

members and Inquiry Officer, the petitioner was found guilty of failing to fulfil his duties as a Compliance Officer, resulting in his demotion from OG-I to OG-II.

4. Mr Rafiq Ahmed Kalwar, representing the petitioner, argued that an FIR was lodged by the NBP in which the petitioner was a witness. Despite the acquittal of the malefactors by the Criminal Court of Justice, the petitioner's appeal was not duly considered. He further argued that the appeal had been pending since 2013 and was decided in 2023, resulting in an ongoing demotion beyond the permissible period and making such indefinite demotion illegal, which, per learned counsel, cannot exceed three years. The counsel contended vociferously that the petitioner was subjected to discrimination. In similar circumstances, through a Memorandum dated 07.05.2018 (available on page 75 of the file), the NBP converted the punishment of Inayatullah Ansari from demotion to exoneration, whereas the petitioner was treated differently despite identical facts and circumstances.

5. M/S Ch. Muhammad Ashraf and Ch. Azhar Elahi, Advocates, articulated the position of the NBP. Learned counsel has contended that the instant petition is not maintainable on the grounds that the NBP does not have statutory rules of service, thereby precluding the issuance of a writ against the NBP. They further asserted that the petition is barred by the principle of laches. Counsel argued that a thorough enquiry was conducted under the Rules 2021¹, and that upon finding the petitioner guilty, the prescribed penalties under Rule 43 were duly imposed. They maintained that it is commonplace for NBP officials to neglect their responsibilities, leading to the misappropriation of national funds and that any delinquent official found guilty is dealt with according to NBP Rules. In conclusion, counsel relied on the precedents reported as **2023 SCMR 301 and 2010 PLC 323**.

6. In exercising the right of rebuttal, learned counsel for the petitioner has contended that the NBP is regulated by statutory rules of service, thereby making the writ against the NBP maintainable. To fortify his position, learned counsel relied on an unreported edict rendered by a learned Division Bench of this Court in **C.P. No.D-4598 of 2021 and C.P. No.D-973 of 2022, 2020 SCMR 1218, 2019 PLD S.C. 189, and 2024 SCMR 92**.

7. Having extensively heard the learned counsel for the parties and examined the records presented before us.

8. Before delving into the merits of the case, it is imperative to address the preliminary objection raised by the learned counsel for the Respondent-Bank, asserting that the petition is precluded by the doctrine of laches. It is a matter of record that the petitioner has impugned two Memorandums dated 27.02.2013 and 21.11.2023. The first Memorandum demonstrates that, pursuant to an inquiry, the petitioner was demoted from OG-I to OG-II. The second Memorandum,

¹ National Bank of Pakistan (Staff) Rules, 2021

issued upon the petitioner's appeal against the first, does not indicate that the appeal was dismissed as time-barred but was adjudicated on its substantive merits. Therefore, the computation of time relevant to the doctrine of laches should commence from the date of the second Memorandum, 21.11.2023. Given that the present petition was filed on 09.12.2023, a mere 18 days subsequent, the issue of laches does not arise. The petitioner has filed the instant petition within an acceptable period, as a three-month interval is generally regarded as reasonable for assailing an adverse order under the writ jurisdiction of this Court.

9. Addressing the second preliminary objection raised by learned counsel for the Respondent-Bank, which contends that the NBP does not possess statutory rules of service and is thus immune from the issuance of a writ, it is imperative to invoke the precedent established by the Supreme Court of Pakistan in the case of **Muhammad Tariq Badr**² wherein unequivocally determined that **Rules, 1973**³ are indeed statutory. Any rules formulated by the Board of the Bank under its authority for management, superintendence, and policymaking of the Bank's affairs do not attain the status of statutory instruments. Specifically, Para-12 elucidates: "...whosoever was inducted into the service of NBP ipso jure was governed by the statutory rules of 1973, irrespective of the timing of his induction, as the said rules have been construed to govern the terms and conditions of service for NBP employees and were not repealed, replaced, or annulled."

