

IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No.D-1931 of 2018

(Salman Saeed versus The National Bank of Pakistan)

Before:

Justice Muhammad Karim Khan Agha

Justice Adnan-ul-Karim Memon

Date of hearing & Order: 08.10.2025

Mr. Ali Asadullah Bullo, advocate for the petitioner.

M/s Afnan Saeeduzzaman Siddiqui, Malik Khushal Khan, and Iftikhar Hussain, advocates for NBP.

Ms. Wajiha Mehdi, Assistant Attorney General.

ORDER

Muhammad Karim Khan Agha, J. Through this petition, the petitioner seeks the following relief(s):-

- a) *Declare and direct that the Petitioner is entitled to the promotion from Officer Grade-I to Assistant Vice President w.e.f. 01-01-2012, as his Annual Performance Appraisals were "B", "B", and "A" for the last three years, i.e., 2009, 2010, and 2011, and the petitioner's qualification by then was M.A. (Economics).*
- b) *Direct the Respondent to revise Annual Performance Appraisals of the Petitioner for the years 2013 and 2014, as these were announced when the Petitioner left the country, whereas he had worked for the whole year 2013 and was relieved on 27-10-2014 while working as In-charge Special Assets Management Department, the then Regional Office West, Karachi.*
- c) *Declare the Petitioner after revision of Annual Performance Appraisals of the Petitioner for the years 2013 and 2014, from Assistant Vice President to Vice President w.e.f 01-01-2015, as the Petitioner got Annual Performance Appraisal "A" for the year 2012 and despite of fulfilling all the criteria set by the Management (Appraisals already suffered in the year 2002 and 02 years in 2007).*
- d) *Direct the Respondents to revise Petitioner's Annual Performance Appraisal for the year 2015, as the Petitioner was availing his own unearned frozen leave, and in the Appraisals Policy, it is not specifically mentioned about purposeful leave granted officially by the Authorities.*
- e) *Direct the Respondents to equalize the basic pay difference of the Petitioner as per Honorable Supreme Court directives/decision dated: 15-10-2016 in the Appeal filed by the Permanent Employees of the National Bank of Pakistan regarding appointment of Management Trainee Officers on excessive basic pay with the same qualification as permanent employees have and order for payment of the difference to the petitioner.*
- f) *Declare that the Petitioner's absence from the country was neither illegal nor un-authorized as the Petitioner was away from the country after he was granted ex-Pakistan Leave for study purposes by the authority. As such the Petitioner's Annual Performance Appraisals for the year 2013 and 2014 need revision.*

2. The petitioner was appointed as an Assistant in the National Bank of Pakistan (NBP) in 1990 with the approval of the competent authority after fulfilling all formalities. He was promoted to Senior Assistant with effect from

01-01-1995 vide office order dated 07-05-1995 and later to Officer Grade-III with effect from 01-01-1999 vide office order dated 13-01-2000. His promotion to Officer Grade-II, due in 2002, was delayed and granted from 01-01-2004 vide office order dated 01-01-2005, despite fulfilling all criteria. In 2008, NBP announced promotions from Officer Grade-II to Grade-I for those promoted on or before 01-12-2002. The petitioner, though qualified with an M.A. (Economics), was excluded due to the earlier delay, causing loss of seniority. A subsequent circular No. 03/2009 dated 18-02-2009 again affected his seniority, as officers promoted after 2004 were promoted to Grade-I with effect from 01-01-2009 alongside him, disregarding qualification and seniority. Despite this discrimination, the petitioner continued improving his qualifications. He obtained admission to the Eastern Mediterranean University, Cyprus, for an M.S. in Banking and Finance and was granted 730 days Ex-Pakistan study leave, 579 days with pay, 151 days without pay, with effect from 27-10-2014 vide office order dated 24-10-2014. At the time, he was in charge of, Special Assets Management Department, Regional Office, West Karachi. Upon returning, he discovered that his performance appraisals for 2013 and 2014 had been unfairly graded “C,” despite his full service during 2013 and part of 2014. The petitioner claims entitlement to promotion and related service benefits under law and service rules, and asserts that the denial thereof violates principles of natural justice.

