

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
Constitutional Petition No. D-2044 of 2022

Date	Order with signature of Judge(s)
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**Before;**  
**Muhammad Karim Khan Agha, J;**  
**Adnan-ul-Karim Memon, J**

**Date of hearing and order :- 11.8.2025**

Mr. Haq Nawaz Talpur advocate for the petitioner  
Ms. Wajiha Mehdi, Assistant Attorney General  
Syed Meeral Shah Bukhari, Special Prosecutor NAB  
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**ORDER**

**Adnan-ul-Karim Memon J:-** Through the captioned Constitutional petition, the petitioner requests this Court to:

1. Declare and set aside the Impugned Decision, Notifications, and Memorandum (Annexures P-1, P-2, P-3, and P-7), as well as the Impugned Letter (P-7), on the grounds that they are illegal, arbitrary, and a violation of the petitioner's fundamental and statutory rights.
2. Direct the respondents to reconvene the Selection Board, review the petitioner's case for promotion to BPS-19 in accordance with the law, and grant all consequential benefits from the date her junior colleagues were promoted.
3. Direct the respondents to complete this review within two weeks.

2. The petitioner's core submission of the petitioner is that she was illegally and arbitrarily denied a promotion to Additional Director (BPS-19) at the National Accountability Bureau (NAB) despite being qualified and senior to many of the officers who were promoted. The petition claims this denial violates her constitutional and statutory rights. The petitioner, an Assistant Director (BPS-17) since 2006 and a Deputy Director (BPS-18) since 2013, has met all promotion requirements, including the mandatory Mid-Career Management Course (MCMC). She argues that she is legally eligible for promotion and is senior to at least 29 other officers who were promoted. She believes she had a "legitimate expectancy" of being promoted. The Departmental Selection Board's decision to defer her promotion is described as "unreasoned, malafide, illogical, and capricious." The petition alleges that the decision was based on "extraneous considerations." The petitioner asserts that her fundamental rights were infringed upon when she was denied a promotion without any valid reason. She requested the minutes of the Selection Board meeting twice to understand the rationale behind the decision, but her requests were ignored. This, she argues, violates her right to information under

Article 19-A of the Constitution of 1973 and the duty of public functionaries to provide reasons for their orders under Section 24-A of the General Clauses Act, 1897.

3. A central argument of the learned counsel for the petitioner is that the Selection Board wrongly applied the Civil Servants Promotion Rules, 2019, to her case. The petitioner maintains that her service is governed by the specific NAB Employees Terms & Conditions of Services (TCS) Rules, 2002, which she describes as a "special law" that should prevail over the general civil servant rules. She states that the TCS Rules, 2002, have their own specific provisions for promotion and deferment. He argued that the actions of the respondents violate several of her constitutional rights, including Article 19-A: Right to information. Article 25: Right to equality before the law and equal protection of the law, as she was treated differently from her junior colleagues. Article 27: Safeguards against discrimination in service.

4. Based on the limited text provided, the respondents' defense appears to be that the petition lacks merit and should be dismissed, his primary arguments are that The petitioner's claim that she has a right to promotion is unfounded, as meeting the minimum criteria for promotion "in no way shall vest the right whatsoever for promotion to a particular post." The petition has "unclean hands" and is motivated by "malice and malafide" intentions. The respondents' counsel state that the petitioner was penalized with a minor penalty of "censure" in August 2021 as a result of disciplinary proceedings, which may have been a factor in her promotion deferment. He claims the Selection Board was properly constituted as per Rule 3.05 of the NAB Employees TCS 2002 and that the board's recommendations were made after due process. In support of his contention, he relief upon the cases of *The General Manager of Punjab Provincial Cooperative Bank Ltd. v Ghulam Mustafa Iftikhar Ahmed* **SBLR 2024 SC 111**.

5. We have heard the parties on the subject issue and perused the record with their assistance.

6. A female employee joined the National Accountability Bureau (NAB) in 2006 as an Assistant Director (BPS-17) and was promoted to Deputy Director (BPS-18) in 2013. She completed the mandatory training course (MCMC) and claimed eligibility for promotion to Additional Director (BPS-19), noting that her colleagues had already been promoted. However, her promotion was deferred on December 31, 2021. The decision was based on Section 3.24 (3)(c)(i) of the NAB Terms and Conditions of Service (TCS) 2002 and Rule 7(d) of the Civil Servants Promotion Rules 2019, which allow the competent authority to monitor an employee's performance for one additional year before granting a promotion.

7. NAB defers promotions for reasons like incomplete records, pending investigations, or lack of training. In this case, the petitioner's promotion was deferred not for these reasons, but because the competent authority chose to monitor her performance for an additional year. This decision was made after she had already received a minor penalty of censure on August 9, 2021, and while her colleagues were being promoted to BPS-19 on December 31, 2021. NAB's decision to defer the petitioner's promotion was contested because a prior disciplinary proceeding had concluded with a minor penalty of censure. The petitioner submitted that this meant no disciplinary proceedings were "pending," as required by Rule 7(e) of the Civil Servants Promotion Rules 2019, which NAB used to justify the deferment. While NAB's own rules (TCS-2002) list censure as a minor penalty, the petitioner's main submissions, supported by Supreme Court precedents, is that a censure should not be considered a significant enough "stigma" to prevent promotion, unlike more severe penalties. This deferment ultimately led to her colleagues being promoted. The petitioner's counsel contends that, according to NAB's rules, he should have been considered for promotion once the reason for his deferment (the pending proceedings) ceased to exist.

8. Though the penalty of censure is not a stigma which ceased to exist, as it cannot continue for an indefinite period, and that cannot be a cause either of deferment or supersession. Therefore, we are of the view that NAB's suggested action violates principles of natural justice and is legally unsustainable. This view is supported by Supreme Court decisions in Jan Muhammad v. General Manager, Karachi Telecommunication Region, Karachi and another (1993 SCMR 1440) and Auditor General of Pakistan & others vs. Muhammad Ali & others (2006 SCMR 60).

9. With the above observations, the petition stands disposed of with no order as to costs with direction to the competent authority of respondents to consider the case of promotion of the petitioner in BPS-19 in the light of dicta laid down by the Supreme Court in the case of Federation of Pakistan v. Dr. Muhammad Arif, 2017 SCMR 969; and, his earlier deferment/supersession if any as recorded hereinabove will not come in his way, while considering her case for promotion in next rank. As Censure is not a barrier to promotion consideration. The petitioner has met the required length of service, and the censure period has passed. Given that significant time has elapsed since the deferment in 2021, the NAB authority is directed to reconsider her promotion to BPS-19 alongside her colleagues within the next three months.

**Judge**

**Head of Const. Benches**

Shafi