

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
Constitutional Petition No. D-42 of 2017  
(Younus Parwani & others v Federation of Pakistan & others)

Date	Order with signature of Judge(s)
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Before:  
Mr. Justice Muhammad Karim Khan Agha  
Mr. Justice Adnan-ul-Karim Memon

**Date of hearing and order:- 17.04.2025**

Mr. Muhammad Nishat Warsi, Advocate for the petitioners.  
Mr. Rashid Anwar advocate for NBP  
Mrs. Wajiha Mehdi, AAG  
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**ORDER**

**Mohammad Karim Khan Agha, J:** The Officers' Welfare Association National Bank of Pakistan claims that they represent officers of the National Bank of Pakistan (NBP) and are a registered association. The union averred that NBP announced a Promotion Policy in 2015, which unfairly allocated 20 marks for interviews to the management cadre officers i.e OG-1 to Senior Executive Vice President (SEVP), allowing for favoritism. Even a promotion list was announced based on this policy, which is illegal. They further added that the Board of Human Resources (HR) Committee later approved a proposal authorizing the President to promote up to 25 employees annually as an exception to the policy. This discretionary power allowed the President to promote 26 officers based on personal preference, disregarding merit as such this policy needs to be set at naught. The next submission is that many deserving officers, including the Petitioners (47 identified), have been denied promotions except one petitioner No.7 in 2021, despite better performance ratings compared to those promoted through discretion.

2. Learned counsel for the petitioners submitted that petitioner are being deprived from right of promotion in violation of promotion policy 2013-14 and 15 for extraneous consideration including resolution dated 28.01.2016 which according to the learned counsel for the petitioners has been issued in violation of the promotion policy and the settled principles of law. Learned counsel raised his voice of concern that the Respondents (NBP management) has turned their deaf ear by not responding to the grave concerns of the petitioners. He further submitted that this discretionary powers of awarding marks for promotion violated the constitutional/service rights of the petitioners. Learned counsel referred to the list of executives/officers promoted in appeal under promotion policy 2013-14 and 15 (Page 81) and submitted that the candidates who were favored obtained less marks than the petitioners and were promoted, which is

violation of principles of natural justice. He requests that this court declare the President's discretionary powers of awarding marks for promotions unjust, and direct the Respondents to promote the Petitioners.

3. The bank's lawyer argued that the petitioners' association registration was rightfully denied due to missing documentation. Regarding promotions, he maintained that the bank's promotion policy was and remains legal, and using interview marks is standard procedure under the law. While acknowledging a discretionary promotion, the counsel firmly denied it was based on favoritism. Instead, he explained that the Board approved this measure to keep valuable employees who might have left due to a strict promotion system and non-competitive salaries. To support this, the lawyer stated that these special promotions were based on recommendations from relevant departments for truly outstanding employees, not on personal bias. He presented resignation data and recommendation letters as evidence. The counsel further argued that the petitioners' demands were unlawful but were still given consideration, though they could not be met. He denied that any deserving officer was unfairly denied promotion, asserting that all promotions were based on merit. Finally, the bank's lawyer contended that no fundamental rights of the petitioners were violated to attract Article 199 of the Constitution and asked this court to dismiss the petition because it involves a dispute over facts that is not appropriate for constitutional jurisdiction, and because the promoted employees were not included in the case as party and in their absence no order could be passed behind their back.

4. We have heard the learned counsel for the parties and perused the record with their assistance.

5. Prima facie, this exceptional promotion policy is not a personal decision, but rewards outstanding performers recommended by the departments to retain the employees as agitated, which is a promotion policy decision.

