FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
(Original/Appellate/Advisory Jurisdiction)

PRESENT:
Justice Amin-ud-Din Khan, Chief Justice
Justice Ali Baqar Najafi

C.P.L.A. Nos.4254 & 4380 of 2025
[against the impugned judgment dated 14.07.2025 passed by the Islamabad High Court, Islamabad in ICA Nos.99 & 109 of 2025]

Muhammad Idrees & another [in CPLA No.4254 of 2025]

Humayun Gill & others [in CPLA No.4380 of 2025]

....Petitioner(s)

Versus

Federation of Pakistan through
Secretary Establishment Division & others [in CPLA No.4254 of 2025]

Federation of Pakistan through
Secretary Finance Division & others [in CPLA No.4380of 2025]

.... Respondent

For the Petitioner(s) : Mr. Sohail Mehmood, ASC
Syed Rifaqat Hussain Shah, AOR
[in CPLA No.4254 of 2025]

Mr. Abdul Rahim Bhatti, ASC
[in CPLA No.4380 of 2025]

For the Respondent(s) : Ch. Aamir Rehman, Addl. AGP
Mirza Muhammad Usman, AOR
Mr. Muhammad Jahangir, SO Estt. Division
Mr. Liaqat, Focal Person/ASI, FIA

Date of Hearing : 05.11.2026

JUDGMENT

ALI BAQAR NAJAFI, J. Through these petitions under Article 185(3), now Article 175F(1)(c) of Constitution of the Islamic Republic of Pakistan, 1973, **[the Constitution, 1973]** the judgment dated 14.07.2025 passed by the Islamabad High Court, while deciding Intra Court Appeal Nos.99 & 109 of 2025, has been assailed, whereby, the High Court allowed the said ICA and had set

aside the judgment of the learned Single Bench dated 26.02.2025 and dismissed the Writ Petition No.2396 of 2019 filed by Muhammad Aslam, etc. which prayed for the upgradation of the employees of the Federal Investigation Agency **[FIA]** from Constable BPS-5 to BPS-7, Head Constable from BPS-7 to BPS-9, and ASI from BPS-9 to BPS-11, along with consequential/back benefits.

2. **Brief facts** giving rise to the filing of these petitions are that Muhammad Idrees *[petitioner No.1 being the Constable in CPLA No.4254 of 2025]* and Humayaun Gul *[petitioner No.1 being the Head Constable in CPLA No.4380 of 2020],* claiming the relief on the ground of discrimination as well as the application of the upgradation notifications across the board including the **FIA.**

3. **After hearing** the learned counsel for the petitioners and the learned Law Officer and perusing the record, it is straightaway observed that the claim of the petitioners is based upon the application of the principle of non-discrimination and on the upgradation of the post in view of the policy guidelines dated 20.01.2000 and the advice dated 11.09.2018, whereby, the upgradation proposal was invited in view of the judgment of the Supreme Court passed in Civil Appeal Nos.101 & 102-P of 2011 and Finance Division's letter dated 19.07.2017. However, in the report and para-wise comments submitted by the Establishment Division, it was specifically contended that the instructions dated 20.01.2000 did not empower the Division to upgrade any post without prior recommendation or administrative approval by the Ministry and the instructions dated 11.09.2018 were issued consequent to the Supreme Court order and the Finance Division's letter dated 19.07.2017 asking for specific recommendation of the Management Services Wing of the Establishment Division. It was further contended that Ministry of Interior was not a party whose presence was relevant and that in view of the new policy dated 29th of June, 2022 in supersession of the old policies for upgradation/ re-designation, the Finance Department has got no mandate to convey concurrence for such upgradation/re-designation of the posts. It was also contended that the Ministry of Interior had already taken up the upgradation case of FIA employees with the

Upgradation Committee in the Establishment Division, where it was observed that FIA had different service structure and similarly cannot be drawn between the two services and that upgradation of the existing post may lead to additional expenditure which is banned under the austerity measures decision dated 04.09.2024 and that it is not the vested right of the employee to claim upgradation.

