

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

PRESENT:

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

C.P.L.A No.824 of 2022

[against the impugned judgment dated
15.02.2022, passed by the Islamabad High
Court, Islamabad in ICA No.357 of 2021]

Tanveer Ahmed Tahir

.....Petitioner(s)

Versus

Federation of Pakistan through
Secretary Establishment Division & others

.....Respondent(s)

For the Petitioners(s) : Mr. Farooq H. Naek, Sr. ASC
Syed Rifaqat Hussain Shah, AOR

For the Respondents : Sardar Umar Aslam Khan, Addl.
AGP
Muhammad Jehangir, SO.

Date of Hearing : 23.09.2026

JUDGMENT

ALI BAQAR NAJAFI, J.- Through this petition under Article 185(3) now Article 175F(1)(c) of the Constitution of the Islamic Republic of Pakistan, 1973, [**Constitution, 1973**], a leave to appeal is sought against the order dated 15.02.2022 passed by a Division Bench of the Islamabad High Court, Islamabad in ICA No.357 of 2021 in Writ Petition No.1174 of 2020 dismissing the Writ Petition filed by the petitioner challenging the Notification dated 20.03.2020, whereby, the petitioner was not promoted and superseded by his junior officers with a further prayer to issue direction to the respondents to promote the petitioner from BPS-19 to BPS-20 from the date of the said impugned Notification/

Deferment dated 22.02.2018 as the length of service of the petitioner was more than 17 years, and lastly prayed that the department should be barred to initiate departmental proceedings in respect of Reference No.54 of 2016 in which the petitioner has been acquitted. The prayer clause of Writ Petition No.1174 of 2020 is reproduced as under for ready reference:-

“Under the circumstances, it is therefore, respectfully prayed that this Hon’ble Court may be pleased to:

- (a) Declare that the impugned action/recommendation/order/notification dated 20.03.2020 by not promoting the petitioner and superseding him by promotion of officers junior to him in rank (respondent No.3, 4 and 5) in BPS-20 is illegal, without lawful authority, without jurisdiction, unconstitutional and of no legal effect and as a consequential relief may kindly set-aside the same.*
- (b) Direct the respondent No.1 and 2 to promote the petitioner from BPS-19 to BPS-20 with all benefits without prejudice from the date of impugned recommendation/Notification of supersession/deferment dated 22.02.2018 in which his right accrued as his juniors were promoted because at that time length of service was complete (17 years) and on same rules and policy prevalent at that time.*
- (c) Respondent No.1 should be barred to initiate departmental inquiry in reference No.54/2016 in which petitioner has been honorably acquitted by Honorable Sindh High Court and all allegations levelled in the said reference has been thrashed out at the level of High Court.*
- (d) Any other relief which this Hon’ble Court, deems fit just and proper in the circumstances of the case, may also be granted.”*

2. **Briefly**, the facts giving rise to the filing of this petition are that the petitioner was inducted into Police Service of Pakistan **[PSP]** after passing the Central Superior Services **(CSS)** Examination held in the year 1999 and continued to work with dedication. He was promoted to BPS-18 on 22.06.2007 and to BPS.19 on 16.01.2015. However, his promotion to BPS-20 had been deferred three times in the meetings of the Central Selection Board **[CSB]** held in the year 2018-2019, on account of his conviction and sentence awarded by the Accountability Court No.III at Karachi in Reference No.54 of 2016. When the petitioner was acquitted by the Sindh High Court on 08.11.2019, he was

reinstated into service on 24.01.2020. Consequently, in the 4th meeting of **CSB** held in January 2020 for the promotion of the officers from BPS-19 to BPS-20, the petitioner was placed at Sr.No.6 but was not promoted since another Accountability Reference [Reference No.20 of 2018] was pending against him. The notification issued against the petitioner dated 20.03.2020 had been assailed in the Writ Petition No.1174 of 2020 before the Islamabad High Court but it was dismissed since the **CSB** had collectively held their views against him. Paragraph No.19 of the judgment dated 10.08.2021 passed in Writ Petition No.1174 of 2020 is reproduced as follows:-

