JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P.No.250/2017
Mazhar Hussain Shah
Versus
Federation of Pakistan through Secretary, Ministry of Information Technology and others

Date of Hearing:	20.11.2018
Petitioner by:	Mr. Ashraf Ali Awan, Advocate.
Respondents by:	Ms. Sitwat Jehangir, learned Assistant Attorney-General. Hafiz Arfat Ahmad Ch., Advocate for respondents No.2 to 4. Mr. Asif Ranjah, Legal Advisor, N.T.C.

MIANGUL HASSAN AURANGZEB, J:- Through the instant writ petition, the petitioner, Mazhar Hussain Shah, has prayed for the following relief:-

> *"It is, therefore, prayed that the respondents may kindly be directed to decide the case of the petitioner without any intervention of DPC, and reference to report of DPC, directly on administrative side, without any discrimination against him."*

2. Learned counsel for the petitioner submitted that on 03.08.2000, the petitioner was initially appointed in the National Telecommunication Corporation ("N.T.C.") as a Lower Division Clerk ("L.D.C.") on daily wages basis; that on 01.07.2003, the petitioner was regularized; that subsequently, the post of L.D.C. was upgraded from BPS-05 to BPS-07; that the post of L.D.C. (BPS-07) was re-designated as Junior Accounts Assistant; that ever since 01.07.2003, the petitioner has remained in the position of a Junior Accounts Assistant; that the petitioner does not have any channel of promotion; that the petitioner is entitled to be extended the benefit of Regulation-2.26 of the N.T.C. Service Regulations, 2008; that the petitioner has the necessary qualification to be promoted; and that the post which the petitioner is presently occupying ought to be upgraded with the same job description. Learned counsel for the petitioner prayed for the writ petition to be allowed in terms of the relief sought therein.

3. On the other hand, learned counsel for respondents No.2 to 4 submitted that the petitioner lacked the essential qualification for promotion; that in order to be given the benefit of Regulation-2.26, the petitioner has to qualify the criteria for promotion; that a Junior Accounts Assistant is required to be a graduate in order to be eligible for promotion as Accounts Assistant; that the petitioner is admittedly not a graduate, and therefore, is not eligible for promotion as Accounts Assistant in terms of Schedule-II to the N.T.C. Service Regulations, 2008; that the petitioner has not availed the remedy of an appeal provided under Regulation-6 of the said Regulations; and that the petitioner had been considered for promotion but since he did not possess the prescribed qualification of graduation, he was not promoted. Learned counsel for respondents N.2 to 4 prayed for the writ petition to be dismissed.

4. I have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance.

5. The petitioner seeks the benefit of Regulation-2.26 of the N.T.C. Service Regulations, 2008. The said Regulation-2.26 is reproduced herein below:-

> ***"2.26 Promotions Against ex-Cadre Post & Where Employee is Struck-up-Due to Want of Vacancy.***
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> ***Corporation's employees who are not promoted for want of vacancy or do not have a channel of promotion and have remained in the same pay group in which they had joined/promoted for 7 years would be promoted to next higher pay group, provided they qualify other criteria for promotion. Promotion under this rule shall be allowed once in a post. On promotion, the post shall automatically be up-graded with same job description whereas the up-graded post shall be abolished. On retirement or leaving service of the Corporation, the up-graded post shall be automatically revert to post in original pay scale."***

6. Under the said Regulation, N.T.C.'s employees who do not have a channel for promotion and who remained in the same pay group for a period of seven years are to be promoted to the next higher pay group *"provided they qualify other criteria for promotion"*. The petitioner is a Junior Accounts Assistant (Pay

Group-III), and wants to be promoted as Accounts Assistant (Pay Group-IV). Schedule-II to the said Regulations requires an employee seeking promotion as Accounts Assistant to be a graduate. Since the petitioner is admittedly not a graduate, he does not fulfill the eligibility criteria set out in Schedule-II to the said Regulations for promotion as Accounts Assistant. In this view of the matter, I do not find any illegality in the decision taken by the Departmental Promotion Committee of the N.T.C. not to give the benefit of Regulation-2.26 of the N.T.C. Service Regulations, 2008, to the petitioner.

7. As regards the petitioner's contention that other similarly placed employees were given the benefit of Regulation-2.26 without their cases being referred to the Departmental Promotion Committee, notification dated 29.05.2012, brought on record by the petitioner clearly shows that the cases of such employees were approved by the Departmental Promotion Committee on 29.05.2012. Therefore, the petitioner's said contention is without substance.

8. In view of the above, this petition, being devoid of merit, is dismissed.

(MIANGUL HASSAN AURANGZEB)
JUDGE

ANNOUNCED IN AN OPEN COURT ON _____/2018.

(JUDGE)

*Qamar Khan**

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