JUDGEMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No. 310 of 2024

Muhammad Waqas and others

VERSUS

Federation of Pakistan, through Special Secretary for Postal Services, Government of Pakistan, Islamabad and others

PETITIONERS BY:	M/s Muhammad Umair Baloch and Raina Zubair, Advocates
RESPONDENTS BY:	Mr. Fahad Khan Tareen, Assistant Advocate General. Mr. Saleem Aslam, Assistant Superintendent (Court), DG Post Office, Islamabad. Mr. Shoaib Raza, S.O., Establishment Division. Mr. Mansoor Ahmed, Superintendent Establishment Division.
DATE OF HEARING:	15.09.2026

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***AYYAZ SHAUKAT, J*:-** Through this petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (the **"Constitution"**), the petitioners, serving as Postal Accountants in the Pakistan Post Office Department, challenge letter No. CP.4-2/2020 dated 24.10.2023, whereby the departmental Part-I examination for promotion to the post of Junior Accountant (BS-16) was scheduled. They also seek a direction to the respondents to amend the method of appointment and conditions for promotion contained in Rules 2 and 3 of Appendix No. 26 to the Post Office Manual, Volume IV, so as to reserve a one-third quota for promotion of Postal Accountants as Junior Accountants without qualifying the Part-I examination, together with consequential benefits and protection of inter se seniority.

2. The petition avers that the petitioners qualified the departmental examination held in 2010 for promotion to the post of Postal Accountant. Their case is that, although that post was subsequently upgraded from BS-09 to

Islamabad High Court

BS-14 in 2013, the corresponding recruitment and promotion rules were not amended and their further advancement remained blocked. The petition describes their present placement as BS-15, whereas its account of the earlier upgradation refers to BS-14. No determination of their present pay scale is necessary for deciding the jurisdictional question.

3. The petitioners relying on the arrangements governing promotion from Junior Accountant to Senior Accountant/Assistant Accounts Officer and thereafter to Accounts Officer, assert that, since a proportion of Junior Accountants may be promoted without passing Part-II of the relevant examination, Postal Accountants should likewise be eligible for promotion to the post of Junior Accountant without passing Part-I. Ground (e) clarifies that the proposed one-third quota is sought through bifurcation of the existing departmental promotion quota. They also rely on the alleged availability of promotion without examination in other specialised cadres, similarity of duties, long service, legitimate expectation and the guarantees contained in Articles 4 and 25 of the Constitution. Their pleadings further invoke section 24-A of the General Clauses Act, 1897, and the principles of fair treatment and natural justice.

4. In its para-wise comments, respondent No.2 i.e., The Director General, Pakistan Post Office contests the premise that the rules remained un-amended. The para-wise comments refer to amendments notified in 2015 and 2019 and maintain that qualification of the departmental examination is a prescribed condition for promotion to Junior Accountant. The Department attributes that requirement to the nature of the post, including cash handling and technical accounts work. It also states that the examination notified through the impugned letter was conducted from 27.11.2023 to 06.12.2023.

5. The written statement filed on behalf of the Ministry of Communications describes the Department as an Attached Department and seeks deletion of the answering respondent as a proforma party. The Establishment Division's

Islamabad High Court

report records its concurrence in the 2013 upgradation, subject, inter alia, to enhancement of qualifications and amendment of the recruitment rules. It further states that a case for amendment of the Postal Accountant recruitment rules had not been forwarded by the administrative Ministry. That statement must be read alongside the Gazette notification of 2015 produced by the Department, which expressly records the Establishment Division's concurrence. It is unnecessary to resolve that apparent inconsistency in deciding which forum may adjudicate the petitioners' service grievance.

6. Learned counsel for the petitioners contends that they had already qualified the departmental examination for appointment as Postal Accountants in 2010 and had acquired substantial experience in accounts work. He submitted that the subsequent upgradation of their posts had not been accompanied by an effective corresponding arrangement for their further advancement. He submits that requiring the petitioners to pass the Part-I examination for promotion to the post of Junior Accountant, without providing an alternative avenue of promotion, does not adequately recognize their qualifications, experience and length of service.