“19. At last, the CSB has collectively held that the petitioner’s synthesizing skills were mediocre and he could improve moderately from the training, per se, the petitioner lacked desired level of communication skills and he is not suitable for any challenging assignment. There is no cavil to proposition that the post for BPS-20 is a selection post and the criteria given in the Civil Servants Promotion (BPS-18 to BPS-21) Rules, 2019 has strictly adhered to by the CSB, as such, the findings of CSB could not be changed by this Court for the reason that a unanimous view was taken by the Board to determine the fitness of an officer for promotion in BPS-20 after perusal of entire dossiers of petitioner, including PERs/TERs, including professional expertise, integrity, training and personal profiles, hence the reasons given by the Board for supersession of petitioner are within four corners of law and the same could not be reviewed by this Court, as no illegality has been pointed out in the evaluation process of CSB, even a fair chance has been given to the petitioner, who has not yet performed up to the requisite standards required for the purpose of promotion in BPS-20.”

3. The petitioner preferred the Intra Court Appeal [**ICA No.357 of 2021**] which was also dismissed by holding that after the promulgation of the Civil Servants Promotion (BPS-18 to BPS-21) Rules, 2019 [**the Rules, 2019**], the case law referred by the petitioner was no more applicable and that the Rules had put a fettered discretion for the **CSB**, leaving little room of manoeuvrability in their hands. It was also observed that the petitioner could not point out any exercise of discretion with unreasonableness or in violation of the **Rules, 2019**. It was also held that as far as the benefit of length of service is concerned, the

petitioner could file an appropriate representation to the competent authority, i.e., the Department or the Establishment Division. However, it had declined to issue any direction to the department not to proceed against the petitioner on disciplinary proceedings after his acquittal in the criminal case. Relevant paragraph of the judgment passed in ICA No.357 of 2021 is reproduced as under:-

“12. In so far as grievance of appellant qua his length of service is concerned, he may file an appropriate representation to the competent authority in this behalf i.e. either to the Department or to the Establishment Division.

13. In so far as relief qua direction not to initiate departmental proceedings is concerned, that too, cannot be granted in the facts and circumstances inasmuch as it is trite law that acquittal, in criminal proceedings, does not per se mean same treatment in disciplinary proceedings.”

4. Mr. Farooq H. Naek, Sr. ASC, learned counsel for the petitioner contends that the impugned judgment(s) of the Islamabad High Court had failed to appreciate that the observations of the **CSB** against the petitioner that his synthesizing skills were mediocre, yet he could improve moderately from the training and that the petitioner lacked desired level of communication skills and was not suitable for any challenging assignment, were the observations, given on the Mid Career Management Course (**MCMC**), which pertains to his promotion to BPS-19 [*already considered*] and not relevant for BPS-20; that other officers who scored less marks in **SMC** were promoted, but the petitioner was ignored; for the promotion of a Grade-19 officer to BPS-20, the completion of **SMC** was essential, which the petitioner has completed with a score of 74% and it was also observed that he has reasonably good potential for promotion and may be entrusted with challenging assignments within and outside his service group; the observation given later in time were not considered for the promotion. Also submits that he scored 53.56 marks out of 70, which comes to 76.5%, whereas the **CSB** Board has granted him 10 marks out of 30, which were 33.33% without any cogent basis; that pendency of reference against the petitioner was no ground for his supersession under the **Rules, 2019**; that the

length of service of the petitioner was already complete when his case was considered in the meeting held in the month of January, 2018; that no one can be deferred from the promotion due to the negligence and mistake of the department in the light of the judgment reported as 2022 PLC (CS) 2104, 2017 PLC (CS) 578. Also places reliance upon Rule 2(b) of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973, read with Rule 2(d) of the Civil Servants (Promotion BPS-18 to BPS-21) **Rules, 2019**, and the judgment of the Supreme Court in “Messers Mustafa Impex, Karachi & others Versus The Government of Paistan through Secretary Finance & others” reported as [PLD 2016 Supreme Court 808]. Submits that under the Promotion **Rules, 2019** no one component forming part of the promotion, evaluation process can make or break the officer’s career of progression; that under Rule 18(3)(c), read with Schedule IV of the promotion **Rules, 2019**, single element cannot be used to downgrade the objective assessment in its entirety; the collective wisdom is to be applied according to Schedule IV of the Civil Servants (Promotion BPS-18 to BPS-21) **Rules, 2019**; that he was never awarded any negative PER/ACR and therefore, prays for the setting aside of the impugned judgment(s).

