

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
C.P No.D-440 of 2024
C.P No.D-664 of 2024

Date	Order with signature of Judge
1.	For hearing of CMA No.1756/2024
2.	For hearing of main case
<u>Date of Hearing: 08.09.2026</u>	
<u>Date of Decision 28.10.2026</u>	

M/s. Ghulam Shabbir Shar and Muhammad Uzair Shaikh, advocates for the
Petitioner
Mr. Malik Khushal Khan, Advocate for Respondents-NBP
Mr. Nisar Ahmed G. Abro, DAG

The Petitioner in C.P No.D-664 of 2024 is stated to be an Assistant in the National Bank of Pakistan / Respondent No.2 (“**NBP**”) claiming to have been appointed on 25.04.1994. The Petitioner in C.P No. D-440/2024 is claiming to be the ‘All Pakistan NBP Officers Association’ an organization allegedly representing certain Officers of the National Bank of Pakistan, have filed this Petition through its President, namely Mr. Ashfaq Ali.

2. The Petitioners abovementioned have challenged the NBP Promotion Policy dated 17.03.2022 (“**Impugned Policy**”). It is the contention of the Petitioners that the same Impugned Policy is discriminatory, as it requires a test / assessment to be taken by persons falling within the **Tier-2**¹ bracket (explained further below), to be eligible for promotion.

3. Learned Counsels for the Petitioners² have premised their arguments on the basis of discrimination in the nature of the Impugned Promotion Policy, and has caused great distress to the employees affected by it (whom they state to represent). They further contended

¹ A copy of the Impugned Policy dated 27.11.2023 at page-21 of CP No. D-440/2024, relevant @ pg. 29)
² We have referred to the arguments of Counsels for both Petitioners collectively (unless specifically stated otherwise) for the sake of brevity and as they were substantially similar in nature.

that the Impugned Policy was in contravention of the National Bank of Pakistan's Staff Rules 1973 ("**NBP Rules**"), which they submit requires that promotion should be made on the basis of merit and seniority.³ Counsels argued that the Impugned Policy is in violation of constitutional rights, particularly under article 27 of the Constitution of Pakistan 1973.⁴

4. The Petitioners contended that the Petitions were maintainable as the Petitioners were governed under the 1973 NBP Staff Service Rules, which were statutory in nature and therefore a writ was maintainable.

5. Learned Counsel for the Respondent has controverted the submissions of the Petitioners, and stated that under Byelaw 51 of the National Bank of Pakistan Bye-Laws 2015, the Board of NBP were given the powers to enact staff service rules, which they did, leading to the promulgation of the NBP Staff Service Rules 2021 which are non-statutory in nature, and therefore the Petitions are not maintainable,⁵ and accordingly liable to be dismissed.

6. Counsel contended stated that the Petitioner in C.P No.D-664/2024 is not eligible for promotion, and even on this ground the Petition is not maintainable. He next referred to page 43 of his Para-Wise Reply, and submitted that there was a criterion for promotion which had been highlighted, which he states is unfulfilled by the said Petitioner.

7. He reiterated that the Petition itself is not maintainable and liable to be dismissed on these preliminary grounds. He further argued that the Promotion Policy is the NBP's domain through its relevant personnel and Board of Directors, and the test conducted for promotions was carried out independently through an approved testing agency being the Institute of Bankers Pakistan ("**IBP**"), to ensure that the most candidates are selected for promotion, which cannot be held to be a negative. He

³ See Para 18 of the Memo of Petition in CP No. D-440/2024

⁴ See Para 19 of the Memo of Petition in CP No. D-440/2024

⁵ Since the 2021 NBP Rules are non-statutory

stated that the Petitioners have failed to provide any criterion for challenging the Impugned Policy.

