

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE MIAN SAQIB NISAR, CJ
MR. JUSTICE MAQBOOL BAQAR
MR. JUSTICE IJAZ UL AHSAN

**CIVIL APPEALS NO. 2109 TO 2139 OF 2016 AND
CIVIL PETITION NO. 516 OF 2017**

(Against the judgment dated 08.06.2016 the Islamabad High Court, Islamabad passed in I.C.As Nos. 368, 372, 377, 382, 383, 385, 387, 409, 415, 433, 375, 379, 382, 412, 406, 417, 429, 400, 402, 403, 423, 398, 414, 426, 374, 368, 416, 384/2015, CMA 2816/2016 in ICA 384/15 and ICA 411/2015)

AND

**C.M.As. NO.5210, 7645/2016 in C.A.2109/2016
C.M.A. No. 6094/2016 in C.A.2136/2016**

Federation of Pakistan through Secretary,	
Establishment Division, & others	(in CA 2109-2118/16)
Muhammad Ashraf & others	(in CA 2119/16)
Ms. Rubina Tayyab & others	(in CA 2120/16)
Muhammad Zahid & others	(in CA 2121/16)
Sq.Ldr.(R) M. Irfan Elahi & others	(in CA 2122/16)
Yousaf Naseem Khokhar & others	(in CA 2123/16)
Capt. (R) Ejaz Ahmed	(in CA 2124/16)
Samin Ullah Khan Gandapur	(in CA 2125/16)
Capt (R) Tariq Hayat Khan	(in CA 2126/16)
Dr. Kamran Fazal	(in CA 2127/16)
Malik Tahir Sarfraz Awan	(in CA 2128/16)
Khawaja Umar Mehdi	(in CA 2129/16)
Sohail Akhtar	(in CA 2130/16)
Imran Tariq	(in CA 2131/16)
Muhammad Ayub Minhas	(in CAs 2132-2134/16)
Mukhtar Ahmed Baig	(in CA 2135/16)
Sohail Muhammad Khan	(in CA 2136/16)
Humayun Iqbal Shami	(in CA 2137/16)
Badar Zaman	(in CA 2138-2139/16)
	...Appellants
Zahid Rashid	(in CP 516/17)
	...Petitioner

VERSUS

Dr. Muhammad Arif and others	(in CA 2109 & 2119/16)
Shah Muhammad Jamal & others	(in CA 2110/16)
Ghani ur Rehman Wazir & others	(in CA 2111/16)
Qaiser Majeed Malik & others	(in CA 2112/16)
Waqar Haider & others	(in CA 2113/16)
Hafiz Zafar Ali Malik & others	(in CA 2114/16)
Syed Imtiaz Altaf & others	(in CA 2115/16)
Suresh Mal & others	(in CA 2116/16)
Rana Muhammad Iqbal & others	(in CA 2117/16)

Dr. Muhammad Shafique & others (in CA 2118/16)
Secretary, Establishment Division (in CA 2120-2139/16
& others & CP 516/17)

...Respondents

For the Appellants: Mr. Afnan Karim Kundi, Addl. AG
Syed Rifaqat Hussain Shah, AOR (In CAs.2109-2118/16)
Hafiz S.A. Rehman, SASC
Ch. Akhtar Ali, AOR (In CA 2119/16)

Mr. Muhammad Shoaib Shaheen, ASC
(In CA 2120-2124/16)

Mr. Faiz Ahmed A. Jandran, ASC
Ch. Akhtar Ali, AOR (In CA 2132-2134/16)

Barrister Masroor Shah, ASC (In CA 2136/16)

In person (In CAs 2135 & 2137 to 2139 of 2016)

Mr. Abdur Rehman Siddiqui, ASC
(In CA 2125-2131/16)

For the petitioners: Mr. M. Munir Paracha, ASC.
(In CP 516/17) and CMA 5210/16

For the Respondent(s): Mr. Abdur Rehman Siddiqui, ASC
(In CAs 2110,2112,2116/16)

Syeda B.H. Shah, ASC. (In CA 2109/16)

Mr. Mehrban Khan, Admin Officer M/o Defence
For respondents 185-187 in CA 2135/16)

Barrister Masroor Shah, ASC
(In CAs 2111,2113,2118/16)

For official respondents: Mr. Afnan Karim Kundi, Addl. AGP.
(In CA 2119-2139/16)

For the applicants: Mr. Zulfiqar Ahmed Bhutta, ASC
(In CMA 7645/16)

For Respondents: Mr. Imran Fazal, ASC.(In CAs. 2121 2129, 2131/16)

