ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No.1240 of 2021
Yasser Qureshi
Versus
Ministry of Federal Education and Professional Training and others

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	07.07.2022	**Mr. Muhammad Shoaib Shaheen, Advocate for the petitioner.** **Ch. Muhammad Tahir Mehmood, Assistant Attorney General.** **Dr. Agha Ghulam Haider, Deputy Director (Legal), Ministry of Federal Education and Professional Training.**

Through the instant writ petition, the petitioner, Yasser Qureshi, who is serving as Assistant Director (BPS-17) in the Pakistan Manpower Institute (“PMI”), which is under the administrative control of Ministry of Federal Education and Professional Training (“Ministry of FE&PT”), impugns the decision of the Departmental Promotion Committee (“DPC”) to defer his promotion to the post of Deputy Director (BPS-18).

2. The record shows that on 31.08.2020, the DPC considered the petitioner and other officers for promotion to the post of Deputy Director (BPS-18). Respondent No.3, who is an officer junior to the petitioner, was promoted, whereas the petitioner was deferred. The reasons for deferring the petitioner were stated to be as follows:-

> ***“Recently, it has been pointed out by his parent department, i.e., PMI that there are two PERs of 2014 out of which one carries adverse remarks and the department has initiated a fact finding inquiry to probe the matter. Therefore, DPC recommended his deferment till conclusion of the said inquiry.”***

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3. A fact finding inquiry was conducted by the Joint Secretary, Ministry of F.E.&P.T on the issue of submission of dual ACRs for the year 2014 by the petitioner. The conclusion of the said fact finding inquiry was as follows:-

> ***"i. It transpires from the fact-finding inquiry that the ACR, submitted by Mr. Yasser Qureshi, Assistant Director (BS-17) PMI initiated by Mr. Javaid Iqbal (Director) and counter signed by Mr. Aftab Anwar, DG, PMI was in order as per government instruction and should count for the purpose of all service matters.***
>
> ***ii. The adverse remarks of "Not yet fit for promotion" given by Mr. Aftab Anwar, DG, PMI should have been conveyed to the officer which were not. However, the same should be conveyed to him now as per government instructions.***
>
> ***iii. The second ACR for the year 2014 counter signed by Dr. Fayyaz Ahmad Ranjha on 09-12-2016, submitted by the officer in ignorance, on the advice of his reporting officer is not in order and not required in presence of an already available ACR for the same year, duly initiated/counter signed by relevant officer who had seen work of the officer for major period of the year 2014."***

4. It appears that the adverse remarks in the petitioner's ACR for the year 2014, i.e. "not yet fit for promotion" had not been conveyed to the petitioner. After the observation of the officer conducting the fact finding inquiry that the said adverse remarks should be conveyed to the petitioner, the PMI, vide letter dated 28.09.2020 conveyed the said adverse remarks to the petitioner. Thereafter, the petitioner applied for expunction of the said adverse remarks. The competent authority, i.e., the Additional Secretary, Ministry of FE&PT expunged the said adverse remarks in the petitioner's PERs for the year 2014. Vide letter dated 04.11.2020, the Ministry of FE&PT informed the Director General,

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PMI as well as the petitioner as to the said expunction.

5. Presently, there is no inquiry pending against the petitioner. Furthermore, after the expunction of the adverse remarks from the petitioner's PERs for the year 2014, none of the petitioner's PERs contain any adverse remarks against him. In other words, the reasons for deferring the petitioner's promotion are no longer in existence.

6. At no material stage has any inquiry under the Civil Servants (Efficiency and Discipline) Rules, 1973 been conducted against the petitioner. A fact finding inquiry can by no means be equated with a regular inquiry under the E&D Rules, and therefore, cannot be considered as a valid ground for deferring the petitioner's consideration for promotion.

7. Dr. Agha Ghulam Haider, Deputy Director (Legal), Ministry of FE&PT tendered appearance on behalf of respondents No.1 and 2 and submitted that since the adverse remarks against the petitioner in his PERs for the year 2014 have been expunged, presently there is no legal impediment in considering him for promotion. It was also not disputed that there exists a vacant post of Deputy Director (BPS-18) against which promotion is to be made on the principle of seniority-cum-fitness. This is because the post of a Deputy Director (BPS-18) is a non-selection post.

8. The petitioner has not been considered for promotion by the DPC since August, 2020. Since there is no impediment in considering the petitioner for promotion to the post of Deputy Director (BPS-18), the instant writ petition is

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allowed and respondents No.1 and 2 are directed to constitute a DPC to consider the petitioner for promotion within a period of two months from the date of issuance of this judgment. Office is directed to transmit a copy of this judgment to the worthy Secretary, Ministry of FE&PT for compliance. There shall be no order as to costs.

(MIANGUL HASSAN AURANGZEB)
JUDGE

Ahtesham*

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