# JUDGMENT SHEET
# IN THE ISLAMABAD HIGH COURT, ISLAMABAD
# JUDICIAL DEPARTMENT

**W.P.No.1307/2020**
**Suriya Jamal**
**Versus**
**Federation of Pakistan through Secretary, Ministry of Information & Broadcasting and others**

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| **Date of Hearing:** | 31.03.2021 |
| **Petitioner by:** | Raja Muhammad Khan, Advocate |
| **Respondents by:** | Mr. Muhammad Nadeem Khan Khakwani, learned Assistant Attorney-General<br>Mr. Muhammad Salim Khattak, Deputy Secretary, Establishment Division |

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**MIANGUL HASSAN AURANGZEB, J:-** Through the instant writ petition, the petitioner, Suriya Jamal, who is presently serving as a BS-20 officer in the Information Group, seeks a direction to the respondents to promote her to BS-21 with effect from November, 2018.

2. The record shows that on 01.11.1986, the petitioner was appointed in BS-17 in the Information Group. On 12.03.2000, she was promoted as Deputy Director (BS-18); on 27.03.2010, she was promoted as Director (BS-19); and on 08.03.2013, she was promoted to BS-20. She is presently serving as Director General, Cyber Wing, Ministry of Information and Broadcasting.

3. The Central Selection Board **("C.S.B.")**, in its meetings held between 26.11.2018 and 13.12.2018, considered the petitioner for promotion to BS-21 but her promotion was deferred on the ground that her Performance Evaluation Report **("P.E.R.")** for the year 2017 were incomplete. She was again considered for promotion to BS-21 by the C.S.B. in its meetings held between 26.05.2019 and 29.05.2019 but was once again deferred with the observation to watch her performance for a period of one year in line with paragraph 1(b)(iii) of the Revised Promotion Policy, 2007. Vide letter dated 08.08.2019 issued by the Ministry of Information and Broadcasting, the petitioner was informed as to the reasons for her deferment. The petitioner assailed the deferment of her promotion to BS-21 in writ petition No.2529/2019 which was disposed of by

**this Court, vide order dated 10.12.2019, the operative part whereof is reproduced herein below:-**

> ***"6. The petitioner's PER for the period between 01.01.2017 to 04.05.2017 shows that her overall grading was stated to be "good". The Reporting Officer had observed that she "can be considered" for promotion. The remarks of the Countersigning Officer in the said PER are blank. As regards the petitioner's PER for the period between 05.05.2017 and 27.10.2017, her overall grading was reported to be "good" and was also recommended to be promoted on her turn, subject to seniority. It was also reported that she has the capacity to meet the official assignments within the given deadline. The Countersigning Officer agreed with the comments and the grading given to the petitioner by the Reporting Officer.***
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> ***7. The petitioner's PER for the period between 03.02.2018 to 22.11.2018 shows that the Reporting Officer had given an "outstanding" grading to the petitioner and had also found her fit for promotion. She had also written favourable and complimentary remarks in the said PER. The Countersigning Officer gave overall grading "very good" to the petitioner and recommended her for promotion "on her turn".***
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> ***8. The Countersigning Officer's reply to the question as how well he knew the officer under consideration for promotion, was "very well". To the question as to whether the Countersigning Officer disagreed with the assessment of the Reporting Officer, his response was that "the R.O. has not given any specific reasons for giving an "outstanding" report". After giving these remarks, the Countersigning Officer gave an overall grading "very good" to the petitioner.***
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> ***9. After having gone through the said PERs, I am of the view that the reasons given for the petitioner's deferment in the said letter dated 08.08.2019 are contrary to the record. As regards the remarks of the Countersigning Officer that the Reporting Officer had not given any reasons for giving an "outstanding" report in the petitioner's PERs, these could not have been made a ground for her deferment. I am also of the view that the C.S.B. failed to take into account that even though the Reporting Officer had not given reasons for giving an "outstanding" report in the petitioner's favour, but the Countersigning Officer had given a "very good" report in her PER. The petitioner's PERs for the year 2017 were most definitely not "average". Therefore, the reasons given in the said letter dated 08.08.2019 are set aside being contrary to the record.***
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> ***10. It is expected that the petitioner would be considered for promotion to BS-21 in the very next meeting of the C.S.B. It is well settled that where an officer's promotion is deferred and that officer is subsequently promoted, his/her seniority would be considered with effect from the date he/she was first deferred."***

**4. The C.S.B., in its meetings held between 27.01.2020 and 29.01.2020, considered the petitioner for promotion to BS-21 but this time round she was recommended to be superseded. Since the petitioner had not been given reasons as to why she had not been**

**recommended to be promoted, she filed the instant petition. During the pendency of the instant petition, the Ministry of Information and Broadcasting, vide letter dated 03.06.2020, informed the petitioner about the reasons for her supersession. These reasons also find mention in the written comments filed on behalf of the Ministry of Information and Broadcasting. The petitioner's supersession was based on the following reasons given by the C.S.B.:-**

> ***"The Board in compliance with the above directions discussed the service profile, TERs/PERs of the officer and noted that the officer was not professionally sound and had limited leadership qualities which was evident from her lack of understanding/ability to manage continuity with change at the operational level; the officer possessed skills that could lead to practical solutions in scenarios of lesser to moderate complexity only; the officer displayed limited understanding and faced difficulty in handling routine leadership assignments. The training reports of the officer depicted that her oral communication skills could only slightly improve whereas her written work remained weak and the officer was not considered fit for appointment on relatively challenging assignments within her own service group."***

