

Supreme Court: Later Office Memorandum Cannot Retrospectively Defeat Accrued Time-Scale Rights

The Supreme Court directed federal departments to reassess employees individually within three months, holding that later Office Memorandums cannot operate retrospectively against time-scale benefits that had accrued under the applicable criteria.

Supreme Court service-law analysis
Published 27 September 2026 | Shahbaz Shah, Advocate High Court

Case: Civil Petition No. 52 of 2022 and twenty-two connected petitions
Court and date: Supreme Court of Pakistan | 15 September 2026
Bench: Justice Muhammad Ali Mazhar, Justice Irfan Saadat Khan and Justice Shahid Bilal Hassan
Result: Appeals partly allowed; three-month individual reassessment ordered

The ruling in one sentence

The Supreme Court of Pakistan held that an executive notification or Office Memorandum changing the criteria for time-scale promotion operates prospectively and cannot retrospectively take away a benefit that legally accrued while the earlier policy was in force; however, each employee must still prove fulfilment of the applicable conditions and length of service.

The reported judgment decided twenty-three connected civil petitions concerning federal employees and several departments, beginning with Civil Petition No. 52 of 2022. Justice Muhammad Ali Mazhar authored the judgment for a three-member bench comprising Justice Muhammad Ali Mazhar, Justice Irfan Saadat Khan and Justice Shahid Bilal Hassan. The matters were heard and decided on 15 September 2026.

The dispute over four Office Memorandums

The controversy arose from Federal Service Tribunal decisions granting or recognizing claims to time-scale benefits. The Government challenged those decisions through connected petitions.

Four policy instruments were central to the dispute. An Office Memorandum dated 23 December 2011 introduced criteria for time scale. It was modified on 18 August 2015. A further Office Memorandum dated 31 March 2021 changed the required length-of-service criteria. On 9 May 2025, the Government withdrew the 2015 Office Memorandum.

The employees maintained that many of them had completed the required service while the 2011 and 2015 policies remained operative. They argued that the 2021 modification or the 2025 withdrawal could not be used retrospectively to destroy an entitlement already earned under the earlier criteria.

The Government's jurisdiction objection was left open

The Additional Attorney General argued that time scale was not part of the employees' terms and conditions of service and that the Federal Service Tribunal lacked jurisdiction under Section 4 of the Service Tribunals Act, 1973.

The Supreme Court did not finally decide that jurisdictional issue. During the hearing, the Government expressly did not concede the Tribunal's jurisdiction and preserved the question for argument in other cases.

This limitation is important. The judgment cannot accurately be cited as a final ruling that every time-scale dispute falls within the Tribunal's jurisdiction. Its binding and operative directions concern prospective application of the policies, individual reassessment and temporary protection against recovery.

Beneficial policies must be applied across the board

The Court stated that when the competent authority issues a beneficial Office Memorandum, it must implement that policy in letter and spirit. Eligible employees should receive the benefit across the board, without arbitrary exclusion.

At the same time, a beneficial policy does not create an unconditional payment for every employee in the same cadre. The claimant must satisfy the conditions fixed by the Office Memorandum, including the required length of service.

The departments had therefore to examine whether each respondent completed the qualifying period while the relevant policy remained in force. The Court rejected both extremes: departments could not defeat accrued claims through a later policy, but employees could not bypass the original eligibility requirements.

Why the later policy could not operate retrospectively

The Supreme Court reaffirmed the general rule that an executive notification, Office Memorandum or subordinate legislation operates prospectively unless lawful authority clearly permits a different result.

A later instrument that revises benchmarks cannot travel backward to unsettle vested, accrued or substantive rights created under the policy applicable at the identifiable time when the conditions were fulfilled. The Court linked this rule to certainty and predictability in public administration.

It also referred to legitimate expectation. When a public authority creates an expectation through an announced policy and consistent practice, it should not abruptly change the applicable standard without lawful justification and then penalize employees for conduct or service that satisfied the earlier rule.

The agreed three-month reassessment

Counsel and government officers agreed upon a practical method for resolving the connected cases. Every concerned department must reconsider each employee's case separately and determine which Office Memorandum governed the claim and whether its criteria, particularly length of service, were satisfied.

If an employee fulfilled the applicable conditions, the department must grant the time-scale benefit. The exercise must be completed within three months, and each employee must receive a speaking order explaining the decision.

The parties further agreed that none of the relevant Office Memorandums, including those dated 31 March 2021 and 9 May 2025, would be construed retrospectively.

Protection against recovery

Some respondents informed the Court that time scale had already been granted but departments were recovering the paid amounts.

The Supreme Court directed that no recovery would be made from those respondents until completion of the individual reassessment ordered in the judgment. This is an interim protective direction, not a final declaration that every past payment was lawful or permanently unrecoverable.

Once the departments complete the exercise, the speaking orders and governing law will determine each employee's position. Any further recovery question must be assessed in light of that decision and any independent legal protection available to the employee.

The final order

The Supreme Court condoned delay in the petitions that were filed late because a common question of law was involved. It converted all the civil petitions into appeals and partly allowed them on the agreed terms.

The departments must complete the individual review within three months. Later Office Memorandums cannot retrospectively alter the governing criteria, and recovery remains suspended until the exercise is completed.

Practical effect for federal employees

An employee claiming time scale should identify the exact policy in force on the date the prescribed service period was completed. The record should include the appointment and regularization history, cadre and pay-scale details, service book, earlier departmental decisions and the text of each relevant Office Memorandum.

The strongest claim is not merely that the employee served for many years. It is that every condition of the operative policy was fulfilled before a later amendment or withdrawal took effect.

If the department rejects the claim, the speaking order should disclose the controlling policy, qualifying date, calculation of service and the precise unmet condition. A generic rejection based only on the 2021 or 2025 Office Memorandum may be vulnerable if the right had already accrued under an earlier instrument.

What the judgment does not hold

The judgment does not declare time-scale promotion an automatic or inherent right of every civil servant. Entitlement remains policy-based and conditional upon the terms of the applicable Office Memorandum.

It does not finally decide whether the Federal Service Tribunal has jurisdiction over every such dispute. That question was expressly left open.

It does not permanently bar recovery in every case. Recovery was stopped only until completion of the ordered reassessment.

It also does not prevent the Government from changing its time-scale policy prospectively. The restriction is against using a later policy to destroy a right that had already legally accrued under the earlier one.

The controlling service-law principle

The judgment separates eligibility from retrospectivity. An employee must first prove that the relevant policy conditions were completed. If they were, a later executive instrument cannot move the goalposts backward and defeat the accrued benefit.

This commentary is independent legal analysis for research and general information. The complete judgment, relevant Office Memorandums, service record, departmental rules and later judicial treatment should be checked before reliance in proceedings.