5. On the other side, learned Addl. AGP supports the judgments of the courts below and submits that the concurrent findings given against the petitioner cannot be interfered with; the petitioner's case was considered and every time there were some negative comments came in which prompted his deferment thrice and the moment he was acquitted in one reference, its benefit was extended to him. Also submits that the petitioner has not challenged the vires of **Rules, 2019** therefore, its applicability to petitioner is not denied and prays for dismissal of this petition.

6. **Arguments heard. Record perused.**

7. **After hearing** learned counsel for the parties, it is to be observed that the petitioner has not challenged the vires of **Rules 2019**, therefore, the applicability of the rules to the petitioner is not

questioned. As far as the misinterpretation of the Rules to the petitioner is concerned, primarily his case is that the pendency of any criminal reference against him should not be considered as a ground for his deferment from promotion to the next grade. *Secondly*, the observations once given for the promotion from Grade-18 to Grade-19, cannot be considered again for the promotion from Grade-19 to Grade-20 being irrelevant. *Thirdly*, the case of the petitioner is that he scored **53.56 marks**, but awarded only 10 marks by the **CSB** and he was given zero marks for his integrity, which is unfair. However, he has not denied that Reference No.20 of 2018 is still pending against him.

8. It is admitted between the parties that the petitioner was promoted from BPS-18 to BPS-19 on 16.01.2015. It is also not denied between the parties that petitioner had been promoted to BPS-18 on 22.06.2007 and that his case for the promotion to BPS-20 was deferred thrice in the meetings held in the year 2018 and 2019 on account of the conviction and sentence awarded to him in the Reference No.54 of 2016 by the Accountability Court No.III, Karachi but after his acquittal, its benefit was given and he was reinstated into service. The case of the petitioner was once again placed for his promotion in 4th meeting of **CSB** held in the month of January 2020 by showing his name at Sr. No.6 but he was not promoted because of an unfortunate fact that now Reference No.20 of 2018 was pending against him, therefore, the case of the petitioner was recommended for supersession since three deferments have already been made.

9. On the legal premise, the Civil Servants Promotion, (BPS-18 to BPS-21) Rules, 2019 [**Rules, 2019**] stipulates under Rule 6, the eligibility criteria for consideration of promotion which are enumerated as under:-

6. Eligibility criteria for consideration for promotion.--- (1)
The minimum criteria for consideration of promotion to various posts shall be ---

- (a) fulfilment of length of service for promotion to any particular post or basic pay scale or grade that has been separately specified;

Provided that the conditions made by the President as reproduced in Schedule-II shall apply while calculating the length of service of the civil servant for his/her promotion;

- (b) satisfactory completion of mandatory training;
- (c) possession of qualification and experience and other conditions as prescribed in the relevant recruitment rules, if notified separately;
- (d) fulfilment of mandatory conditions of the rotation policy so specified for any service, group or cadre;
- (e) fulfilment of policy for field posting, if so specified for any service, group or cadre; and
- (f) fulfilment of other terms and conditions for the time being in force.

- (2) The minimum criteria under sub-rule (1) in no way shall vest the right whatsoever for promotion to a particular post.

For deferment of an officer from promotion to next grade, certain criteria is laid down in Rule 7, according to which, if Accountability Reference was pending against him, he can be deferred. Rule 7 is reproduced as under:-

7. Conditions for deferment.— On consideration for promotion in order of seniority, a civil servant shall be recommended for deferment, if--

- (a) the officer does not meet the eligibility criteria as contained in rule 6;
- (b) the officer has not submitted Part-I and Part-II of his/her performance evaluation report (PER) form to his/her reporting officer;
- (c) the CSB, DSB or DPC considers that service record of the officer is incomplete in any aspect;
- (d) the CSB, DSB and DPC wants to further watch performance of the officer for any reason to be recorded in writing;

Provided that period of performance to be watched under this clause shall not exceed twelve months;