7. Learned counsel further submits that the departmental scheme permitted a proportion of Junior Accountants to advance to Senior Accountant/Assistant Accounts Officer without qualifying Part-II and that comparable promotional concessions were available to other specialized cadres. He urges that denying a corresponding concession to Postal Accountants was discriminatory and inconsistent with Articles 4 and 25 of the Constitution, legitimate expectation and the obligation of fair treatment embodied in section 24-A of the General Clauses Act, 1897. He accordingly sought amendment of Rules 2 and 3 of Appendix No. 26 to provide a one-third quota for Postal Accountants, by bifurcating the existing departmental promotion quota, with exemption from Part-I, consequential benefits and protection of inter se seniority. He maintains that the petitioners had no

Islamabad High Court

adequate alternative remedy for redress of their grievance and prays that the petition be allowed.

8. Conversely, the learned Assistant Attorney General, appearing for the respondents, opposes the petition and supports the departmental position set out in the para-wise comments. He submits that the contention that the recruitment rules remained un-amended was contradicted by the notifications issued in 2015 and 2019. He maintains that the prescribed route to Junior Accountant required departmental officials to fulfil the stipulated service conditions and qualify Part-I, and that the petitioners could not claim exemption merely because they had passed the examination for the distinct post of Postal Accountant. He submits that the nature of the duties of Junior Accountant, including cash handling and technical accounts work, justified the prescribed examination. Referring to the Department's comments, he further points out that the examination scheduled through the impugned letter had already been held from 27.11.2023 to 06.12.2023. He disputes the petitioners' claimed entitlement to the proposed concession and prays for dismissal of the petition.

9. I have heard learned counsel for the petitioners and the learned Assistant Attorney General and have examined the pleadings and documents placed on record.

10. Before examining the merits, it is necessary to determine whether this Court may entertain the petition in view of the bar contained in Article 212 of the Constitution. This question turns upon the petitioners' service status and the substance of the relief claimed, particularly whether their grievance concerns eligibility for promotion or an assessment of individual fitness for a higher post.

11. It is necessary to examine the relevant notifications to identify the legal framework governing the controversy, without adjudicating the petitioners' substantive entitlement to the concession sought.

Islamabad High Court

12. A perusal of the S.R.O. 340(I)/2015 dated 25.03.2015, published in the Gazette of Pakistan, Extraordinary, Part II, on 23.04.2015, reveals that it amended the recruitment rules for Postal Accountants notified through S.R.O. 728(I)/94 dated 20.07.1994. It substituted BS-14 for BS-09 and replaced the qualification of Matriculation, appearing in the conditions for promotion to Postal Accountant, with I.Com/B.Com. The notification was issued under rule 3(2) of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973, and records the concurrence of the Establishment Division dated 12.02.2015.

13. S.R.O. 513(I)/2019 dated 30.04.2019, published in the Gazette of Pakistan, Extraordinary, Part II, on 09.05.2019, addressed, inter alia, recruitment to Junior Accountant (BS-16). The inserted entry in Rule 2 prescribes 66.67% appointment by promotion and 33.33% by initial appointment. The corresponding entry in Rule 3 identifies departmental officials in BS-09 to BS-15 as the eligible category and specifies five years' service in BS-09 and above and qualification of Part-I of the Pakistan Post Office Accounts Examination according to the departmental syllabus. The notification records the approval of the Establishment Division and concurrence of the Federal Public Service Commission and supersedes S.R.O. 728(I)/94 to the extent of Junior Accountant (BS-12).

14. The impugned letter schedules the examination and refers to the applicable departmental instructions and S.R.O. 513(I)/2019. Although it mentions 03.04.2019 as the date of that S.R.O., the Gazette copy bears 30.04.2019. The 66.67% quota is a departmental promotion quota shared by officials satisfying the prescribed requirements; it is not an exclusive quota for Postal Accountants. The controversy is consequently not about the complete absence of a prescribed departmental route to Junior Accountant. It concerns the petitioners' demand for a separate route exempting them from one of its stated conditions.

