

In the Federal Constitutional Court of Pakistan
(Appellate Jurisdiction)

Present:

Justice Rozi Khan Barrech
Justice Syed Arshad Hussain Shah

C.P.L.A. No.9-Q of 2026

(On appeal from order of the High Court of Balochistan, Quetta
dated 23.2.2026 passed in Constitution Petition No.197 of 2026)

Dr. Fouzia

Petitioner

Versus

Government of Balochistan through its Chief Secretary & others

Respondents

For the petitioner:

Mr. Naimatullah, ASC

For the respondents:

Mr. Abdul Latif Khan Kakar, Advocate General
Balochistan
Mr. Khalil-ur-Rehman Yousafzai,
Additional Advocate General, Balochistan a/w
Mr. Dilawar Khan, Dy. Director, BPSC
Mr. Awais Ahmad, Asstt. Director
(Legal), BPSC.

Date of hearing:

8.7.2026

Judgment in the above case is ready, which may please be fixed for
announcement on 23.9.26.

Sr. P. S. to HJ(6)
22.9.202

Addl. Registrar (Judicial)

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Judgement

Syed Arshad Hussain Shah, J. – This judgment shall dispose of the instant Federal Constitutional Petition for Leave to Appeal, which impugns the order dated 23.2.2026 of the High Court of Balochistan, Quetta, whereby Writ Petition No.197 of 2026 filed by the petitioner was dismissed in limine.

2. **Facts.-** The petitioner was appointed as Medical Officer (BPS-17) vide notification dated 10.6.2011. Pursuant to Advertisement No.1 of 2026, for recruitment against various posts in the Health and Medical Education Department, she applied online for the posts of Senior Lecturer (Medical

Education Department), Bolan Medical College (BPS-18), Assistant Professor (Pulmonology), Postgraduate Medical Institute, PGMI (BPS-18), Senior Registrar (Pulmonology), PGMI (BPS-18) and Chest Specialist (BPS-18). Her applications were, however, rejected by the online recruitment portal with the message that her age did not meet the eligibility criteria prescribed in the advertisement, and her candidature was consequently not entertained/processed for any of the posts applied for. Aggrieved, she invoked the constitutional jurisdiction of the High Court through Writ Petition No.197 of 2026, seeking: (a) a declaration that rejection of her applications on the ground of overage was illegal and without lawful authority; (b) a direction to the respondents to accept her applications and allow her to participate in the recruitment process; (c) a direction granting her age relaxation in the interest of justice; and (d) a declaration that delay in advertising the posts could not prejudice her.

3. **The order under challenge.-** The High Court dismissed the writ petition in limine, holding that no illegality had been shown in the advertisement or the governing recruitment rules, that the age limit applied uniformly to all candidates without any demonstrated discrimination, that inability to apply on account of the age restriction did not confer a vested right to seek relaxation through constitutional jurisdiction, and that fixation of eligibility criteria and age limits is an administrative function in which the Court ordinarily does not interfere in the absence of a clear violation of law or fundamental rights.

4. **Petitioner's case.-** Learned counsel for the petitioner submitted that she became qualified for the posts applied for with effect from 31.12.2019, on acquiring the degree of FCPS Part-II, but that recruitment against the

sanctioned posts was not undertaken by the Department/Government for a considerable period notwithstanding availability of vacancies, as a result of which she crossed the upper-age limit by the closing date. It was contended that, in these circumstances, the upper-age limit ought to be reckoned from the date she became eligible and the sanctioned posts fell vacant. He further argued that under sub-rule (6) of Rule 4 of the Rules of 2012, the petitioner is entitled to five years relaxation in upper-age limit. Therefore, upon the grant of relaxation under sub-rule (6) of Rule 4 *ibid*, the applicant, who is already in Government service is eligible to appear and compete in the competitive examinations and tests for the posts applied for.

5. **Respondents' case.-** The learned Advocate General opposed the petition, submitting that the petitioner was admittedly overage and did not satisfy the prescribed upper-age limit for the posts applied for; that compliance with the eligibility criteria, including the age limit, was a mandatory precondition for submission of an application; that the online portal was programmed to accept applications only from eligible candidates and had accordingly declined to process petitioner's applications; and that no exception could be taken in her favour in the absence of any statutory provision or lawful authority permitting relaxation beyond the upper-age limit of 43 years notified on 5.8.2025.

6. **Findings.-** We have heard learned counsel for the parties and gone through the record, including the impugned order. It is not in dispute that the petitioner, on the closing date for receipt of applications, exceeded the upper-age limit of 43 years prescribed by the Notification dated 5.8.2025 for the posts applied for, and that, on this ground alone, the online recruitment portal declined to process her applications. The short question, therefore, is whether

the Notification of 5.8.2025 is the only criteria of the petitioner's eligibility, or she is additionally entitled to invoke a statutory relaxation available under the Balochistan Government Initial Appointment to Civil Service Posts (Age and Relaxation of Upper Age Limit) Rules, 2012 (hereinafter referred to as the Rules of 2012). This question is not academic, the petitioner is admittedly a civil servant of long standing, having been appointed as Medical Officer (BPS-17) vide Notification dated 10.6.2011, and her eligibility must accordingly be examined not merely against the Notification in isolation but against the entire statutory scheme governing age relaxation for serving civil servants.