- (e) disciplinary or departmental proceedings are pending against the civil servant;

Provided that this clause shall not be applicable in cases, where on the date of consideration of the civil servant for promotion, such proceedings are pending for more than a year and the delay has not been caused by any reason attributed to the officer;

- (f) the civil servant is for a period of not less than one year on deputation to a foreign government or international agency irrespective of whether it is located abroad or within the country¹]

Provided that this clause shall not be applicable to those civil servants who have been appointed or nominated for deputation to international organizations against reserved and specified posts, as defined in the relevant rules and are representing Government of Pakistan therein;]

- (g) the civil servant is availing ex-Pakistan leave including extra ordinary leave or study leave as well as similar leave within Pakistan for a period of not less than one year;
- (h) the civil servants who have availed ex-Pakistan leave including extra ordinary leave or study leave as well as similar leave within Pakistan for a period of not less than one year and have not earned one full year PER on return from such leave;
- (i) an inquiry, investigation, case or a reference is pending against any civil servant in Anti-Corruption Establishment, Federal Investigation Agency, National Accountability Bureau or such other organization by whatever name called for;

Provided that this clause shall not be applicable in such cases, where on the date of consideration of a civil servant for promotion, such an inquiry, investigation, case or reference is pending against him for more than three years and the delay has not been caused by any reason attributable to the officer;

- (j) the civil servant has not submitted his/her annual declaration of assets forms of the year five years; or
- (k) there is any other reason to be recorded in writing by the CSB, DSB or DPC as the case may be.”

If the officer had failed to meet the requisite threshold for promotion, particular post/cadre of any particular service, group or post he can be superseded under Rule 8 of the **Rules, 2019**. Rule 8 is reproduced as under:-

8. Condition for supersession.--- A civil servant shall be recommended for supersession, if –

- (a) he/she does not meet the requires threshold for promotion to a particular post or grade in any particular service, group or post;
- (b) subject to the provisions of rule 22, he/she fails thrice for any reason to attend the mandatory training; or
- (c) there is any other reason which shall be recorded in writing by the CSB, DSB or DPC as the case may be.

Under Rule 16 of the **Rules, 2019** the criteria for promotion in BPS-20 is marks. The aggregate marks provided in Rule 18(3), according to which, quantification of PERs is 40%, the Training Evaluation Reports [TERs] is 30% and the evaluation by **CSB** and **DSB** is 30%. Rules 16 & 18 of the **Rules, 2019** are reproduced follow:-

16. Efficiency index for promotion, deferment and supersession.--- The minimum threshold of marks for promotion to various basic pay scales mentioned in column (2) of the Table below shall be as mentioned in column No.(3) of that Table, namely:-

TABLE		
S.No.	Basic pay Scales	Aggregate marks of efficiency index
(1)	(2)	(3)
1.	BS-18	60
2.	BS-19	65
3.	BS-20	70
4.	BS-21	75

18. Qualification of PERs, training evaluation reports and CSB, DSB and DPC evaluation,--- (1) For the purpose of consideration by the CSB, DSB and DPC, the PERs shall be quantified in accordance with the formula as set out in Schedule III.

(2) For the purposes of promotion to BPS-18, the PERs shall have the weightage of hundred percent.

(3) For the purposes of promotion to the posts in BPS-19, BPS-20 and BPS-21, the following quantification method shall be followed namely:---

- (a) PERs in respect of two preceding BPS or the las fifteen years whichever is more shall be quantified. If the service of an officer in present and previous BPS is less than fifteen years then the deficiency shall be met by taking into account the PERs of next lower BPS, which shall be bracketed with the PERs of preceding BPS. Quantification of PERs relating to present and previous BPS will have a ratio of 60%:40%;

- (b) the marks mentioned in column No.(3) of the table below shall be allocated for quantification of PERs, training evaluation report and CSB and DSB evaluation as mentioned in column No.(2) of the Table namely:-

TABLE		
S.No.	Factor	Marks
(1)	(2)	(3)
1.	Quantification of PERs	40%
2.	Training Evaluation Reports (TERs)	30%
3.	Evaluation by CSB and DSB	30%
4.	Total	100%

