JUDGMENT SHEET
ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

WRIT PETITION NO. 3715 OF 2024

BABAR BASHIR

VERSUS

FEDERATION OF PAKISTAN AND OTHERS

Petitioner by:	M/s Atir Mahmood, Muhammad Zahid Mughal and Zaib-un-Nisa, Advocates.
Respondents by:	Mr. Fahad Khan Tareen, AAG along with Syed Zeeshan Raza Zaidi, S.O. Establishment Division.
Date of Decision:	**18.12.2025**

INAAM AMEEN MINHAS, J:- Through the instant writ petition, the petitioner assails the letter dated 24.09.2024 **("Impugned Letter"),** whereby he was informed of his supersession. The petitioner also seeks that action of the Competent Authority based on the Departmental Selection Board's **("DSB")** recommendation be declared as arbitrary, unlawful and in violation of his fundamental rights.

2. The facts as narrated in the instant petition, in brief, are that the petitioner qualified the Central Superior Services (CSS) Examination in the year 2008 and was allocated to the Pakistan Administrative Service Group. He was promoted to BS-18 in 2015 and, as per the final seniority list, stood at Serial No. 12. Thereafter, DSB meetings held on 27.02.2022 and 28.02.2022 considered the petitioner's case for promotion to BS-19, however, the Board recommended deferment under Rule 7(d) of the Civil Servants Promotion (BPS-18 to BPS-21) Rules, 2019 **("Promotion Rules, 2019")**. The petitioner was intimated of the said decision vide letter dated 29.04.2022. Subsequently, another DSB meeting was convened on 19.10.2022, wherein the petitioner's case was again considered and again deferred under Rule 7(d) of the Promotion Rules, 2019. The petitioner was informed of this decision vide letter dated 22.06.2023. Thereafter, another

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meeting of the DSB was held on 05.07.2023 to consider the petitioner for promotion to BS-19, but once again the Board recommended his deferment, this time under Rule 7(k) of the Promotion Rules, 2019, which decision was communicated to the petitioner vide letter dated 02.10.2023. On 06.08.2024 and 07.08.2024, another DSB meeting was held in which the petitioner's fitness for promotion to BS-19 was deliberated. On this occasion, the Board recommended supersession of the petitioner under Rule 8(a) of the Promotion Rules, 2019 on the ground that he had failed to secure the minimum threshold of 65 marks. While the notification of promoted officers was issued on the same day, i.e., 06.08.2024, the petitioner was informed of his supersession vide the Impugned Letter dated 24.09.2024, after a substantial delay.

3. The learned counsel for the petitioner contended that throughout the petitioners service in BS-18 he earned four "Outstanding" and six "Very Good" Performance Evaluation Reports **("PERs")**, which, upon quantification, yielded 34.60 marks out of 40 and his Training Evaluation Reports **("TERs")** were awarded 22.30 marks out of 30, bringing his aggregate score to 56.90 marks. Learned counsel submitted that in order to qualify for promotion, the petitioner required only 8.10 marks out of the remaining 30 marks allocated to the DSB. However, at no stage was the petitioner informed as to how many marks were awarded to him by the DSB, nor the basis on which such marks were determined. Learned Counsel argued that this non-disclosure strikes at the heart of the principles of natural justice and procedural fairness, as the petitioner has been deprived of knowledge of the grounds of his supersession and, consequently, of any meaningful opportunity to question or challenge the assessment. Thus, the opacity surrounding the award of marks renders the decision arbitrary and undermines the transparency mandated by the Promotion Rules, 2019 and settled judicial precedents.

4. Learned counsel for the petitioner further argued that the DSB failed to adhere to Rule 4(2) of the Promotion Rules, 2019, read with the guidelines contained in Schedule-I and the objective assessment proforma prescribed in Schedule-IV. He submitted that the petitioner possesses a well-rounded and distinguished service profile, having served in unattractive and challenging postings such as Gilgit-Baltistan and the Dera Ghazi Khan Division, and having

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held diverse and responsible assignments, including Additional Collector Jhung, Deputy Secretary to the Governor and Chief Minister of Punjab, Deputy Commissioner Layyah and Sahiwal, Additional Commissioner Punjab Revenue Authority, and Director General of the Koh-e-Suleman Development Authority. Despite this, the DSB neither accorded due weight to the petitioner's varied experience nor evaluated his case in the structured, objective manner mandated by the Rules and affirmed by judicial pronouncements. Lastly, it was contended that the repeated deferments and eventual supersession, communicated after inordinate delay and without any comparative or reasoned assessment, are arbitrary, discriminatory, and punitive in effect, thereby frustrating the petitioner's legitimate expectation of fair consideration and warranting judicial scrutiny under Article 199 of the Constitution.