For Respondents: Mr. Nasir Mehmood Mughal,
Spl. Prosecutor NAB. In CAs. 2138-2139/16)

Date of Hearing: 13.03.2017

JUDGMENT

MAQBOOL BAQAR, J. Impugned through the present
appeals is the judgment dated 08.06.2016 whereby a learned Division
Bench of the Islamabad High Court, upheld the judgment dated 27th
July, 2015, in terms whereof a learned Single Judge of the said Court

declared the criteria for the award of 15 marks at the disposal of Central Selection Board (CSB), with overriding effect of 5 marks and thereby placing the civil servants in category A, B and C, as against the dictum laid down by this Court in the case of Orya Maqbool Abbasi (2014 SCMR 817) and the judgment of the Islamabad High Court rendered in Iram Adnan's case (2012 PLC (CS) 1355), and also that the process carried out by CSB on the basis of above formula, and resulting into deferment/supersession of the respondents as illegal, without jurisdiction and violative of the law laid down by this Court.

2. Before we proceed to examine the legality and propriety of the recommendations in question, It would be beneficial to refer to the legal framework pertaining to the matter of promotion of the civil servants and its procedure.

3. It is Section 9 of the Civil Servants Act, 1973 that provides for and, deals with the promotion of a civil servant in the following terms:

*"9. **Promotion.**- (1) A civil servant possessing such minimum qualification as may be prescribed shall be eligible for promotion to a higher post for the time being reserved under the rules of departmental promotion in the service or cadre to which he belongs:*

Provided that the posts of..

(a)

(b)

(2) A post referred to in sub-section (1) may either be a selection post or a non-selection post to which promotions shall be made as may be prescribed..

(a) In the case of a selection post, on the basis of selection on merit; and

(b) In the case of a non-selection post, on the basis of seniority-cum-fitness.

(3) *Promotion to posts in basic pay scales 20 and 21 and equivalent shall be made on the recommendations of a Selection Board which shall be headed by the Chairman, Federal Public Service Commission."*

The above provisions are supplemented by Rules 7, 8 and 8-A of The Civil Servants (Appointment, Promotion and Transfer) Rules, 1973. For the ease of reference the said rules are reproduced hereunder:

"7. Promotion and transfers to posts in ***[basic pay scales 2 to 18 and equivalent, ***[except the posts specified in sub clause (i) of clause (b)] and equivalent]* shall be made on the recommendation of the appropriate Departmental Promotion Committee and promotions and transfers to posts, ****[specified in sub clause (i) of clause (b) and posts], in ***[basic pay scales 19 to [21] and equivalent]* shall be made on the recommendations of the Central Selection Board.

8. Only such persons as possess the qualifications and meet the conditions laid down for the purpose of promotion or transfer to a post shall be considered by the Departmental Promotion Committee or the Central Selection Board as the case may be;

8-A. No promotion on regular basis shall be made to posts in Basic Pay Scales 17 to 22 and equivalent unless the officer concerned has completed such minimum length of service, attended such training and passed such departmental examination, as may be prescribed from to time."

4. However, since the Federal Government felt that the above legal framework was not sufficient to meet the functional requirement, it therefore, with the approval of the President of Pakistan, supplemented the same by a "comprehensive and consistent set of policy guidelines", by way of Promotion Policy, 1982 ("The Policy"). The policy contained certain guidelines for Departmental Promotion Committees (**DPCs**)/Central Selection Boards (**CSBs**) which included the following two:

(i) Confidential reports will be given due importance but will not be the sole criterion for promotion to selection posts;

(ii) Performance evaluation as reflected in the confidential reports will be quantified according to formula enunciated in the

enclosed guidelines and weightage will be given to more recent appointment (emphasis supplied).

By way of general instructions the policy provided that the DPC/CSB shall consider the cases of eligible civil servants in order of seniority and either:

- (a) Recommend a civil servant for promotion to the next higher post; or
- (b) Recommend a civil servant for supersession; or
- (c) Defer consideration of a civil servant's promotion provided that this step will be taken only if:
 - (i) The CR dossier is incomplete or any other document/information required by the DPC/CSB for determining a civil servants suitability for promotion is not available; or
 - (ii) Disciplinary or departmental proceedings are pending against the civil servant whose promotion case comes up for consideration before the DPC/CSB; or
 - (iii) The civil servant on deputation abroad to a foreign government, private organization or international agency; or
 - (iv) The civil servant does not possess the requisite length of service; or
 - (iv) The civil servant has not undergone the prescribed training or passed the departmental examination for reasons beyond his control; or
 - (vi) The civil servant's inter se seniority is sub judice.
(Emphasis supplied)