- (c) the objective assessment form as set out in Schedule-IV to these rules shall be placed before the CSB and DSB along with panel proforma of every officer for objective evaluation. The CSB and DSB shall assess each officer on the panel on the basis of parameters and attributes as given in the respective objective assessment form for promotion;
- (d) the CSB or DSB, as the case may be, shall apply its collective judgment to determine the fitness for promotion to section posts as per parameters given in the objective assessment form and shall award marks to an officer and place him in category A, B or C in accordance with the classification given in the following Table, namely:-

TABLE	
Category	Marks
(1)	(2)
A	21 to 30
B	11 to 20
C	01 to 10

- (d) in such cases whereby a civil servant was not required to undergo mandatory training, weightage of PERs shall be 50% and marks out of 50% shall be awarded by the CSB and DSB; and
- (f) in case, a civil servant has been appointed in the cadre in the present scale, his/her PERs of the present scale shall be given the total weightage assigned to the PERs in the Table under class (b).”

Rule 10 of the **Rules, 2019** is reproduced as under:-

10. Consideration of promotion of civil servants who were deferred/superseded.—(1) A civil servant deferred, except under clause (d) of rule 7, shall be

considered for promotion again after the reason on the basis of which the deferment took place ceases to exit.

(2) The civil servant falling in the category mentioned in clauses (g) and (h) of rule 7 shall be considered for promotion only on return to a cadre post and earning at least one PER for full year before consideration for promotion.

(3) The one full year PER referred in sub-rule (2) means a report of twelve complete months inclusive of period spent on mandatory training;

Provided that if an officer has not earned PER of complete one year (twelve months) and has earned only part PER in that year for reasons beyond his/her control, then his/her special report, for the period of deficiency, earned subsequently shall be taken into account to complete the twelve months requirement for the purpose.

(4) In a case where an officer has returned from deputation abroad or joined duty after availing leave of one year or more but no PER is due in the present grade, his/her overall PER grading for the previous grade shall be counted, for the purpose of quantification in the present grade:

Provided that only such cases shall be covered under this sub-rule wherein an officer after such return from deputation abroad or leave has served within the cadre for a period of one complete year reckoned from the date the officer assumes duty after such return till the date of holding the meeting of the CSB, DSB or DPC, as the case may be:

Provided further that in such cases a satisfactory special report of the officer in present basic pay scale shall invariably be required but the same shall not be quantified under any circumstances.

(5) A civil servant, once superseded for promotion under rule 8 shall be eligible for reconsideration only after he/she earns one more PER of one full year.

The **CSB** has provided its objective criteria for consideration, according to which, if marks obtained are 21 to 30 the officer is granted 'A' grade, if marks obtained are 11 to 20, he is granted 'B' grade and if he scores 1 to 10 marks, he is granted 'C' grade. The tabulated marks awarded to the petitioner are as under:-

Sr. No.	Parameters/ Attributes	Total Marks 30	Marks Assigned
1	Output and quality of work Proficiency/ productivity / objectivity / effectiveness Dossier and documentary evidence	3	1
2	Variety and Relevance of Experience Secretariat/Field postings: Federal / Provincial Government Postings; Leadership /Routine Postings; Deputation / Foreign Postings	3	1

3	Professional Expertise Organization / methodical / reliability under pressure / knowledgeable / level headedness. Based on dossier and career profile, TERs.	3	1
4	Personality Profile (as known to the Board Members primarily on the basis of dossier / documentary evidence)	3	1
5	Conduct, Discipline, Behavior Observation by RO/CO during the last 05 years OR as known to the Board Members primarily on the basis of dossier / documentary evidence	3	1
6	Leadership Functional ability / confidence / decision making; based on dossier, TERs, PERs	3	1
7	Estimated Potential for Middle / Higher Management Based on PERs and TERs; Management Skills, Ability to take decisions, Strategic Thinking, Leadership Qualities, Drive for Results and Accomplishments in BPS-19 and 20 in policy formulation and implementation.	3	1
8	Integrity / General Reputation / Perception Professional Ethics / Conduct; on the basis of PERs/ TERs / Opinion of the Board primarily based on the dossier / documentary evidence.	3	0
9	Commitment to Public Service; Devotion to duty / drive / motivation based on PERs, Career Profile, Dossier	3	2
10	Teamwork Communication / motivation / interpersonal relations based on Career profile, PERs, TERs	3	1
Total Marks			10