5. Conversely, the learned Assistant Attorney General raised preliminary objections to the maintainability of the petition, as the petitioner is a civil servant whose terms and conditions of service are governed exclusively by the Civil Servants Act, 1973. In view of Article 212 of the Constitution of the Islamic Republic of Pakistan, 1973, matters relating to the terms and conditions of service, including promotion and determination of suitability, fall within the exclusive jurisdiction of the Administrative Tribunal constituted under the Service Tribunals Act, 1974. Furthermore, Section 23-B of the Civil Servants Act, 1973 expressly bars the jurisdiction of ordinary courts in respect of orders passed or proceedings taken under the Act or the rules framed thereunder. It is further contended that Section 22 of the Act does not confer any right of appeal or representation in matters relating to determination of fitness for promotion, and, therefore, the petitioner has no statutory right to challenge the Impugned Letter and impugned decision before this Court. On this ground alone, it was argued, the petition is liable to be dismissed for want of jurisdiction.

6. The learned Assistant Attorney General without prejudice to the above objection, contended on merits; that promotion to BS-19 is a selection post governed by Section 9 of the Civil Servants Act, 1973 and the Promotion Rules, 2019, wherein promotion is based on fitness-cum-merit and not as a matter of right; Mere fulfillment of eligibility criteria such as seniority and length of service does not entitle an officer to promotion since the DSB, comprising senior

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officers, assesses the overall suitability of candidates through its collective wisdom, having regard to PERs, training evaluations, service record, and general perception regarding integrity, efficiency, leadership, and professional competence. In this regard it was submitted that the meeting held on 06.08.2024 and 07.08.2024, the DSB, after detailed deliberation, found the petitioner to be an officer of average competence with questionable integrity, noted his limited promotion potential as reflected in his Mid-Career Management Course, and awarded him seven marks, thereby falling short of the prescribed threshold. Consequently, his supersession under Rule 8(a) of the Promotion Rules, 2019 was recommended on a rational, merit-based, and objective assessment. It was further asserted that the objective assessment and marks awarded by the DSB are confidential in nature and are not liable to be disclosed, and that the Board acted without discrimination or mala fide, strictly in accordance with law, rules, and binding judicial precedents holding that no civil servant can claim promotion as a vested right.

7. I have given anxious consideration to the arguments of the learned counsel for the parties and perused the record with their able assistance.

8. While considering the background of the petitions, the grounds raised by the parties and question of law involved, the following question needs adjudication by this Court i.e. *Whether the DSB failed to give meaningful consideration to the petitioners' promotion, coupled with its omission to record or communicate plausible reasons for superseding the petitioners.*

9. It is apparent from the record that the meeting of DSB held on 6th - 7th August, 2024 recommended the officer for supersession with the following remarks:

> *"The Board deliberated upon the service profile, PERs and general perception of the officer regarding professional conduct, integrity and other attributes mentioned in the Objective Assessment Form. The Board noted that in his Mid-Career Management Course the officer's promotion potential was described as 'Good' against the better available options of "Very Good" and "Excellent", which shows his limited capacity to progress further in his career. The Board also noted that the officer carried a reputation of having a peccable integrity and limited professional competence.*
>
> *The Board also noted that the Supreme Court of Pakistan vide its judgment dated 11-10-2002 in Civil Appeal No. 1599 to 1606/1999*

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had observed that "no civil servant can ask for promotion as a right". Further the Board also considered the IC judgment in "Sikandar Hayat Maken etc. us Federation of Pakistan" case wherein the court upheld the exclusive jurisdiction of the competent authority over the question of fitness or suitability for promotion. This judgment mentioned that the competent authority had to ensure that civil servants who are competent, suitable and known for their integrity are appointed through promotion against "Selection Posts".

The Board referred to Rule 14(1) of the Civil Servants Promotion (BS-18 to BS-21) Rules, 2019 which defines posts in BS-19 to BS-21 as selection posts and Section 9(2) of the Civil Servants Act, 1973, which provides that selection to such posts shall be made on the basis of merit. After detailed deliberations, the Board concluded that Mr. Babar Bashir is an officer with repute of average competence and peccable integrity and is not fit to discharge responsibilities that he will have to shoulder if promoted. The Board judged Mr. Babar Bashir as a Category-C officer and awarded him 07 marks. The officer failed to meet the required threshold of 65 marks. The Board, therefore, recommended the officer for supersession in line with Rule 8 (a) of the Civil Servants Promotion (BS-18 to BS-21) Rules, 2019."