The policy further required that the civil servant whose promotion has been deferred will be considered as soon as the reason on the basis of which deferment took place ceases to exist. (Emphasis supplied)

5. The formula for quantifying the ACRs of the officers under consideration by the committee or the board also was appended to the policy. The policy also prescribed that the civil servant who fails to

come up to the qualifying score shall not normally be considered for promotion. However, the committee/board may, for the reason to be recorded in detail, recommend relaxation of the said condition, to the competent authority. *(Emphasis supplied)*

6. For promotion to selection posts the policy, inter alia, required that the entries under “quality and output of work” and “integrity” in all the ACRs recorded on the civil servant during his service as an officer will also be quantified in accordance with formula given in the Addendum thereto, and that such marks shall be a crucial factor in determining comparative merit of the officers for promotion to selection posts. *(Emphasis supplied)*

7. Some amongst the various essential qualifications prescribed for promotion to the post carrying BPS-20 and BPS-21 were as follow:

- (i) Eligibility threshold: attain a minimum score of 70 marks in CRs in accordance with the formula given in the Addendum;
- (ii) Relevance of Experience: possess experience relevant to the functions of the post to which promotion is being made;
- (iii) Quality and Output of Work and Integrity: marks calculated in accordance with the formula in the Addendum shall be a crucial factor in determining the comparative merit of an officer. *(Emphasis supplied)*

It may be, and especially in respect of clauses (i) & (iii), noted that in terms of the Addendum to the policy, marks in favour of the officer under consideration were to be calculated/awarded on the basis of his confidential reports (CRs). *(Emphasis supplied)*

8. Through D.O. No. 10(3)/84-CP-I. dated 30th April, 1984, it was required that the committee/board shall specify the exact grounds under para 1(c) of the guidelines, for recommending a civil servant's promotion, supersession or deferment. Through DO No. 10(10)/85-CP dated 15 May, 1985 the Establishment Division, in view, *inter alia*, of its perception that the trend towards inflated reporting which had been in vogue since inception, has, because of the higher eligibility threshold fixed for the selection posts, achieved greater proportion, and thus added to the pressure on reporting/countersigning officers to be overly generous in their assessments, and as such most of the average officers were being graded as "good" and the good as "very good", adversely affecting the genuinely outstanding officers, introduced a more cautious approach/criteria for evaluation and its quantification & grading, and also introduced an additional/higher category in relation to the grading of the officers.

9. The instructions and the guidelines for DPC/CSB, were reviewed once again. Such was done on the basis of the recommendations made by the committee on Promotion Policy, purportedly to "develop a comprehensive criteria for selection, for promotion/deferment/supersession which, is measurable to the extent possible, comparable with regard to performance of each officer on the panel and is based on tangible record duly placed on the dossier and also re-defines discretion of the members and the board and, to lay down as to how more objectivity can be brought in the recommendations of the selection board" . (Emphasis supplied)

10. The above recommendations of the committee, as contained in the Establishment Division's OM No. 1/3/2007/CP/-II dated 24th October, 2007, also prescribed conditions for deferment. One such condition being an eventuality where the board considers the records as incomplete, or wants to further watch the performance of the officer, or for any other reason to be recorded in writing. (*Emphasis supplied*) It also prescribed the minimum threshold of marks for promotion to various scales. Such marks prescribed for BPS-18, are 50, for BPS-19, are 60, for BPS-20, the marks are 70, and for BPS-21, the marks prescribed are 75. It further provided that no officer meeting the aggregate thresholds shall be superseded. (*Emphasis supplied*) The allocation of marks based on Performance Evaluation Reports (PERs), Training Evaluation Reports (TERs) and evaluation by CSB were prescribed as follows:

S.No.	Factor	Marks
1.	Quantification of PERs relating to present grade and previous grad(s) @ 60%:40%	70%
2.	Training Evaluation reports in ratio of 60%:40%	15%
3.	Evaluation by CSB	15%
	Total:	100%

The OM dated 24.10.2007, also required that the officers superseded/deferred by the CSB be informed about the reason for his supersession/deferment to enable him to improve his performance and to complete his records or to make up any other deficiency, as the case may be. (*Emphasis supplied*)

11. Through OM dated 19th January, 2012 the Establishment Division clarified that the reasons for supersession/deferment on the recommendations of the CSB are to be communicated to the officers concerned immediately after such recommendations have been approved by the respective competent authority. (*Emphasis supplied*)