10. The petitioner was granted ‘C’ grade because he obtained 10 marks from CSB and if counted out of 70, the total aggregate came to 63.56. The award of percentage marks by the CSB is objective assessment and the quantification of PER and TER cannot be judicially reviewed, as it involves the requisite experience, outlook objectivity and depth of the rights of the civil servant. Before the promulgation of **Rules, 2019**, the criteria for exercise of discretion were some what unfettered and then onward it became structured. The petitioner could not point out that the decision so taken was against the law or violation of the Rules or as a result of unreasonable exercise of the discretion. It is also of relevance to narrate the awarded remarks against the petitioner, which are reproduced as under:-

Sr. No.	Sen. No.	Name of Officers	Total score of PERs & Training	Award of marks By CSB		Total score	Remarks
				Category	Marks		
1	6	Mr. Tanveer Ahmad Tahir	53.56	C	10/30	63.56	The Department Representative Apprised That The Officer Was Deferred In CSB Meeting Held In January 2018 Due To Shortfall In Prescribed Length Of Service. He Was Deferred In CSB Meeting Held In November / December 2018 For Being

						Convicted For 10 Years Imprisonment By NAB. Later On The Officer Was Not Considered By CSB Meeting Held In May 2019 for being in prison. The Board was informed that the officer had been acquitted by the Sindh High Court vide its judgment dated 8.11.2019 and subsequently reinstated into service on 24.01.2020. The Board discussed the record of the officer and noted that the officer's synthesizing skills were mediocre and he could improve moderately from the training. He lacked the desired level of communications skills and he was not considered suitable for any challenging assignments. His promotion potential was also rated as "Limited". The Board further noted that the officer was also facing a trial under NAB reference No.20/2018 State vs. Ghulam HaiderJamali and others. The Board considered Rule 14(1) of the Civil Servants Promotion BPS-18 to BPS 21) Rules, 2019 which defined posts in BPS-19 to 21 as Selection posts. Section 9 (2) of the Civil Servants Act, 1973 provided that selection to such posts shall be made on the basis of merit. Subsequent to discussion, the Board determined to place the officer in Category C and collectively awarded the officer 10 marks. Further, Supreme Court of Pakistan vide its judgment dated 11.10.2002 in Civil Appeal No.1599 to 1606/1999 had observed that "no civil servant can ask for promotion as a right". The Board decided to recommend the officer for supersession, in line with Rule 8 (a) of Civil Servants Promotion (BS-18 to BS 21) Rules 2019, as he failed to meet the required threshold of 70 marks.
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11. It was rightly held in Shiraz Manzoor case¹ that promotion itself is not a vested right but enforceable is the right to a lawful consideration. Where deferment was solely because of a pending reference which subsequently ended in acquittal, the reason for deferment ceases to exist and the officer must be considered afresh. Under Rule 10(1) of the **Rules, 2019** such deferment, however, is not in the nature of a punishment nor does it constitute an adjudication of the officer's unfitness for promotion. It is essentially a temporary consequence of the pendency of the proceedings. The principle is also consistent with the law declared in Orya Maqbool Abbasi case², wherein it was emphasized that although promotion is not a vested right, a civil servant who fulfills the prescribed conditions has a right to have his case considered in accordance with the applicable promotion policy and objective criteria and the competent authority is under a legal obligation to adhere to the prescribed promotion framework and that the discretion of the Selection Board cannot be exercised arbitrarily or on considerations extraneous to the governing policy. Applying the aforesaid principles to the present case, where the sole impediment to promotion was the pendency of a reference, the legal consequence of a possible acquittal shall not be ignored.