Islamabad High Court

15. The petitioners' status as regular civil servants is not in dispute. They assert rights arising from their employment in a federal department, and the notifications relied upon by the respondents were issued under the federal civil service framework. The representation dated 27.01.2020 annexed with the petition was itself made by Zafar Ali under section 22(2) of the Civil Servants Act, 1973. The historical reference to the Pakistan Postal Services Corporation in the older Manual extract does not, in the circumstances of this case, establish a different present service status for the petitioners.

16. Article 212(1)(a) of the Constitution provides for the creation, through legislation, of Administrative Courts or Tribunals exercising exclusive jurisdiction over matters relating to the terms and conditions of service of persons who are or have been in the service of Pakistan. Where such a forum has been established, clause (2) excludes other courts from entertaining proceedings concerning matters within its jurisdiction. The constitutional jurisdiction under Article 199 is subject to that allocation of jurisdiction.

17. Sections 3 and 4 of the Service Tribunals Act, 1973 provide the corresponding federal statutory framework. Section 4 permits an aggrieved civil servant to appeal against a departmental order concerning the terms and conditions of service, subject to its requirements concerning limitation and departmental recourse. Proviso (a) addresses the prior appeal, review or representation where provided and the prescribed ninety-day period. Proviso (b) excludes an order or decision determining fitness for appointment to, or holding, a particular post, or for promotion to a higher grade. That exclusion must be applied to the controversy actually raised; the use of the word "promotion" alone does not bring a dispute within it.

18. In ***Ahmad Ullah and others v. District Education Officer (Male), Buner and others*** **(2024 SCMR 2004)**, the Hon'ble Supreme Court distinguished eligibility from fitness. Eligibility concerns compliance with prescribed service requirements; fitness involves the designated authority's

Islamabad High Court

assessment of suitability. The former falls within service jurisdiction. The Court also emphasised that the High Court must address the Article 212 bar before adjudicating the merits.

19. Here, the impugned letter does not record a selection body's assessment of any petitioner's comparative suitability. Nor do the petitioners seek review of an individual assessment made after consideration for promotion. They dispute the applicability of a qualifying requirement and ask that the governing scheme be changed to permit promotion without satisfying it. The Gazette entry itself places qualification of Part-I among the conditions of eligibility. A challenge to the existence or application of that condition is distinct from an appeal against a departmental determination of individual fitness. Proviso (b) to section 4(1) does not, therefore, exclude this controversy from the statutory service jurisdiction.

20. The distinction between eligibility and fitness for promotion is explained in paragraph 5 of ***Secretary, Ministry of Finance, Finance Division, Government of Pakistan and others v. Muhammad Anwar*** **(2025 SCMR 153)**, wherein reference is made to ***Mian Abdul Malik v. Dr. Sabir Zameer Siddiqui and others*** ***(1991 SCMR 1129*****)**. It was held in **Muhammad Anwar** (supra) that while a court or Tribunal may examine questions concerning the prescribed eligibility requirements, it cannot substitute its own assessment for the competent authority's evaluation of an employee's fitness for promotion. The present controversy concerns the qualifying requirement for promotion, rather than an assessment of the petitioners' individual fitness. No opinion is expressed on whether any petitioner satisfies the remaining requirements or is entitled to promotion.

21. The reliance on Articles 4 and 25, fair treatment and legitimate expectation does not change the forum. In ***Muhammad Hassanullah (OMG/B-18), Acting Additional Secretary, Health Department, Balochistan v. Chief Secretary, Government of Balochistan, Quetta***

Islamabad High Court

and others **(2025 SCMR 134)**, the Hon'ble Supreme Court reaffirmed that the Article 212 bar applies to service matters within the Tribunal's jurisdiction notwithstanding allegations of mala fide, absence of jurisdiction or infringement of fundamental rights. It also reiterated, with reference to **I.A. Sharwani and others v. Government of Pakistan** **(1991 SCMR 1041)**, that a challenge involving a statutory service rule or notification does not, by that circumstance alone, escape the Tribunal's jurisdiction.