7. Rule 4(1) of the Rules of 2012 prescribes categories of candidates entitled to automatic relaxation in the upper-age limit, without the necessity of any separate order, approval, or individual application. Clause (ii) of Sub-Rule (1) of Rule 4 of the Rules of 2012, which is directly attracted to the facts and circumstances of the petitioner's case, is reproduced below:-

Seria 1 No.	Category of candidates	Automatic Upper Age relaxation admissible
1	2	3
(i)	-----	-----
(ii)	Civil Servants who have completed two (2) years continuous Government service on regular basis on the closing date for receipt of applications.	Five (5) years, upto the age of 50 years. (28+5=33 years)

The relaxation contemplated by Rule 4(1)(ii) is, by its own terms, automatic. It is a statutory entitlement available to every candidate falling within the prescribed category, and its grant is not dependent upon any discretionary

order or executive approval. The petitioner, having entered into Government service in the year 2011 and continued therein without interruption, plainly falls within the category described in column (ii) of the sub-rule (1) of Rule 4, namely 'civil servants who have completed two years' continuous regular Government service on the closing date for receipt of applications. On a plain reading of the Rule, she is entitled to a relaxation of five (5) years up to fifty (50) years for candidates in her category. The matter, however, does not rest merely on Rule 4(1)(ii) taken in isolation, because the Rules of 2012 also contain a specific provision governing cases where a candidate may qualify for relaxation under more than one category.

8. Rule 4(6) of the Rules provides as follows:-

“Where a candidate is entitled to age relaxation under more than one categories specified in this rule, he shall only be allowed relaxation in Upper Age Limit in one of the categories specified in this rule, whichever is beneficial to him.”

The effect of Rule 4(6) is to entitle a candidate, who otherwise qualifies for relaxation under more than one head, to elect/opt for the category most favourable to her. It is a beneficial, candidate-protective provision, and nothing in the Notification dated 5.8.2025 or in any other rule or law purports to exclude its operation. Two distinct sources of relaxation are therefore simultaneously available on the record i.e. the general upper-age limit of 43 years fixed by the Notification of 5.8.2025 issued under sub-rule (5) read with sub-rule (6) of rule 4 and in relaxation of sub rule (3) of rule 4 of the Rules of 2012, and five-year relaxation available to serving civil servants of the petitioner's category under Rule 4(1)(ii). Since the Notification does not, whether expressly or impliedly, repeal, override, or occupy the field covered by Rule 4(1)(ii) read with Rule 4(6) of the Rules of 2012, the both must be construed

harmoniously rather than treated as being in conflict. When construed harmoniously, the petitioner is entitled, under Rule 4(6) to elect any one of the two, the Notification or Rule 4(1)(ii), which one operates more beneficially in her favour.

9. Applying this to the facts, the petitioner's date of birth being 2.11.1982, availing the five-year relaxation admissible under Rule 4(1)(ii) brings her squarely within the permissible age limit prescribed for the posts applied for. She cannot, therefore, be treated as overage, and the rejection of her applications by the online portal, which appears to have applied only the Notification of 5.8.2025 without reference to the statutory relaxation independently available to her as a serving civil servant, cannot be sustained. This conclusion is reinforced by the settled position, restated by this Court in a recent judgement passed in F.C.P.L.A. No.300 of 2025, that:-

“There is no cavil with the settled proposition of law that it falls within the exclusive domain of the Government/Executive to frame, amend or repeal statutory rules and policies governing public service. However, once such rules are promulgated, the Government/authorities are under a corresponding legal obligation to adhere to and implement them in their true letter and spirit unless repealed.”.

Rule 4(1)(ii) of the Rules of 2012 continues to remain in force, it has neither been repealed nor superseded by the Notification of 5.8.2025 or by any other statutory instrument. The respondents, having promulgated the Rules and left them un-repealed, were bound to implement them in their true letter and spirit, and were not at liberty to apply the Notification of 5.8.2025 in isolation while disregarding the statutory relaxation independently available to the petitioner. To hold otherwise and to allow the Notification silently to override a specific, subsisting statutory relaxation without any express words of exclusion would render Rule 4(1) (ii) and Rule 4(6) of the Rules of 2012 wholly redundant

and would deprive serving civil servants of a benefit, the Rules were specifically designed to confer upon them. The rejection of the petitioner's applications on the sole ground of overage, without regard to the relaxation available to her under Rule 4(1)(ii), therefore amounts to an arbitrary and unlawful deprivation of her right to be considered for appointment in accordance with law.

10. **Conclusion.-** For the foregoing reasons, we hold that the petitioner is entitled to opt for the benefit of five years' relaxation in the upper-age limit under Rule 4(1)(ii) of the Rules of 2012. Computed on that basis, she is within the prescribed age limit and eligible to compete for the posts applied for. This petition is accordingly converted into an appeal and allowed. The respondents are directed to entertain the applications of the petitioner and allow her to participate in the examinations/tests for the posts applied for.

Judge

Judge

Quetta
8th July, 2026
Approved for reporting
Riaz

Announced in open Court on 23.9.2026 at Islamabad.

Judge