JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT,
ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No.1119 of 2017

Noor Rehman, etc.

Versus

Government of Pakistan, etc.

Petitioner By	:	Mr. Muhammad Izzat Khan, and Ahad Daud, Advocates.
Respondent By	:	Syed Nazar Hussain Shah, AAG with Muhammad Mushtaq Khan, AD Legal CGA.
Date of Hearing	:	07.02.2022

ARBAB MUHAMMAD TAHIR, J:- Through the instant writ petition, the petitioners have prayed for a direction to the respondent to extend the benefits of judgment dated 17.03.2016 passed by the Hon'ble Peshawar High Court, Peshawar and judgment dated 02.11.2016 passed by the Hon'ble Apex Court, due to having identical propositions and question of law. In addition, they also prayed for a direction to consider them for promotion in the upcoming Departmental Promotion Committee-DPC meeting pursuant to the referred judgments.

2. The case, setup by the petitioner, is that the respondent No.1(Ministry of Finance) vide UO dated 27.02.2014 had created 133 new posts of Accounts Officers BS-18 in two phases in the financial year 2013-14 and 2014-15, under the department of respondent No.2, (Controller General of Accounts), in the main office and field offices. Being dissatisfied with non-consideration for promotion, the counterparts of the petitioners hailing from sub-office Peshawar filed writ petition No.774-P/2015, which was allowed vide judgment dated 17.03.2016 while C.P. No.1863 of 2016 filed by the respondent No.2 was dismissed vide judgment dated 02.11.2016 by the Hon'ble Supreme Court of Pakistan. Pursuant to the judgment, the Accounts Officers of BS-17 of sub

office KPK were promoted as Accounts Officers BS-18 vide notification dated 07.03.2017. According to the petitioners, on the sameequivalence they were also entitled for promotion as Accounts Officers BS-18 but were ignored, despite availability of 5 posts of Accounts Officers BS-18.Hence, the instant writ petition.

3. On the contrary, the learned Assistant Attorney General reiterated the stance taken by the respondents in their parawise comments and apprised the position that the respondent No.1 (Finance Division) in its comments maintained that as per rules/policy, promotion is to be made against vacant posts while at the relevant time no vacant post of Accounts Officers BS-18 was available rather their strength was already over and above the sanctioned strength.

4. The respondent No.2 (Controller General of Accounts) has taken similar stance with further clarification that sanctioned strength of AOs in the CGA main office is 22 that includes five newly created posts while at the relevant time, there were 37 AOs as per seniority list, the promotion was already over and above the sanctioned strength, and that no discrimination was made against any field office including main office.

5. Arguments heard, record perused.

6. Record reveals that vide judgment dated 17.03.2016 passed by the Hon'ble Peshawar High Court and upheld by the Hon'ble Apex Court vide judgment dated 02.11.2016, a direction was issued to forward the cases of promotion against 39 posts sanctioned by the Finance Division as stated by the Deputy Accountant General before the court on 20.3.2014, without any further delay. Pursuant to said direction, incumbent Assistant Accounts Officers BS-17 of AG Office KP, were promoted as Accounts Officer BS-18 with immediate effect vide Notification dated 07.03.2017.

7. In the case of petitioners, they have also been given similar treatment vide Notification dated 19.06.2020 by promoting them as Accounts Officers BS-18, with effect from 20.05.2020. The claim of the petitioners concerning their entitlement with effect from, 2014, and consideration from the said date has been refuted by the respondents for want of vacancies, at the relevant time.

There was no direction vide judgment-under-implementation to the AG Office KP to promote the petitioners of that writ petition with effect from 2014, rather there was direction to forward their cases for promotions. The promotions were made effective with immediate effect vide Notification dated 07.03.2017.

8. The petitioners have since been promoted Account Officer BS-18 with effect from 20.05.2020, while their counterparts were given promotion with immediate effect on 07.03.2017 and not with effect from 2014 as claimed by them, therefore, it cannot be said that an equal treatment was not afforded to them or that their counterparts hailing from AG Office KP were given promotion from 2014.

9. Even otherwise, prayer of ante dated promotion is not only out of the ambit of prayer clause of the instant writ petition, but also did not find mention in operative paragraph 7 of the judgment-under-implementation which reads as under:-

> "*7. In view of above, while allowing this writ petition respondent No.3 is directed to forward the case of promotion against 39 posts sanctioned by the Finance Division as stated by Deputy Accountant General before this Court on 20.03.2014, without any further delay*."

10. In view of above, no further proceedings in the instant writ petition are called for as the petitioners have since been promoted as Accounts Officer BS-18 while their claim of ante dated promotion is without any substance and beyond the ambit of prayer clause as well. Consequently, instant petition is **dismissed.**

(ARBAB MUHAMMAD TAHIR)
JUDGE

A.R.Ansari

Announced in open Court on 02.2022.

JUDGE