8. Counsel concluded by submitting that the Petitioner in C.P No. D-440 of 2024 were not aggrieved persons under law, nor was any authorization letter been placed on record showing that Mr. Ashfaq Ali was authorized on behalf of the said Petitioners, i.e. All Pakistan NBP Officers Association, to file the instant Petition, and therefore the said Petition itself is void as it has been filed incompetently. He relied upon case law in support of his contentions.⁶

9. Counsel for the Petitioner in C.P No. D-440/2024 exerted his right of reply and retorted that there was no requirement for Mr. Ashfaq Ali to file any resolution authorizing him to file the Petition, as he was President of the said All Pakistan NBP Officers Association and was competent to file the Petition.

10. He next contended that 1973 NBP Rules (not the 2021 Rules) were applicable to the matter, which are statutory in nature, and therefore the Petition is maintainable. He averred that the test conducted by the IBP was non-transparent, nor can anyone challenge the outcome, rendering it to be unfair in nature. He lastly concluded that the Impugned Policy only requires testing for Tier-2 category, and not for Tiers 1, 3 & 4 which made it discriminatory. He continued that the Impugned Policy was designed with *mala fide* to promote contractual employees over regular employees, which was a testament to further discrimination faced by the Petitioners, who were regular employees.

11. In a further response, Counsel for the Respondent stated that the promotion was entirely merit based and that a proper formula was in place for selecting promotions, which was available in the NBP Promotion Policy.⁷

⁶ 2024 SCMR 1341, PLD 2006 SC 472, 2016 SCMR 1021, 2006 SCMR 1427 and 2023 PLC (CS) 566

⁷ Which was available at page 157 of the File, and specific references were made to pages 163, 167, 179, 183 & 189 of the File, in CP No. D- 440 of 2024

12. Learned DAG has supported the contentions of the Respondent / NBP and submits that the instant Petitions are not maintainable, and that the Impugned Policy is not discriminatory.
13. We have heard the learned Counsels and with their assistance have gone through the material available.
14. In essence, it is claim of the Petitioners in both Petitions that the Impugned Policy is discriminatory in that the Tier-2 promotion requires an Aptitude Test, whereas the other Tiers - 1, 3 & 4 do not require any such test, and that the Aptitude Test is contrary to the Applicable NBP Staff Service Rules. It is relevant to reproduce a portion of the Impugned Policy, which reads as under:-

2.0 Promotion Process

The Promotion process has been devised for each Grade and divided into four grade-based brackets for clarity. These brackets are as follows:

<i>Tier-1</i>	<i>Non-Clerical/ Clerical</i>	<i>Non-Clerical to Clerical</i> <i>Clerical to OG-III</i>
<i>Tier-2</i>	<i>Officer Cadre</i>	<i>OG-III to OG-II</i> <i>OG-II to OG-I</i> <i>OG-I to AVP</i>
<i>Tier-3</i>	<i>Executive Cadre</i>	<i>AVP to VP</i>
<i>Tier-4</i>	<i>Senior Executive Cadre</i>	<i>VP to SVP</i> <i>SVP to EVP</i> <i>EVP to SEVP</i>

2.1 Promotion Process - 1

- Non-Clerical to Clerical*
- Clerical to OG-III*

Promotion process for the above grades shall be as follows:

HRMG will prepare a list of employees meeting the approved minimum eligibility criteria. All eligible candidates meeting the approved criteria may be promoted to next higher grade.

2.2 Promotion Process - 2

Promotion process for the above grades shall be as follows:

HRMG will prepare a list of employees meeting the approved minimum eligibility criteria. All eligible candidates up to OG I level will be required to take a mandatory Aptitude Test in line with market best practices.

In order to ensure meritocracy, objectivity and transparency, aptitude test will be created, customized for each grade and conducted for NBP through an approved testing agency.

Result of this Aptitude Test/ Assessment centres shall bear weight in the Evaluation Formula for Promotion. HRMG will score the eligible employees based on the approved formula for promotion evaluation”.