10. In light of the foregoing, it is unequivocally established that the Rules of 1973 are indeed statutory. Counsel for the Respondent-Bank further contended that with the promulgation of the Rules 2021, the petitioner should now be governed under these new rules, asserting that the Rules 1973 have been repealed. However, Section 6⁴, elucidates the effect of repeal. It stipulates that, unless a contrary intention is evident, the repeal shall not: (a) revive anything not in force at the time the repeal takes effect; (b) affect the prior operation of the repealed enactment or anything duly done or suffered thereunder; (c) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under the repealed enactment; (d) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against the repealed enactment; or (e) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment, and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced as if the repealing Act or Regulation had not been passed. From a straightforward interpretation of this provision, it is unequivocally evident that changes in substantive law which divest or adversely impact vested rights must be applied prospectively unless the legislature explicitly indicates retroactive

² Muhammad Tariq Badr and another vs National Bank of Pakistan and others (2013 SCMR 314)

³ National Bank of Pakistan (Staff) Rules, 1973

⁴ Section 6 of the General Clauses Act, 1897

applicability. In the present case, departmental proceedings against the petitioner were initiated in 2011 and concluded in 2013, resulting in the petitioner's demotion from OG-I to OG-II by a Memorandum dated 27.02.2013. Consequently, the Rules of 1973, being statutory, apply to the petitioner's case. The NBP, as a statutory corporation, is subject to the writ jurisdiction of this Court under Article 199 of the Constitution⁵.

11. Reverting to the merits of the case, the extant record unequivocally demonstrates that the petitioner was duly charge-sheeted, and the statement of allegations was duly served upon him. Pursuant to the inquiry and antecedent to the imposition of any penalty, the petitioner was afforded a fair and just opportunity for a hearing. The Certificate⁶, duly signed by the petitioner, incontrovertibly attests that both the petitioner and the Complainant participated actively, presenting their cases with consummate confidence in a fair and equitable environment. Both parties were afforded ample opportunity to elucidate their positions, defend themselves, and present supporting witnesses or evidence. The findings recorded by the Inquiry Officer, predicated on substantial evidence and an exhaustive examination of the case, are immune from interference in exercising constitutional jurisdiction. Interference with such findings would egregiously undermine the integrity of the administrative process and the inviolable principle of finality of administrative decisions. It is imperative that the judiciary respects the meticulously established processes to handle such inquiries, except where there is compelling evidence of procedural impropriety or a palpable violation of fundamental rights.

12. Undoubtedly, the petitioner was subjected to penal action under Rule 36(c) of the Rules, 1973, culminating in his demotion from OG-I to OG-II. However, the Impugned Memorandum dated 27.02.2013 egregiously failed to delineate the duration for which the demotion would be operative. The Rules, 1973 unequivocally do not sanction an indefinite demotion. In this context, we are guided by the jurisprudential principles enunciated in a similar adjudication by a Division Bench of this Court in the Order dated 16.9.2022 pertaining to the case of *Qamar Ali*⁷. After an exhaustive and elaborate exegesis of the pertinent case law, it was concluded that punitive measures, including demotions, must not be of indefinite duration. It was underscored the imperative of time-bound penalties, harmonizing with the principles of fairness and equity. This judicial stance accentuates the necessity of specifying the operative period for any punitive measure to preclude its indefinite continuation, thereby protecting the rights of the individual. Consequently, the indefinite demotion inflicted upon the petitioner is devoid of merit and runs counter to the established legal standards.

⁵ Muhammad Naeem v. Federation of Pakistan and others (2023 SCMR 301)

⁶ Available on Page No.117 of the file

⁷ C.P No.D-973/2022 Re: Qamar Ali v. Federation of Pakistan and others

13. In light of the aforementioned reasons, the Impugned Memorandums are hereby modified to the extent that the punitive measure of degradation to a lower stage/grade is specified to be effective for two years from the date of the initial Impugned Memorandum, i.e., 27.02.2013. The Respondent-Bank is hereby directed to adhere to and comply with this Order forthwith, ensuring its immediate and unreserved execution.

14. For the reasons stated supra, the present petition stands disposed of accordingly.

JUDGE

JUDGE