

ORDER SHEET
LAHORE HIGH COURT
MULTAN BENCH, MULTAN
JUDICIAL DEPARTMENT
I.C.A. No. 85 of 2024

National Bank of Pakistan and 04 Vs. Mumtaz Ahmad
others

<i>Sr. No. of order/ proceedings</i>	<i>Date of order/ Proceeding</i>	<i>Order with signature of Judge, and that of Parties' counsel, where necessary</i>
	04.06.2024	Mr. Faisal Mehmood Ghani, Advocate for appellants. M/s Khalil-Ur-Rehman Mayo, Nisar Akbar Bhatti and Muhammad Yafis Naveed Hashmi, Advocates for respondents (On watching brief).

This consolidated order shall decide I.C.A. Nos.85, 86, 87 and 88 of 2024 as similar questions of law and facts are involved in all the appeals filed on behalf of National Bank of Pakistan, however, for brevity facts of this appeal have been recorded for reaching the conclusion in the matter.

2. Through this Intra Court Appeal, appellants have called in question order dated 09.05.2024 passed by learned Single Judge of this Court whereby constitution petition filed by the respondent was allowed and impugned order dated 11.12.2023 declining promotion to the respondent was set aside and present appellants were directed to proceed in the matter and reconsider the case of the respondent on its own merits and in the light of judgment of Supreme Court of Pakistan mentioned in the said order.

3. Perusal of the record shows that through writ petition, respondent (petitioner therein) challenged the order dated 11.12.2023 passed by appellants (respondents therein) whereby appeal of the respondent addressed to President, National Bank of Pakistan was decided and relief to the respondent

was declined, operative part of which is reproduced below:

“This Speaking Order is issued to you in compliance of the Court Order dated 14.06.2023, passed by the Hon’ble Lahore High Court Multan Bench, Multan in W.P. No.9740 of 2023, filed by you on the captioned subject. You had sought promotion under Promotion Policy dated 28.10.2016.

The relevant para of the Order is reproduced as under:

“In view of the above, respondent No. 1 (President, National Bank of Pakistan, I.I. Chundrigarh Road, Karachi) is directed to decide the afore-referred appeal filed by the petitioner, if pending, either himself or through some authorized officer, in accordance with law, after providing an opportunity of hearing to the petitioner and the others concerned, expeditiously, preferably within a period of 30-days from the date of receipt of certified copy of this order. With this direction, the instant constitutional petition stands disposed of.”

In compliance of above-mentioned Court Order you were provided opportunity of personal hearing on 23.11.2025 at 3:30 p.m. by committee comprising of senior executives duly constituted by the President.”

.....

.....

“CONCLUSION In view of the aforementioned facts, your case of promotion from AVP to VP from retrospective date is declined being devoid of merit.”

(emphasis supplied)

4. The learned counsel for the appellants has been confronted with question of maintainability of this Intra Court Appeal and he has vehemently tried to convince us of its maintainability, however, as the order dated 11.12.2013 passed on behalf of the President, National Bank of Pakistan on respondent’s appeal was challenged through the constitution petition which has been decided through impugned order dated 09.05.2024, therefore, proviso to subsection (2) of Section 3 of The Law Reforms Ordinance, 1972, reproduced below would be applicable for determining whether or not this Intra Court Appeal is maintainable.

“(2) An appeal shall also lie to a Bench of two or more Judges of a High Court from an order

made by a single Judge of that Court under clause (1) of Article 199 of the Constitution of the Islamic Republic of Pakistan not being an order made under sub- paragraph (i) of paragraph (b) of that clause :

Provided that the appeal referred to in this sub-section shall not be available or competent if the application brought before the High Court under Article 199 arises out of any proceedings in which the law applicable provided for at least one appeal or one revision or one review to any court, tribunal or authority against the original order.”

5. The question relating to maintainability of Intra Court Appeal in terms of proviso to subsection (2) of Section 3 of Law Reforms Ordinance, 1972 came up for consideration in the case of “*Mst. Karim Bibi and others v. Hussain Bakhsh and another*” (**PLD 1984 SC 344**) wherein Supreme Court of Pakistan has held that where there is at least one appeal against the original order, in the proceedings, then no appeal would be competent from the order of a single judge in constitutional jurisdiction. Meaning thereby that the test is whether the original order, passed in the proceedings was subject to an appeal under the relevant law, irrespective of the fact as to whether the remedy of appeal was availed or not by a party. A similar view was rendered by the Supreme Court of Pakistan in the case “*Muhammad Abdullah v. Deputy Settlement Commissioner, Centre-I, Lahore*” (**PLD 1985 SC 107**) wherein the said Court again reiterated the principle laid down in the Karim Bibi case (supra) and held that Intra Court Appeal was not competent because the law provided for an appeal against the original order. In recent judgment of Supreme Court of Pakistan “*International Islamic University, Islamabad through Rector and another Vs. Syed Naveed Altaf and others*” (**2024 SCMR 472**), the Supreme Court of Pakistan upheld the order of High Court

declaring the Intra Court Appeal as not maintainable due to availability of appeal against the original order by observing that where decision is made by Single Judge of High Court in proceedings under challenge through constitution petition, the essential requirement to invoke the proviso to section 3(2) of the Law Reforms Ordinance for determination of maintainability of Intra Court Appeal is to see whether the remedy of at least one appeal, review or revision is available under the law against the original order.

6. The principles laid down in the afore-referred cases are applicable to this Intra Court Appeal as well which has been filed against order dated 09.05.2024 passed by learned Single Judge of this Court whereby order dated 11.12.2023 passed by the National Bank of Pakistan declining the claim of respondent for promotion on his appeal was set aside and the appellants were directed to consider the case of the respondent for promotion in view of the principles laid down by the Supreme Court of Pakistan in the case referred to by the learned Single Judge in his judgment, hence, in view of proviso to Section 3(2) of the Law Reforms Ordinance, 1972 and the principles laid down in afore-referred judgments of the Supreme Court, this Intra Court Appeal, against order of Single Judge whereby order passed by the National Bank of Pakistan in respondent's appeal was set aside, is not maintainable and this appeal as well as afore-mentioned connected appeals are accordingly **dismissed.**

(Ahmad Nadeem Arshad)
Judge

(Muzamil Akhtar Shabir)
Judge