15. The Petitioners are concerned only with Tier - 2 of the Impugned Policy, a perusal of which shows that all persons who fall within the Tier -2 category would be required to give an Aptitude Test. Therefore, there does appear any discrimination within the said Tier – 2 itself, whereas for any such Policy to be declared discriminatory, it must show that there is discrimination within the same group of persons.

16. This principle has been long enshrined by the Supreme Court in cases such as those of *I.A. Sharwani v Govt. of Pakistan & Ors.*⁸ & *Muhd. Shabbir Ahmed Nasir v Secretary Finance Division & Ors.*⁹ respectively, which have held that if there was a different / separate grouping of persons, then discrimination cannot be claimed. In the instant matter, the Policy for testing is applicable to all persons falling with Tier – 2, and it remains irrelevant whether or not such testing was mandatory for Tiers - 1, 3 & 4, as long as all persons within Tier – 2 are to be treated equally under the Impugned Policy (which they are since they all would require Testing for promotion), and therefore we do not find any grounds showing discrimination in the Impugned Policy.

17. The Impugned Promotion Policy has simply stated that persons falling within Tier - 2 (of the said Policy) are to take an Aptitude Test when the Respondent is assessing promotion. The Petitioners have not provided any cogent reasoning for challenging the same, but it appears they simply do not wish to take the test. The justification and logic for

⁸ 1991 SCMR 1041

⁹ 1997 SCMR 1026

holding such test, as provided by the Respondent / NBP appears reasonable, i.e. to ensure a more efficient system for promotion, which (theoretically) will result in a more efficient functioning of the National Bank of Pakistan / Respondent. Where such justification has not been adequately controverted (as in the instant matter), there does not appear any logic in disbelieving the same.

18. Moreover, NBP / Respondent No. 2 has further stated in their response that the Test is conducted through an independent agency to ensure that only suitable candidates are promoted, which further eliminates the risk of any bias, negating such contention made by the Petitioners.

19. The issue of promotion within the Respondent / NBP being an internal policy matter has also already been previously settled by a Division Bench of this Court in the case of *Younus Parwani & ors.*,¹⁰ whereby the Court dismissed a Petition filed by the *Officers' Welfare Association of NBP* (against the NBP) whilst holding that the issue of policy relating to promotions fell within the domain of the Respondent / NBP itself, who are the proper authority for prescribing eligibility criterion towards promotions of their staff. Counsels for the Petitioners have neither distinguished the said judgement nor have they been able to provide any legal ground illustrating that the Respondent / NBP is not competent to pass a criterion for setting their policies for promotion; whereas the Respondent / NBP have relied upon Byelaw 51 of the NBP Bye-Laws 2015 which empowers the NBP Board to make such policies.¹¹

20. The contentions raised by the Counsels as to which of the NBP Staff Rules apply, i.e. 1973 Rules or the 2021 Rules are generally relevant when instituting a constitutional petition, as the 2021 Rules being non-statutory in nature cannot be challenged under a writ, whereas the 1973 Rule being statutory in nature can be so challenged.¹² However, it is pertinent to note that it is not the Rules that are under challenge here,

¹⁰ 2025 PLC (CS) 976

¹¹ At Pg. 11 of the Respondent / NBP Legal Objections / Comments

¹² 2025 PLC (CS) 815

but the Impugned Promotion Policy, and therefore we shall restrict our deliberations only to the extent of the legality of the Impugned Policy.

21. We further note that the contentions of the Respondents in C.P No. D - 440 of 2024 challenging validity of the said Petition, in that no authorization has been filed by Mr. Ashfaq Ali showing his legal ability to institute the instant Petition on behalf of the *All Pakistan NBP Officers Association*, carries weight, as we remain unable to find any such authorization available on our record.

22. In light of the foregoing, we find the Petitioners have failed to show any discrimination in the Impugned Policy nor have they provided any cogent legal reasoning requiring inference of this Court under its Constitutional Jurisdiction.

23. The instant Petitions are dismissed accordingly.

Office to place a signed copy of this order in captioned connected matter.

JUDGE

JUDGE

Faisal Mumtaz/PS