12. From the foregoing, it can be seen that in terms of the Promotion Policy, as originally conceived & formulated, performance evaluation was to be based on and, quantified as per the confidential reports of the officers under consideration. The service record/dossier was found, and naturally so, to be of such crucial importance that its non-availability or the non-availability, of any other document/information required for determining the suitability of the officer concerned was to result in the deferment of consideration of the officer. The significance attributed to evaluation and its quantification so achieved is evident from the fact that the same was not left to the whims of the board, but a well laid down and elaborate formula was prescribed for the same. It was further prescribed that the officer who thus fails to meet the qualifying score shall not normally be considered for promotion. Furthermore the quantification of the "quality & output of work" and "integrity", evaluated and quantified as above, was described as a crucial factor in determining comparative merit of the offices for promotion to the selection post. The significance of the service record as a source/basis of the above evaluation/quantification was so great and crucial in the eyes of the framers of the policy that the eligibility threshold set down through the

policy was a minimum score of 70 marks in the confidential reports, and therefore, in the Addendum to the policy document, it was reiterated/emphasized that marks for the eligibility threshold, and in respect of "quality & output of work" and integrity were to be calculated/awarded on the basis of the confidential reports. The evaluation, its quantification & the grading, which were wholly based on the service record of the officer concerned, being of crucial significance, the Establishment Division through DO dated 15.05.1985 introduced a more cautious approach in that regard and also created additional/higher category as per such grading of the officer concerned.

13. The policy was however, with a stated **objective of developing a comprehensive criteria, measurable with reference to the performance of each officer in the run, as per the tangible record duly placed on the dossier and for prevalence of objectivity**, revised through, DO dated 24.10.2007, in terms whereof now 70% of the marks on the scale were reserved for quantification of the PERs, 15% were reserved for training evaluation, whereas the remaining 15% were allocated for evaluation by CSB. However, as is patently evident, ironically and contrary to the avowed objective, the above bifurcation of marks, instead of inducing any objectivity in the process, created vagueness and ambiguity and removed the focus of evaluation from the exclusivity of the service record and brought it within the realm also of undefined and unstructured discretion of the board, and in fact practically within the discretion of just a few of its members (as not all members could possibly be said to be familiar with the officers under

consideration), and thus giving rise to whimsical and arbitrary decisions/recommendations, based on personal opinion rather impressions, not based on any prescribed, relevant and permissible material.

14. The process thus evolved could not withstand the judicial scrutiny which resulted in the judgment rendered by a learned Judge of the Islamabad High Court in writ petition No. 863/2011 titled as Gulab Zamir vs. Federation of Pakistan, dilating upon the question of 15% marks allocated for evaluation by CSB, the learned Judge observed and held as follows:

"As far as marks given by the Central Selection Board are concerned, these are exclusively discretionary. These marks are to be given with reference to Service Record and having been examined the comparative marks as well as the performance of the officer in the Training Reports. The officer concerned does not appear before the Central Selection Board; there is no interview and there is every possibility that the Selection Board may not be knowing the person, whose case for promotion is before them, so some criteria is required to be evolved as these marks can not be given simply on the basis of whims. The order of Selection Board is required to be based upon proper reasons..."

7. ...In absence of any criteria, it would become unfettered discretion of the Central Selection Board to recommend promotion of one person and refuse the same to another similarly placed officer...

8. In the circumstances, I accept this petition; the order of supersession is converted into deferment and the case is sent back to the Central Selection Board with the direction to determine 'Specific Criteria' for assessing the officer and pass a just and fair order, based on reasons." (Emphasis supplied)

15. The allocation of marks for evaluation by CSB was once again declared illegal and un-constitutional by the Islamabad High Court, in the case of Mrs. Iram Adnan (2012 PLC (CS) 1355), whereby the Court directed the Establishment Division to restructure the

provision of awarding 15 marks by CSB. In deciding so, the learned Judge relied on the case of Secretary, Revenue Division vs. Gul Muhammad (2011 SCMR 295), and upon an earlier judgment of this Court in CPs No. 836 and 837 of 2016, where a judgment of the Federal Service Tribunal, directing the Establishment Division to bring more objectivity in the criteria for excellence and comparative merit, by defining it further, so that more specific, detailed and, well thought out reasons for denying promotion to an officer, who is otherwise eligible, could be given, was upheld by this Court with the following observations:

"2... We are of the opinion that decision with regard to promotion of the Officer cannot be left on the discretion of Members of the Board. There must be some criteria to judge the performance of a candidate because promotion was denied to the officer on the ground that he does not fulfill the criteria. When there is no criteria, then how a person can be denied promotion, therefore, the Service Tribunal has rightly observed that the Board must bring more objectivity in the criteria." (Emphasis supplied)