**5. The aforementioned remarks made by the C.S.B. against the petitioner are adverse and impinge upon her future prospects in service. Therefore, this Court, vide orders dated 13.08.2020, 24.08.2020 and 22.12.2020, called upon the respondents to bring on record the material which caused the C.S.B. to give the said adverse remarks against the petitioner while recommending her supersession. After taking several opportunities, the Deputy Secretary and Section Officer from the Establishment Division brought to the Court the petitioner's entire dossier which according to them was considered by the C.S.B. after which the petitioner had been recommended to be superseded. Vide order dated 17.03.2021, this Court required the said officers from the Establishment Division as well as the learned Deputy Attorney-General *"to identify the reports / observations in her dossier which had caused the Members of the Central Selection Board to give adverse findings against the petitioner which led to her supersession."* Today, the Deputy Secretary, Establishment Division drew the attention of the Court to the petitioner's performance evaluation report dated 04.01.2021 wherein the Reporting Officer had given the following remarks about her:-**

*"A hardworking officer but needs improvement in administrative and managerial skills. There is also need to strengthen interpersonal communication skills."*

**6. Since the said remarks post-date the decision taken by the C.S.B. to recommend the petitioner's supersession in the meetings in January 2020, they obviously could not have formed the basis for the C.S.B.'s said decision. However, it may be mentioned that despite the said remarks in her P.E.R.s dated 04.01.2021, the Reporting Officer has found the petitioner fit for promotion.**

**7. The only other material referred to by the Deputy Secretary, Establishment Division was in the petitioner's P.E.R.s pertaining to the period between 01.01.2017 to 04.05.2017. These are remarks made by the petitioner's Reporting Officer are in the following terms:-**

*"The officer can work better under normal circumstances."*

**8. After the said remarks had been given, the petitioner's promotion was recommended to be deferred (not superseded) by the C.S.B. on two occasions i.e. in December 2018 and May 2019. Furthermore, the Reporting Officer had remarked that the petitioner *"can be considered"* for promotion.**

**9. I have had the opportunity of going through the petitioner's dossier produced before this Court and have come across the petitioner's course report dated 24.04.2015 issued by the National Management College. The petitioner had attended the 101st National Management Course ("N.M.C."). According to the said report, she has a *"good"* promotion potential.**

**10. The petitioner's performance was evaluated by the C.S.B. in its meetings held in January 2020 in accordance with the Civil Servants Promotion (BPS-18 to BPS-21) Rules, 2019 ("the 2019 Rules"). Under Rule 18 of the said Rules, a civil servant under consideration for promotion by the C.S.B. can be given up to 40% marks for quantification of P.E.R.s; 30% marks for the Training Evaluation Reports ("T.E.R.s"); and 30% marks based on evaluation by the C.S.B. The petitioner was given 32.07% marks for her P.E.R.s and 18.54% marks for her T.E.R.s. The C.S.B.'s objective assessment of the petitioner resulted in 15 marks being given to**

**her out of total 30 marks. The petitioner was not able to achieve the required threshold of 75% marks for promotion to BS-21 as prescribed in Rule 16 of the 2019 Rules. The petitioner fell short by 9.39% marks to achieve the required threshold for promotion to BS-21.**

**11. Rule 8(a) of the 2019 Rules provides that a civil servant shall be recommended for supersession if he / she does not meet the required threshold for promotion to a particular post or grade in any particular service, group or post. Under Rule 8(c) of the 2019 Rules, a civil servant is to be recommended for supersession if there is any other reason which shall be recorded in writing by the C.S.B. It may be mentioned that this Court has upheld the legality and the constitutionality of the said Rules vide judgment dated 29.09.2020 passed in writ petition No.08/2020 titled "Sikandar Hayat Maken Vs. Federation of Pakistan etc."**

**12. Rule 20 of the 2019 Rules provides that a total of 30 marks shall be allocated to the last two T.E.R.s (18 marks @ 60% for the training in the present scale and 12 marks @ 40% in the previous scale). In order to be considered for promotion from BS-20 to BS-21, Rule 19 of the said Rules makes it mandatory for a civil servant to undergo the N.M.C. As mentioned above, the petitioner did undergo the N.M.C. in 2015. She had undergone the Senior Management Course ("S.M.C.") (which is mandatorily required for a civil servant to undergo in order to be considered for promotion from BS-19 to BS-20). The petitioner's course report for the 9th S.M.C. also formed part of the dossier produced before this Court. The remarks about the petitioner in both the said course reports are not complimentary. On the basis of the said reports, the petitioner secured 18.54% out 30% marks for her T.E.R.s. While carrying out an evaluation and an objective assessment of a civil servant under consideration for promotion, the C.S.B. is also required to look into the T.E.R.s of the civil servant. This is clearly mentioned in the objective assessment form set out in Schedule-IV of the 2019 Rules.**

**13. It would be most uncharitable to the petitioner if I would reproduce in this judgment the uncomplimentary remarks about her in the course reports of the 9th S.M.C. and the 101st N.M.C. Suffice it to say that the contents of the said reports are such as would cause me to hold that the award of 18.54% out of 30% marks for T.E.R.s and the decision of the C.S.B. to give the petitioner 15 out of 30 marks for her objective assessment and to recommend her supersession does not suffer from irrationality or arbitrariness.**

**14. In view of the above, I do not find any merit in this petition which is accordingly dismissed with no order as to costs. It may, however, be observed that nothing mentioned herein shall operate to the petitioner's detriment while being considered for promotion to BS-21 in the future. The petitioner's original dossier may be returned to the representative of the Establishment Division. Copies of the petitioner's course reports may be kept on the file.**

**(MIANGUL HASSAN AURANGZEB)**
**JUDGE**

**ANNOUNCED IN AN OPEN COURT ON 05/04/2021**

**(JUDGE)**

***Qamar Khan****