6. The Respondent Bank's primary argument is that the petitioners did not achieve the required minimum scores according to the bank's promotion policy and were therefore deemed ineligible for promotion after their cases were reviewed and the eligible officers were considered for promotion as per law. The bank contends that, under the law, the National Bank of Pakistan has the authority to create rules as needed for efficient service and to correct any inconsistencies in service regulations. They emphasize that the Service Rules Committee is responsible for setting promotion eligibility criteria, which is fundamentally an administrative matter falling solely within the National Bank of Pakistan's policy-making authority. The bank submits that courts should not interfere in such matters and that bank employees do not have a guaranteed right to promotion or the rules that determine their eligibility or fitness. Furthermore, the bank asserts

that the court lacks jurisdiction through a writ petition to invalidate the bank's promotion policy framed from time to time. They explained that their policy for promoting regular employees from clerical to higher grades is based on several criteria: seniority, time in grade, professional qualification, performance ratings from the last three years, and educational qualifications. The bank stresses that petitioners must satisfy all these conditions to be considered for promotion. Be that as it may, we are only concerned whether the petitioners meet the criteria to be promoted under the policy.

7. The 2015 promotion policy generally applies to all regular NBP employees, except those on deputation/secondment outside the bank, re-hired staff, and locally hired overseas employees. Pakistani employees on deputation will be considered upon their return. In 2016, the Board authorized the President (via HRM Group's Agenda Paper No. 28/16 dated January 28th) to promote a maximum of 25 officers/executives annually as an exception. This decision followed concerns raised by the Group Chief of HRM about deserving employees not qualifying for promotion due to interview/appraisal criteria (influenced by the Bell Curve), potentially leading to the loss of talent in key areas like Corporate & Investment Banking, Treasury, and Deposit Mobilization due to limited opportunities and non-competitive salaries. This exceptional measure, already cleared by the Board HR Committee, allows the President to promote based on Group recommendations to incentivize strong performers whose appraisals might not fully reflect their contributions.

8. The promotion policy 2016 also outlines the interview requirements for promotions from AVP to SEVP, conditions related to pending disciplinary actions, unauthorized absence, litigation, transfers post-promotion, proforma promotion for deceased employees, retirement before interviews, service calculation in demotion cases, consequences of demotion after withheld promotion, assignment of duties for clerical-to-OG-III promotes, and the non-cancellation of promotions at employee request. It also details a process for reviewing grievances regarding the 2015 and 2016 Annual Performance Appraisals (APA).

9. Considering the bank's stated policy on promotions, this court is of the considered view that employees do not have an inherent or guaranteed right to promotion based solely on seniority. Promotion decisions, which hinge on performance and integrity, depend on multiple factors evaluated by the bank's authorized body. This court lacks the necessary expertise in such evaluations. Legal precedent in service matters establishes that promotion involves assessing both eligibility (meeting basic criteria) and fitness (a subjective evaluation based on objective standards). Therefore, promotion depends on eligibility, fitness, and available vacancies. No employee can claim promotion as a right. Determining

seniority, eligibility, fitness, promotion, and other employment terms rests solely with the Competent Authority, as defined by the relevant laws and rules.

10. This court notes that, according to Section 11 (10) of the Banks (Nationalization) Act, 1974, all employee selections, promotions, and transfers (excluding the President), as well as decisions regarding their pay and benefits, are to be made by the President of the Respondent-Bank. These decisions must align with the evaluation criteria and personnel policies established by the Board. This Court further acknowledges that the Respondent-Bank has indeed formulated a promotion policy for its regular employees, covering advancements from clerical positions to Officer Grade and higher ranks, up to Executive Vice President, and this policy includes specific criteria.

11. This Court emphasizes the Competent Authority's established legal right to formulate rules for efficient service and resolve inconsistencies within the Service Rules. Setting promotion eligibility criteria is the responsibility of the Service Rules Committee and is fundamentally an administrative function within the Respondent-Bank's exclusive policy-making authority. Therefore, this court generally finds intervention in such promotion matters unwarranted, as bank employees lack a guaranteed right to promotion or the rules defining their eligibility and fitness. Moreover, in banking cases, the High Court typically lacks the jurisdiction to invalidate such policies via a writ petition, except when the policy contradicts public interest, which is not the situation here. The Supreme Court has consistently affirmed this legal principle in numerous previous rulings. It is not for the courts to interfere with policy decision which have been made in good faith with the object of promoting merit.

12. Accordingly this petition is without merit and is dismissed

Head of Const. Benches

JUDGE