22. It would accordingly be incorrect to treat the allegation of colourable exercise of power in ground (u), or the claim of discrimination between departmental categories, as itself conferring jurisdiction on this Court. Those allegations concern the terms upon which the petitioners seek advancement in service. Their legal sufficiency must be examined by the competent forum, if properly brought before it. This conclusion identifies the forum without either accepting or rejecting the substantive allegations.

23. The prayer for amendment of the rules requires consideration in the same context. The petitioners are not bringing a detached challenge to a legislative provision unrelated to their service rights. They seek a specified promotion quota, exemption from Part-I, consequential financial benefits and preservation of seniority for themselves as departmental employees. Each component is connected with the terms governing their advancement to Junior Accountant. Framing the desired result as a direction to amend Rules 2 and 3 does not sever that connection. Nor does the possibility that a particular form of relief may exceed the Tribunal's lawful powers create a corresponding jurisdiction in this Court over the underlying service dispute. Whether the relief sought is legally available is a question separate from the identification of the forum competent to examine the grievance.

24. Likewise, the 2013 upgradation forms part of the factual history but is not the relief sought. The petitioners do not ask this Court to upgrade the post of Postal Accountant or to implement an existing order upgrading that

Islamabad High Court

post. They seek advancement to the separate post of Junior Accountant (BS-16) on altered eligibility terms. The Court is therefore not required to pronounce upon the jurisdictional treatment of upgradation disputes generally. The particular claim before it concerns promotion, its qualifications, quota, seniority and consequential benefits.

25. The assertion that no adequate alternative remedy is available also cannot displace the constitutional bar. Article 212 is not merely a rule permitting this Court, in its discretion, to decline a case because another convenient remedy exists. It assigns exclusive jurisdiction over the matters to which it applies. The annexed representation dated 27.01.2020 predates the impugned letter of 24.10.2023. Whether that representation, or any subsequent departmental proceeding, fulfils the requirements applicable to an appeal by any petitioner is not decided here. Questions of departmental recourse, appealability and limitation remain for determination under the governing service law; this judgment neither dispenses with those requirements nor enlarges the statutory period.

26. The petitioners' reliance on authorities concerning fair consideration for promotion, equality, legitimate expectation and extension of benefits to similarly situated employees relates to the substantive basis of their claim. The Court does not reject those propositions on their merits. Their application in this case must be considered within the constitutionally prescribed jurisdiction. The pleadings' invocation of such principles cannot authorise this Court to determine the service entitlement after it has concluded that Article 212(2) applies.

27. Having reached that conclusion, it would be inappropriate to decide, even in the alternative, whether the Part-I requirement is reasonable, whether the comparator cadres are similarly situated, or whether the petitioners deserve the proposed quota or consequential benefits. In **Ahmad Ullah** (supra), the Supreme Court treated the constitutional petition as dismissed

Islamabad High Court

for want of maintainability and expressly deprived the High Court's findings on merits of prejudicial effect in proceedings before the competent forum. The present judgment is correspondingly confined to jurisdiction. The references to the notifications explain the nature of the dispute and do not determine their substantive validity or the petitioners' individual service rights.

28. For these reasons, the petitioners' grievance concerns eligibility and the conditions governing promotion, together with connected claims regarding seniority and financial benefits. It falls within the service jurisdiction established under the Service Tribunals Act, 1973, and is not a challenge to an individual determination of fitness excluded by proviso (b) to section 4(1). The petition is consequently barred by Article 212(2) of the Constitution and is **dismissed** as not maintainable. The petitioners may avail such remedy as is available under the applicable service law, subject to all statutory requirements, including limitation. Nothing in this judgment shall be construed as an adjudication of their substantive entitlement or as a direction to the Federal Service Tribunal to entertain an otherwise incompetent or time-barred appeal.

(AYYAZ SHAUKAT)
JUDGE

Announced in open court on **24.09.2026.**

JUDGE

Saeed.

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