3. Learned counsel for the petitioner contended that the petitioner had consistently received outstanding performance ratings throughout his 22 years of service up to 2012. His academic credentials, from Matric to M.S., were duly evaluated by the World Education Services (WES), Canada, and declared equivalent to a Canadian Master’s degree. Based on his performance appraisals graded “B,” “B,” “A” (2009–2011) and “B,” “A,” “A” (2010–2012)—he was eligible for promotion from Officer Grade-I to Assistant Vice President w.e.f. 01-01-2013. He further argued that the petitioner was granted Ex-Pakistan leave for higher studies, completed his M.S. with excellent grades, and resumed duty after utilizing only 579 out of 730 approved leave days. The purpose of his foreign study was solely to enhance his qualifications to better serve the Bank. Hence, denying him promotion due to existing policy was unjust and contrary to fairness. Counsel submitted that the prevailing policy discourages officers from pursuing higher education and should be reformed to promote academic advancement for institutional and national development. The denial of promotion despite the petitioner’s exemplary record and qualifications is arbitrary, discriminatory, and liable to be set aside. He lastly prayed for the instant petition to be allowed.

4. Learned counsel for the respondent–NBP argued that the petitioner concealed the fact that he was not eligible for promotion under the 2002 Policy from Officer Grade-III to Grade-II, as he failed to meet the prescribed criteria. He

was later promoted in 2004 under the more lenient Promotion Policy of 2004. According to the Supreme Court's dicta under the 1973 Staff Service Rules, promotions are based on merit, not just seniority. The petitioner was subsequently promoted under President's Office Circular No. 3/2009, issued under the President's discretionary powers to recognize officers' service and motivate performance. Such general promotions are a common industry practice and are not a matter of right. The petitioner's M.A. (Economics) and foreign degree did not automatically qualify him for higher promotion, as promotions depend on performance, not academic qualifications alone. It was also argued that the petitioner's performance appraisals for 2013–2015 received ratings of "C" and "E," with a total score of 13 in 2015, making him ineligible for promotion to AVP. His absence during study leave abroad also impacted his evaluation, and his extra leave without approval was not condoned by management. Nonetheless, he was later permitted to appear for a promotion interview as a matter of grace. The respondent's counsel highlighted that the petitioner's claim of bias was unfounded, since the promotion policies are periodically updated in line with industry standards and appraisal guidelines. The validity of his foreign degree was not supported by official recognition. In support of his contentions, he relied upon the cases of Waqas Asam and others v. Lahore Electric Supply Company Ltd and others (2023 SCMR 549), Abid Hussain Shirazi v. Secretary Industries and Production Government of Pakistan Islamabad (2005 SCMR 1742), Irfan Ahmed Chattha and another v. Federation of Paksitan and other (2023 CLD 1064), Muhammad Alamgir v. NBP (2017 PLC CS 896), Muhammad Alamgir v. NBP and others (2014PLC CS 963), Nazakat Hussain and others v. UBL and others (2018 PLC 123), Waqas Aslam and others v LESCO and others 2023 SCMR 549 and Rehana Parveen and others v. Federation of Pakistan and others (2018 PLC CS Note 123). Therefore, counsel requested the dismissal of the petition.

5. Learned Assistant Attorney General adopted the argument as advanced by learned counsel for respondent-NBP.

6. After hearing the parties and examining the record, we hold that NBP, being a statutory corporation, is amenable to this Court's constitutional jurisdiction under Article 199 of the Constitution. As affirmed in the case of Muhammad Naeem v. Federation of Pakistan and others 2023 SCMR 301, the Supreme Court observed that while NBP's employees governed by statutory rules may seek redress under writ jurisdiction, this does not merge NBP with the Federal Government nor render its employees government servants. Therefore, this objection is overruled.

7. The petitioner claims wrongful denial of promotion despite an excellent service record, strong performance ratings, and higher qualifications, including a

foreign master's degree. He submitted that his promotions were unfairly delayed or denied in favor of less qualified officers, amounting to discrimination and violation of service rules. Conversely, the respondent, NBP contends that the petitioner was ineligible under the 2002 Policy and was later promoted under the relaxed 2004 Policy. Promotions, under the 1973 Staff Service Rules, are merit-based, not automatic by seniority or qualification. The Bank further asserts that his below-standard performance ("C" and "E" ratings), unauthorized leave extension, and lack of notable improvement after study leave justified the denial of promotion.