12. The principle was further elaborated in Dr. Muhammad Arif case³ a judgment came before **Rules, 2019**. The Supreme Court recognized that the promotion policy itself contemplated that an officer whose promotion was deferred should be informed of the reason for such deferment so that he might improve his performance, complete the deficient record or remove the deficiency which had occasioned the deferment. The requirement of communicating the reason is therefore not an empty formality; it is an essential safeguard enabling the officer to know precisely what impediment stands in the way of his promotion and what, if anything, is required of him to overcome it. More importantly, the

¹ Federal Public Service Commission through Chairman, Islamabad and another versus Shiraz Manzoor and another [2023 SCMR 2087]

² Orya Maqbool Abbasi versus Federation of Pakistan through Secretary Establishment and others [2014 SCMR 817]

³ Federation of Pakistan through Secretary, Establishment Division and others v. Dr. Muhammad Arif and others [2017 SCMR 969]

said judgment makes it clear that mere deferment on the generalized ground that the Board wishes to “further watch” an officer’s performance cannot be sustained without objective material and specific reasons. The decision to defer an otherwise eligible officer is a decision adverse to him, particularly where his contemporaries or juniors are promoted. Such decision must, therefore, be supported by tangible material demonstrating the deficiency in his performance and cannot rest merely upon the subjective or unexplained collective satisfaction of the Board. Our jurisprudence thus places the decision-making process concerning deferment within the discipline of objectivity, transparency and reasoned decision-making.

13. Repeated deferment consequently cannot be regarded as an unrestricted administrative device by which consideration for promotion may be postponed indefinitely. Each deferment must have an identifiable legal basis and must be referable to the conditions prescribed by the applicable promotion rules or policy. Where the original deficiency has already been removed, the authority must identify a fresh and lawful basis for any further deferment; otherwise, repeated postponement may amount, in substance, to an indefinite denial of consideration for promotion under the guise of deferment. The deferments cannot lawfully become a perpetual or open-ended impediment to an officer’s consideration for promotion. This proposition assumes particular significance where an officer has been deferred on three successive occasions. Three deferments do not, by themselves, confer upon the officer an automatic right to promotion, because promotion is not a vested right and the competent authority retains the lawful discretion to assess comparative merit and suitability in accordance with the applicable rules.

14. The fact that juniors happened to be promoted during the intervening period cannot, by itself, convert a temporary deferment into a permanent supersession, particularly if the original ground of deferment has ceased to exist. The distinction is therefore material: the pendency of the reference may justify deferment; the subsequent acquittal removes the basis of that deferment. The

former may postpone consideration, but the latter obliges the competent authority to restore the officer to the stream of lawful consideration. To hold otherwise would mean that an officer, although ultimately exonerated from the very proceedings which had prevented his consideration, would continue to suffer the adverse consequences of an allegation which never culminated in his conviction or adverse finding. Such an approach would effectively transform a temporary deferment into a substantive penalty, although the rules themselves do not contemplate deferment as a punishment.

15. Nevertheless, the absence of a vested right to promotion does not mean the absence of a right to fair and lawful consideration. An eligible civil servant has a corresponding right to have his case considered by the competent authority in accordance with the prescribed criteria, without arbitrariness, discrimination, extraneous considerations or indefinite postponement. Thus, while the Court cannot substitute itself for the **CSB** in determining comparative merit, it can examine whether the decision-making process was lawful, whether the prescribed criteria were followed, whether relevant material was considered, whether irrelevant considerations were excluded, and whether reasons were recorded and communicated where required by law or policy.

16. The present statutory framework reinforces this principle. Under the Civil Servants (Promotion (BPS-18 to BPS-21) **Rules, 2019**, deferment is contemplated only on specified grounds, including failure to fulfil eligibility requirements, incomplete PER record, incompleteness of the service record, a decision to further watch officers performance for a reason to be recorded in writing, and certain pending proceedings. Significantly, where deferment is founded upon the desire to further watch performance, the Rules prescribe that such period shall not exceed twelve months.

17. Accordingly, where an officer has been deferred three successive times, the decisive question is not the mere number of deferments but whether each deferment was founded upon an independent and legally permissible ground, supported by tangible material, accompanied by adequate reasons, and consistent with

the applicable promotion rules and policy. If the answer is in the negative, repeated deferment cannot be sustained merely by invoking the collective discretion of the CSB. Conversely, where each deferment is demonstrably founded upon a prescribed condition which remained operative at the relevant time, no automatic right to promotion can be claimed merely by reason of the fact that the officer was deferred on three occasions.

