

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**

Constitutional Petition No. D-3920 of 2019  
(Abdul Hafeez Siddiqui v Federation of Pakistan and another)

Date	Order with signature of Judge(s)
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Before:-

Mr. Justice Muhammad Karim Khan Agha

Mr. Justice Adnan-ul-Karim Memon

1. For hearing of Misc. No.28452/2020
2. For hearing of Misc. No.17395/2019
3. For hearing of main case

**Date of hearing and order: 14.1.2025**

Mr. Faizan Hussain Memon advocate holds brief for Mr. Zamir Hussain Ghumro advocate for the petitioner

Ms. Zehra Sehar Vayani, Assistant Attorney General

Syed Meeral Shah Bukhari, Special Prosecutor NAB

**Muhammad Karim Khan Agha, J** : Through the instant petition, the petitioner has challenged the notifications dated 27.09.2018, 11.01.2019. and another notification dated 11.01.2019, whereby his promotion in BPS-18 with effect from 31.12.2003 had been considered with effect from 30.7. 2018, whereas through the second notification, his promotion to BSP-19 has been withdrawn and through the third notification, his acting charge of BPS-20 has also been withdrawn. Petitioner claims that he was promoted to BPS-20 in November 2014 based on seniority, service record, and excellent performance. In 2019, a committee recommendation downgraded his seniority from No. 1 to No. 24, unfairly impacting his career progression. As a result, 23 junior officers were promoted ahead of him in 2019. He was eventually promoted in 2021 based on this downgraded seniority. However the Islamabad High Court in W.P 1044/2020 set aside the similar discriminatory committee recommendations in another case, restoring seniority and back benefits to his colleague Mr. Haroon Rasheed.

2. It is inter-alia, contended on behalf of the petitioner that he has the requisite length of service and qualification for promotion to the next rank It is urged that the respondents have illegally withdrawn his promotion and his juniors are being considered over and above him in the issuing Departmental Promotion Committee. Per learned counsel, the Promotion Policy 2007 cannot be relied upon by the respondents as the same is prospective. He pointed out that the findings of the committee that deferring his promotion from BPS-18 to BPS-19/20 on account of missing PERs/service was/is an erroneous decision as well as contrary to law on the premise that he had already been promoted from BPS-19 to BPS-20. Learned counsel has pointed out that the respondents have issued the letter dated 26 11. 2020 for consideration of promotion from the post of Deputy Director (BS-

18) to the post of Additional Director (BS-20) and the concerned departments have been directed to prepare a working paper on the aforesaid issue.

3. The petitioner alleges discrimination and that his case was not considered on merit. He prays for direction to the respondents to consider his case for promotion to the next rank following the law. In alternate, he requested this court that the Islamabad High Court, in W.P. No. 1044 of 2020 (Haroon Rasheed v. NAB), granted relief and remanded the case to the Chairman NAB. The Petitioner was subsequently restored to his previous position on 17.07.2023.

4. At this stage learned counsel referred to the Islamabad High Court decision in Haroon Rasheed v. NAB, case, where similar relief was granted and the matter was remanded to the Chairman NAB. He wants similar treatment in this case. An excerpt of the order is reproduced as under:-

*"Hence, instant writ petition mainly on the grounds that the petitioner was discriminated by the Scrutiny Committee; that his case was not considered on merits, that the selection of the petitioner was made in due course, that the petitioner had also the requisite experience in the relevant field; that non-uniform criteria to review the appointments, resulted in discrimination by the Committee. The respondent-NAB in its parawise comments though contested the claim of the petitioner yet the fact remains that the petitioner is still remediless against the impugned action, taken way back in 2018, whereby he was repatriated to his parent department with immediate effect. The treatment afforded to the petitioner, on the face of it, is offensive to the principles of natural justice. When confronted, the learned Special Prosecutor NAB Pounder instructions has expressed no objection if the impugned order is set aside and the matter is remanded to the Chairman NAB for decision in accordance with law.*

*In view of the above, the order dated 27.04.2018 and the impugned order dated 18.10.2018 are set aside and the matter is remanded to the Chairman NAB for its decision afresh in accordance with law after hearing the petitioner through a speaking order within a period of two months from the receipt of this order. A copy of the order shall be sent to Chairman NAB for compliance."*

5. NAB prosecutor has opposed the petition, arguing they lack statutory rules of service, contesting the petitioner's claim.

6. We have heard the learned counsel for the parties and perused the record with their assistance.

7. First and foremost the question of the maintainability of the lis is to be determined by this court based on the analogy that Pakistan's National Accountability Bureau (NAB) has no statutory rules of service.

8. Pakistan's National Accountability Bureau (NAB) operates under the National Accountability Ordinance 1999. This ordinance empowers NAB to make rules for its functioning. Therefore, while Parliament might not directly enact the specific NAB Service Rules as a standalone statute, they are derived from and authorized by the National Accountability Ordinance 1999, a statutory law. The NAB Service Rules have their legal foundation in the National Accountability Ordinance 1999. The ordinance grants NAB the authority to create rules for its

operations, including those of its employees. While not a separate act of Parliament, the NAB Service Rules carry legal weight as they are derived from the statutory authority granted by the ordinance.

9. Statutory and non-statutory rules of service are both sets of regulations that govern the terms and conditions of employment for individuals working in various organizations, but they differ in their origin and legal force. These rules are derived from specific Acts of Parliament or other legislative enactments. They have the force of law and are binding on both employers and employees.

10. Non-Statutory Rules of Service. These rules are formulated by employers or organizations themselves, often based on internal policies, collective bargaining agreements, or industry standards. While not legally binding in the same way as statutory rules, they can still have significant legal implications. Courts may consider them when resolving disputes, especially if they are reasonable and consistently applied. In essence, statutory rules provide a minimum standard of protection for employees, while non-statutory rules offer additional terms and conditions that may vary depending on the employer or industry.

11. Without touching on the merits of the case, the matter is remanded to Chairman NAB for a fresh decision within two months, with a speaking order after hearing the petitioner. A copy of this order shall be sent to the Chairman NAB for compliance.