civil courts in matters relating to the terms and conditions of service of civil servants and does not confer concurrent jurisdiction upon them *(Ali Azhar Khan Baloch v. Province of Sindh, 2015 SCMR 456)*.

9. When the above circumstances are viewed cumulatively, the position that emerges is that the judgment dated 07.04.2016 granted the petitioner a right to consideration for promotion subject to fulfillment of the prescribed qualification and not an unconditional right to promotion from 20.10.2015; such consideration was subsequently undertaken by the Departmental

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Promotion Board on 18.12.2018; the petitioner did not meet the publication criterion then applicable; and it was only after relaxation of that criterion in 2019 that his promotion followed. Neither the entrustment of additional charge nor the subsequent relaxation of the eligibility criterion supplies a legal foundation for treating him, with retrospective effect, as regularly promoted from 20.10.2015. Furthermore, the petitioner's subsequent invocation of the jurisdiction of the Federal Service Tribunal and the judgment dated 20.05.2026 attract the constitutional framework prescribed under Article 212 of the Constitution.

10. For these reasons, no case for interference in the exercise of constitutional jurisdiction is made out. Consequently, the instant writ petition is **DISMISSED**. There shall be no order as to costs.

(AYYAZ SHAUKAT)
JUDGE

Saeed.

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