18. The cumulative effect of the above principles is that an officer repeatedly deferred by the CSB possesses, at the minimum, the following legally protected interests: **first**, to be considered for promotion whenever his case falls for consideration under the applicable rules; **second**, to have the decision made upon objective and prescribed criteria; **third**, to be informed of the specific and intelligible reasons for an adverse decision where the governing policy so requires; **fourth**, to have a genuine opportunity to remove or address the deficiency forming the basis of deferment; and **fifth**, not to be subjected to indefinite or repetitive deferment unsupported by fresh, tangible and legally relevant material.

19. As far as the question of calculation of requisite length of service is concerned, an option has been given to the petitioner to file representation either before the Department or to the Establishment Division and he should make use of this observation to his benefit.

20. Here it will be appropriate to cite the famous **speech of Quaid-e-Azam Muhammad Ali Jinnah**⁴ delivered in April, 1948 to the civil officers in Peshawar reproduced as under:-

“... The reason why I am meeting you is that I wanted to say a few words to you who are occupying very important positions in the administration of this province. The first thing that I want to tell you is that you should never be influenced by any political pressure, by any political party or any individual politician. If you want to raise the prestige and greatness of Pakistan you must not fall victim to any pressure but do your duty as servants of the people and the State, fearlessly and honestly.

The services are the backbone of the State. Governments are formed. Governments are defeated. Prime Ministers come and go, ministers come and go, but you stay on. Therefore, there is a very great responsibility placed on

⁴ Orya Maqbool Abbasi versus Federation of Pakistan through Secretary Establishment and others [2014 SCMR 817]

your shoulders. You should have no hand in supporting this political party or that political party, this political leader or that political leader. This is not your business.

Whichever government is formed according to the constitution, and who ever happens to be the prime minister of minister, coming to power in the ordinary course, your duty is only to serve that government loyally and morally but, at the same time, fearlessly, maintaining your high reputation, your prestige, your honour and the integrity of your service. If you start with that determination, you will make a great contribution to the building up of Pakistan of your conceptions and our dreams a glorious State and one of the greatest nations in the world.

While impressing this upon you, I wish also to take the opportunity of impressing upon your leaders and politicians in the same way, that if they ever try to interfere with you and bring political pressure to bear upon you, which leads to nothing but corruption, bribery and nepotism which is a horrible disease and for which not only your province but others too are suffering if they try to interfere with you in this way, I say they are doing nothing but disservice of Pakistan.

I hope that each of you will understand his own sphere of duty and responsibility and act with others harmoniously in complete cooperative, keeping in mind that each has to do his duty within the sphere to which he belongs, if on your part start with that determination and enthusiasm – and I hope the other side will also realize what a terrible evil they are raising up how it demoralizes the services to try and influence this department or that departments, this office or that officer-and if you stick to nation. Putting pressure on service people is, I know, a very common fault of politicians and those with influence in political parties, but I hope you will now, from today, resolve and determine to act according to the humble advice I am given you. ...”

21. The reason why service structure of civil servants is so much protected and their career progression is made with reasonable objective criteria also lies in the referred speech of Quaid-e-Azam Muhammad Ali Jinnah in which he had given guidelines which may be rephrased as follows:-

- a. Never be influenced by any political pressure.
- b. Do your duty as servants of people and the State honestly and fearlessly.
- c. Governments, Prime Ministers, Ministers come and go but it is not your business to support or oppose them.
- d. Serve the Governments loyally and morally while maintaining your high reputation, prestige, honour and integrity of your service.
- e. Understand your own sphere of duty and act with others harmoniously within your sphere.

- f. Leaders and politicians, likewise, should not try to interfere into your work which is bound to bring horrible diseases like corruption, bribery and nepotism which will do nothing but disservice to Pakistan.

22. Keeping in view the above discussion and the observations made hereinabove, we do not find any legal justification to interfere with the findings recorded in the impugned judgment and, therefore, refuse the leave and **dismiss** this petition.

CHIEF JUSTICE

JUDGE

Islamabad, the
23rd of September, 2026
'Approved for Reporting'
Adopt