8. It is well settled that the right to be considered for promotion is a legal right of every eligible civil servant, which proposition is supported by the Supreme Court, **2021 SCMR 9**. The Supreme Court, in the recent judgment, has held that the legal concept of legitimate expectation is a key principle in administrative law. It suggests that a person may have a reasonable expectation that a public authority will treat them in a particular way. This expectation is not a formal legal right but can arise from a promise, an assurance, a consistent practice, or a policy established by the authority. Essentially, this doctrine acts as a check on administrative authorities, obligating them to act fairly and transparently. In various cases, including *Uzma Manzoor and others vs Vice Chancellor Khushal Khan Khattak University* (**2022 SCMR 694**), the Supreme Court has affirmed that a legitimate expectation can stem from an express promise or a regular, established practice. The expectation must be justifiable and can be inferred if it is based on a legal, customary, or established procedure. However, a legitimate expectation does not automatically become a legal right; instead, it's a principle used to ensure fairness in administrative decisions.

9. The case of *Tariq Aziz-ud-Din and others* (**2011 PLC (C.S.) 1130**), the Supreme Court directed all authorities, judicial, quasi-judicial, and administrative, must exercise their powers and discretion reasonably and fairly. This is essential for upholding the rule of law, preventing injustice, and achieving good governance. The Supreme Court emphasized that good governance requires a strong and honest bureaucracy that implements the law impartially. Therefore, promotions in civil/public services must be based on merit, following the law and Constitution, rather than on favoritism or nepotism. This ensures the integrity and purity of the administration, which is the backbone of the government. However, at the same time, promotion is not to be based solely on seniority or academic qualification; it must be earned through merit, performance, and organizational needs.

10. The petitioner's non-eligibility under the 2002 Policy and later promotion under the 2004 Policy indicate that the Bank acted within policy limits. However, the petitioner's contention of policy inconsistency and discriminatory application

requires scrutiny by the respondent bank to ensure fairness and transparency. However, in the present case, though the petitioner's Ex-Pakistan study leave was officially sanctioned, it indicated that management initially supported his academic advancement. However, he overstayed and failed to maintain consistent performance thereafter, which could legitimately affect his promotion prospects. Still, any adverse appraisal "C" and "E" is required to be supported by objective assessment and not punitive reasoning for availing sanctioned leave. While higher education is commendable, it cannot be the sole basis for promotion. The NBP must evaluate whether such education translates into tangible performance improvements. Conversely, the policy should not discourage officers from pursuing further studies, as that could harm institutional growth and staff morale.

11. After examining the record, it appears that the petitioner's grievance has partial merit. The delay in his earlier promotions and the subsequent denial of advancement despite strong historical performance *prima facie* suggest that his case may not have been objectively assessed in light of his overall service record and academic efforts. However, at the same time, the Bank also acted within its promotion policies and discretionary authority, and the petitioner's absence during study leave and low appraisal scores provide a reasonable basis for Bank management's decision not to promote him immediately. Therefore, in such circumstances, the equitable course is that the competent authority of the Bank needs to review the petitioner's promotion case afresh, considering his full career record, qualifications, and the context of his study leave, rather than relying solely on the "C" or "E" ratings during the study period. If found that the adverse ratings were not objectively justified, the petitioner needs to be granted notional promotion with prospective effect without arrears to remove future prejudice to his seniority. However, if the Bank reaches a negative conclusion, it shall provide reasonable justification, with speaking order after hearing him within three months. However, at the same time, the promotion policy may be revised, if feasible for the Bank, to encourage officers who pursue higher studies with official approval, ensuring that such academic advancement is treated as a positive career development, not a liability.

12. This petition stands disposed of along with pending application(s) in the above terms. Let this order be communicated to the president of NBP for compliance.

HEAD OF CONST. BENCHES

JUDGE