10. It is manifest from the minutes of the meeting as well as the comments furnished by respondent No.1 to 3 that blemish upon the petitioner pertained to his integrity and competence. However, the record demonstrates that such allegations are unsupported by any tangible material and finds no reflection in the service record of petitioner. It was laid down in ***Muhammad Zafeer Abbasi's*** case reported as ***2003 PLC (C.S.) 503*** that the consideration of an officer for promotion is to be based not only on the relevant law and rules but also on some tangible material, which could be lawfully taken into consideration. This Court observes that if any of the members of the DSB negatively perceive the integrity of the officer, they must specifically record as to why they are not satisfied with the same with specific reference to the material which contradicts the unblemished reports since the same would go against the age-old maxim *nemo firutrepenteturpissimus* (no one becomes dishonest all of a sudden). This maxim signifies that integrity, whether sound or tainted, reveals itself over time through a consistent course of conduct. Thus, where an officer's record is marked by unblemished service and outstanding evaluations, any sudden departure imputing peccable integrity must rest on clear, specific, and credible evidence. To disregard such a consistent service profile without cogent reasons founded

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upon credible material would amount to imputing dishonesty in a manner that is arbitrary.

11. Even otherwise, Schedule-IV of the Promotion Rules, 2019 contains the quantification formula which is intended to structure discretion of Selection Board to ensure just and fair treatment to candidates for promotion. The DSB in the objective assessment form scores the civil servants out of 30 to be awarded under the following ten parameters given in Schedule-IV of the Promotion Rules 2019:

> *"i. Output and quality of work*
> *ii. Variety and relevance of experience*
> *iii. Professional expertise*
> *iv. Personality Profile*
> *v. Conduct, Discipline and Behavior*
> *vi. Leadership*
> *vii. Estimated Potential for Middle/Higher Management*
> *viii. Integrity / General reputation / Perception*
> *ix. Commitment to Public Service*
> *x. Teamwork"*

12. The categorization of marks under Schedule-IV of the Promotion Rules, 2019 provides a structured framework for grading a civil servant, particularly requiring that assessment of integrity and general reputation be founded on professional ethics and conduct as reflected in the PERs, TERs, and the service dossier, with the Board's opinion to be based primarily on documentary evidence. In the present case, the respondents have not placed on record a single document demonstrating that the petitioner's integrity was questionable or merited any adverse assessment. Moreover, at no stage of his career was the petitioner proceeded against under the Efficiency and Discipline Rules, nor was any adverse remark, inquiry, or reference initiated by the competent authority or any investigating agency. In these circumstances, the low grading assigned by the DSB is predicated on conjecture and unsubstantiated perception, which is impermissible in law. The Promotion Rules, 2019 mandate that promotion to selection posts be determined through an objective evaluation of the documented service record, including PERs, TERs, and the dossier, and the substitution of such material with vague impressions or undisclosed considerations amounts to a violation of the said rules. Denial of promotion on the basis of unfounded assumptions amounts to an arbitrary exercise of discretion, consistently

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deprecated by the superior Courts, which have repeatedly held that discretion affecting valuable rights must be exercised reasonably, fairly, and in accordance with law; supersession founded on vague and unrecorded perceptions thus undermines settled legal principles and strikes at the very root of fairness, transparency, and meritocracy in the civil service.

13. This Court would like to take exception to the plea that the objective assessment and marks awarded by the DSB are "confidential" and therefore immune from disclosure. Quite frankly this cannot be accepted as an absolute proposition of law. While it is settled that promotion to a selection post is not a vested right and that the assessment of fitness lies primarily within the domain of the competent authority, such discretion is neither unfettered nor insulated from judicial scrutiny. Confidentiality cannot be invoked as a cloak to defeat the requirements of fairness, transparency, and due process, particularly where it results in an adverse outcome such as supersession of a civil servant. The right asserted by the petitioner is not to promotion per se, but to a fair, reasoned, and lawful consideration in accordance with the governing rules. Where the decision results in supersession, the minimum requirement of law is that the affected officer be made aware of the basis of the decision, at least to the extent necessary to enable him to understand why he failed to meet the prescribed threshold and to meaningfully assail the decision if it is arbitrary or perverse.