4. The arguments advanced by the learned counsel for the petitioners that since Islamabad Capital Territory Police **[ICTP]** provide office memorandum dated 09.11.2016, Punjab Police vide Letter dated 28.09.2016, Intelligence Bureau **[IB]** Islamabad vide notification dated 27.01.2017 and Khyber Pakhtunkhwa Police vide notification dated 03.01.2018, Home and Prisons Department, Gilgit Baltistan vide notification dated 24.04.2019, Balochistan Police vide notification dated 29.08.2019, Anti-Narcotics Force vide notification dated 26.02.2000 and Sindh Police vide notification dated 07.07.2022 have been granted the upgradation of BPS-5 to BPS-7, BPS-7 to BPS-9, BPS-9 to BPS-11, therefore the petitioners should also be granted the same relief. However, being a policy decision, the court had no power to direct a department to grant the upgradation to particular employees of a particular Government Department in the absence of a policy applicable to such employees.

5. A reference to the office memorandum dated 20.08.2001 was given in the judgment of the learned Single Bench, whereby, the Cabinet Secretariat Division has sent the letter to all Ministries and Divisions, according to which, the upgradation was to be considered to rationalize the administrative structure of a Ministry/Division, where the duties and responsibilities have been considerably increased, where pay scale is grossly incommensurate with the qualifications but the matter of upgradation from BS-1 to 19 will be decided by the Finance Division in consultation with the Establishment Division. It was also stipulated in the said office memorandum that the upgradation will not be automatic but their upgradation would have to be made according to the relevant Rules.

6. On 10.08.2020, another office memorandum for upgradation was issued, whereby, the upgradation was recommended requiring the mandatory training of the courses. However, the case of the petitioners is that the old policy has been superseded by the new policy dated 07.03.2022 which did not require the concurrence of the Ministry of Finance and Interior for the purpose of upgradation /re-designation of the posts.

7. The intended benefit of a particular set of employees is embodied in the policy for upgradation to mitigate the distress associated with the stagnation due to lack of progression or promotional awareness. A widespread comprehensive policy announced is to be implemented with its aims and objectives and not as a grace or generous act but as a legally binding instrument which must not be extended casually. Even if the department fully supports the upgradation and communicated it to the concerned quarter, final decision is still to be taken by the concerned department. Upgradation, however, can be looked into by the High Court[1] which does not attract the bar of Article 212 of the Constitution, 1973, but it being strictly a policy matter falling within the exclusive domain of the executive authority, the courts do not interfere in the policy decisions. The administrative judgment, resource evaluation and consideration of financial needs are to be seen by the concerned executive department, though they do not fall within the definition of terms and conditions of service[2]. However, the interference by this Court upon policy matter is always discouraged unless it demonstrates that the policy action had infringed fundamental rights or suffers from manifest illegality or where the policy matter is discriminatory and outside the constitutional framework[3]. We do not find any such ground available in this case.

8. The Federal Investigation Agency Act, 1974 was promulgated to govern the functioning of the FIA, whereas, the Islamabad Capital Territory Police and Intelligence Bureau had different legal

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[1] Regional Commissioner Income Tax, Northern Region, Islamabad and another versus Syed Munawar Ali and others [2016 SCMR 859]
[2] Ali Azhar Khan Baloch and others versus Province of Sindh and others [2015 SCMR 456]
[3] Asif Fasihuddin Khan Vardag versus Government of Pakistan and others [2014 SCMR 676]

foundation. Airport Security Force created under the Act of 1975 and Punjab Police was established under the Police Order, 2002 had different legal basis. Although, the FIA is responsible to probe transnational crimes including white-collar offenses, cybercrime, immigration, fraud and terrorism financing in collaboration with international agencies such as INTERPOL, their functions are intelligence-driven, forensic and prosecutorial governed by specialized legislation like the Anti-Money Laundering Act, 2010 and Prevention of Electronic Crimes Act, 2016. The functions of ICTP, IB, ASF and Punjab Police have different constitutional mandate, statutory bases, institutional objectives, training protocols, functional mechanics and any attempt to equate them for the service benefits or upgradation purpose to defend the principle of reasonable classification under Article 25 of the Constitution, 1973. An assumption of parity between two organizations is misconceived and legally flawed.

9. For the aforesaid reasons, we do not see any illegality in the judgment passed by the Division Bench of the Islamabad High Court. Hence, the leave is **refused** and this petition is **dismissed.**

CHIEF JUSTICE

JUDGE

Announced in open Court on _____.

JUDGE

Islamabad
'Not Approved for Reporting'
Adeel