

New Service Rules Cannot Retrospectively Disturb Settled Seniority

The Supreme Court of Pakistan held that WAPDA's 2018 service rules could operate prospectively but could not unsettle seniority and promotion rights already accrued under the previous regime.

Supreme Court service-law and statutory-interpretation analysis
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Case: Civil Petitions for Leave to Appeal Nos. 4818 to 4842 of 2024

Court and date: Supreme Court of Pakistan | 2 June 2026

Bench: Justice Muhammad Ali Mazhar, Justice Musarrat Hilali and Justice Irfan Saadat Khan

Result: Twenty-five petitions dismissed; leave refused; Tribunal judgment maintained

The ruling in one sentence

The Supreme Court of Pakistan held that newly framed service rules ordinarily operate prospectively and cannot be applied backwards to disturb employees' settled seniority or accrued eligibility for promotion unless retrospective operation is expressed with unmistakable clarity and is legally capable of surviving the requirements of fairness.

The reported judgment is Chairman Water and Power Development Authority, WAPDA, Lahore v Ijaz Ali Gul and others, with twenty-four connected matters, Civil Petitions for Leave to Appeal Nos. 4818 to 4842 of 2024. Justice Muhammad Ali Mazhar authored the judgment for a three-member bench comprising Justice Muhammad Ali Mazhar, Justice Musarrat Hilali and Justice Irfan Saadat Khan. It was decided on 2 June 2026 and approved for reporting.

How the seniority dispute arose

WAPDA Hydel North Region, Warsak, Peshawar maintained a combined seniority list for Assistant Station Attendants working in its Operations and Maintenance Sections. WAPDA then introduced the Pakistan WAPDA Hydel Generation Staff Service Rules, 2018 and prepared separate seniority arrangements for employees serving in the two streams.

Employees who had entered service before the 2018 Rules complained that the restructuring altered their established ranking and promotion prospects. Some persons junior to them on the former combined list had already been promoted while they remained awaiting advancement.

The Federal Service Tribunal accepted the employees' appeals. It directed that the 2018 Rules should govern those joining after their promulgation, while employees already serving should retain the combined seniority obtained under the previous rules. Promotions already granted to the private respondents were protected, and the affected employees were to be considered for promotion from the dates on which their juniors were promoted, with consequential benefits.

WAPDA challenged that consolidated judgment before the Supreme Court. It defended the separate streams as necessary for the specialized work of Hydel Generation and argued that the 2018 Rules had been validly approved by the competent authority. The Court found, however, that WAPDA could not justify applying the new regime retrospectively so as to overturn the respondents' settled seniority.

The presumption is that new law looks forward

The Court reaffirmed the foundational interpretive rule that legislation, rules and regulations are presumed to operate prospectively unless the law clearly provides otherwise. It expressed the principle through the maxim *nova constitutio futuris formam imponere debet non praeteritis*: a new law ought to regulate future matters, not past ones.

This presumption is not a mere drafting technicality. It protects people who arranged their legal and professional affairs under the law then in force. A later rule should not ordinarily attach a new disability to completed events, destroy an existing advantage or alter the legal character of an established position.

The judgment distinguished substantive law from procedural law. Procedural changes may sometimes apply to pending matters because they regulate the machinery through which rights are enforced. A rule affecting seniority and promotion eligibility is different: it alters the employee's substantive position within the service structure.

Seniority is a valuable service right

The Court treated seniority as more than an internal administrative convenience. Seniority shapes an employee's professional standing, pathway to promotion and security of progression. Once lawfully acquired and settled under the governing rules, it cannot be displaced casually by a later rule applied to an earlier period.

Eligibility for promotion was placed on the same substantive plane. A new rule may prescribe a structure for the future, but it cannot be backdated to deprive existing employees of the ranking and eligibility they had already earned.

The Court also connected settled seniority with legitimate expectation. Employees who serve for years under a defined seniority regime are entitled to expect that the administration will not reverse their standing without lawful authority. Retrospective rearrangement that gives priority to juniors may become arbitrary, discriminatory and prejudicial.

A valid new scheme may still be prospective only

The respondents did not need to establish that WAPDA lacked power to create specialized Operations and Maintenance streams for the future. The decisive question was temporal: whether the 2018 Rules could be used to rewrite seniority already acquired before those Rules came into force.

The Court's answer was no. The phrase that the Rules would come into force "at once" meant that they began operating from their commencement. It did not authorize WAPDA to reach backwards and undo service positions settled under the previous regime.

This distinction preserves administrative reform while protecting accrued rights. An employer may reorganize cadres, qualifications or promotion channels through valid rules. But unless the legal instrument clearly and validly says otherwise, the new framework governs future service events rather than reopening past and closed positions.

The authorities supporting the Court's approach

The judgment relied on Pakistani precedent holding that vested rights cannot be retrospectively destroyed through a later executive order and that substantive laws ordinarily apply prospectively. It referred to *Collector of Central Excise and Land Customs v Azizuddin Industries Ltd*, *Adnan Afzal v Capt. Sher Afzal* and *Muslim Commercial Bank Limited v Punjab Labour Appellate Tribunal*.

The Court also drew on the discussion of prospectivity in *Raja Amer Khan v Federation of Pakistan*. That approach asks whether retrospective interpretation would unfairly diminish established rights, how clearly the law uses retrospective language and whether the resulting consequences could reasonably have been intended.

Comparative Indian decisions were used consistently with the same principle. Those authorities recognize that retrospective rulemaking cannot be used unfairly to alter entry dates, settled seniority or

promotion eligibility to the disadvantage of employees validly appointed under the former rules.

The final outcome

The Supreme Court found no error in the Federal Service Tribunal's conclusion that the 2018 Rules applied prospectively. It held that the Rules could neither disturb settled seniority nor be used retrospectively against employees who already enjoyed seniority before their promulgation.

All twenty-five civil petitions were dismissed and leave to appeal was refused. The Tribunal's consolidated judgment therefore remained intact, including restoration of the pre-2018 combined seniority for existing employees, protection of promotions already granted and consideration of the respondents for promotion from the dates their juniors were promoted with consequential benefits.

What the judgment does not hold

The judgment does not invalidate the Pakistan WAPDA Hydel Generation Staff Service Rules, 2018. It limits their use against seniority and promotion rights that had already accrued before the Rules were introduced.

It does not prevent WAPDA from maintaining separate progression streams for employees who entered service after the new Rules took effect. Prospective restructuring remained legally possible.

It does not say that every expectation held by an employee is a vested right. The claim must be anchored in the rules and service position existing before the later change.

It also does not establish an absolute constitutional prohibition on all retrospective service legislation. The Court emphasized the strong presumption against retrospectivity, the need for clear language and the protection owed to accrued substantive rights.

Practical guidance for service-law disputes

An employee challenging a revised seniority list should obtain the appointment order, applicable recruitment and promotion rules, every earlier seniority list, the impugned rules or office memorandum, objections submitted to the department and promotion orders concerning relevant juniors. The chronology is critical because the claim depends on what had accrued before the new regime began.

The department should identify the legal source authorizing the new structure and state expressly whether the instrument is prospective or retrospective. If existing employees are placed into new cadres or streams, the department should explain how their accumulated service, ranking and promotional eligibility are protected.

Tribunals and courts should distinguish a merely procedural change from one that reduces an employee's substantive standing. The label given to a rule is not decisive; its practical effect on established seniority and eligibility must be examined.

Independent legal analysis; not legal advice.