14. Moreover, the statutory scheme itself is a conclusive factor against the respondents' claim of confidentiality. The Promotion Rules, 2019, particularly Schedule-IV, prescribes a structured, parameter-based objective assessment founded on verifiable documentary material, namely PERs, TERs, career profile, and dossier. Where marks are awarded against defined parameters and a quantifiable threshold is prescribed, the process ceases to be purely subjective and acquires a legal character amenable to review. Judicial precedent has consistently held that while courts do not sit as appellate forums over the wisdom of Selection Boards, they are competent to examine whether the process adopted was lawful, transparent, and free from arbitrariness or mala fides. Non-disclosure of marks or reasons, especially when allegations of "average competence" and "questionable integrity" are levelled without prior communication or supporting material, renders the process doubtful and offends

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the principles of natural justice. Confidentiality, therefore, cannot be stretched to justify non-communication of reasons or to shield an otherwise reviewable decision from judicial review, particularly where the action complained of is supersession and that too which frustrates the legitimate expectation of fair consideration under the law.

15. More importantly, such action offends the well-settled principles of natural justice, in particular the rule of *audi alteram partem* i.e. no one should be condemned unheard, for the petitioner was neither confronted with any adverse material nor afforded an opportunity to explain or rebut any allegation impugning his integrity. The Courts have consistently held that the minutes of the meetings of the DSB, as well as its recommendations to defer or supersede any officer, must contain an express reference to the material that led the Board to entertain doubts regarding the officer's integrity. However, where such material has not been disclosed to the officer at any stage, the principles of natural justice mandate that he must first be confronted therewith, so as to afford him an opportunity to explain or disprove its accuracy. Adopting this process may enable the officer concerned to dispel the misgivings of the DSB and demonstrate the falsity or irrelevance of the material relied upon. Failure to confront the officer with such material amounts to a clear violation of the settled principle of *audi alteram partem* and any departure therefrom would suffice to vitiate even the most solemn of proceedings. It is trite law that *audi alteram partem* has to be applied in all judicial and non-judicial proceedings notwithstanding that a right of hearing has not been expressly provided by the statute governing the proceedings. Reference in this regard may be made to the law laid down in the cases of ***Hazara (Hill Tract) Improvement Trust through Chairman and others vs. Mst. Qaisra Elahi and others, (2005 SCMR 678)***, and ***Raziuddin vs. Chairman, Pakistan Airlines Corporation and 2 others, (PLD 1992 SC 531)***.

16. It has been laid down in another case by the Honourable Supreme Court of Pakistan titled as ***Muhammad Farooq Chauhan vs. Province of Punjab, (PLD 1987 SC 271***) that even the adverse un-communicated remarks cannot be taken into consideration to decline the promotion to an officer. Dilating on this, this Court observes that a challenge to a civil servant's integrity is a very serious

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allegation and in such an eventuality it is necessary to call his explanation, however, the same was not communicated to the petitioners.

17. The petitioner has invoked the constitutional jurisdiction of this Court upon the violation of the right to fair and just consideration for promotion. It is trite law that the right to be considered for promotion, fairly and justly, is a right distinct from promotion itself. This principle of law has been affirmed by the Honourable Supreme Court in the ***Tariq Aziz-ud-Din*** case reported as ***(2010 SCMR 1301)*** and applies with full force in the present case. Therefore, the instant writ petition is maintainable. Further reliance is placed on ***Orya Maqbool Jan vs. Federation of Pakistan through Secretary and others, (2014 SCMR 817), Secretary Establishment Division vs. Aftab Ahmed Maneka, (2015 SCMR 1006)*** and ***I.A. Sherwani and others vs. Government of Pakistan through Secretary Finance Division, Islamabad and others, (1991 SCMR 1041)***.

18. These are the reasons of my short order dated 18.12.2025, reproduced as under:-

> *"For the reasons to be recorded later, the instant writ petition is allowed. The Impugned Letter dated 24.09.2024, whereby the petitioner was superseded, is hereby set aside. The respondents are directed to consider the petitioner for promotion strictly in an impartial, reasonable and objective manner, keeping in view his merit as reflected in his service record. The respondents shall consider the petitioner's case for promotion in the next meeting of the DSB."*

(INAAM AMEEN MINHAS)
JUDGE

M. YAHYA KHAN NIAZI, L.C.
09.01.2026

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