16. Similar views were expressed by an Honourable Bench of the Lahore High Court in respect of the above policy of granting 15 marks by the CSB in the case of Liaquat Ali Chughtai (PLD 2013 Lah 413), by stating that the CSB had consciously adopted a policy to place reliance on the personal views and impressions of the Members regarding the integrity and reputation of the officers under consideration and that the process so adopted by the CSB negates the very purpose of the CSB which is expected to form a collective view after independent application of mind to the facts and circumstances of each case, and was required to meticulously review the service dossier of the officers under consideration and formulate a

collective opinion. The board's reliance on the personal opinions of its Members in making recommendations for the supersession of the officers under consideration was held to be an affront to fairness; due process and Article 10 of the Constitution. The power and discretion of the board to grant 15 marks to the officers was held not to be sufficiently structured or elaborately tailored to reflect thorough deliberation and proper analytical assessment. The Court thus, set aside the impugned selection process and declared the same illegal and un-constitutional, with direction for framing a well thought-out objective criterion in accordance with the 2007 Revised Promotion Policy. The Court also directed the CSB to form its opinion on the basis of evidence before them in the form of complete service dossier comprising of PERs for the last over 15 years and restrained the board from relying on any evidence without confronting the officer concerned with the same, and also not to pass any adverse order on the basis of any impressions, nurtured, and opinion harboured by its Members without placing any tangible evidence supporting such opinion before the board, and then confronting the officer concerned with such evidence .(Emphasis supplied)

17. It seems that it was in the light of the judgments in the cases of Iram Adnan and Liaqat Ali Chughtai, that the Establishment Division constituted a committee to restructure the formula/criteria for award of marks by the CSB, so as "to bring in more objectivity in the light of the observations made by the High Court", and thus through OM No. F.1/1/2012-CP.I dated 12th October, 2012 made certain amendments in the promotion policy, and prescribed new

parameters/attributes by way of (i) integrity/general reputation /perception; (ii) personality profile; (iii) conduct, discipline and behaviour. The attributes “quality and output of work”, and “integrity” earlier contained in the 1982 policy were revived. A new objective assessment form for assessment in respect of the attributes namely (i) quality & output of work; (ii) integrity/general reputation/perception; (iii) variety and relevance experience; (iv) top management potential; (v) personality profile; and (vi) conduct, discipline & behaviour was introduced. The OM further provided that the above objective assessment form shall be placed before the CSB along with panel proforma of every officer for his/her objective evaluation by the CSB and, that the board shall assess each officer on the panel on the basis of said parameters/attributes (Emphasis supplied) and, that after assessment/evaluation the CSB shall place the officer in any of the following category and, assign appropriate marks accordingly:

<u>Sl. No.</u>	<u>Category</u>		<u>Range of Marks</u>
1.	Category-A	=	11- to 15
2.	Category-B	=	06 to 10
3.	Category-C	=	00 to 05

The Memorandum further provided that an officer meeting the aggregate threshold (70 marks for BPS-20 and 75 for BPS-21) shall also be superseded, in case the CSB places him in category-C.

18. The objective assessment form introduced through OM dated 12.10.2012 is, for the ease of reference, reproduced hereunder:

OBJECTIVE ASSESSMENT BY CSB (as per OM dated 12.10.2012)

S.No.	Parameters/Attributes	Categories		
1.	Quality and Output of Work	Cat-A (11-15)	Cat-B (06-10)	Cat-C (00-05)
2.	Integrity/General Reputation/Perception (Last 05-Yrs of Synopsis <u>OR as known to the Board members</u>)			

3.	Variety & Relevance of Experience Nature of Duties, duration and location of Yrs whichever is longer relevant to the functions of posts in BS-21 BS-18 (if applicable) = yrs BS-19 = Yrs BS-20 = Yrs Total = Yrs			
4.	Top Management Potential (Observation by RO/CO if any <u>OR</u> <u>as known to the Board Members</u>			
5.	Personality Profile (<u>As known to the Board Members</u>)			
6.	Conduct, discipline & Behavior (Observation by RO/CO during last five years <u>OR as known to the Board members</u>			
7.	Total			
8.	Average			
9.	Marks by CSB			

(Emphasis supplied)

19. It can be seen from the various columns in the above form, that further departing from the previous practice of evaluating the officers under consideration exclusively on the basis of their service record, which comprise of their PERs and TERs of the last several years, and thus granting them marks accordingly, through the above form, except for the numerical data, the assessment/evaluation, marking and categorization could now, also be done exclusively on the basis of the knowledge of the members of the Board. Such option that the board could now exercise was in respect of certain crucial attributes/aspects such as, "integrity", "top management potential", "personality profile", "conduct discipline and behaviour", and, therefore the amendment made purportedly to bring the process, approach and criteria in line with the various directives of the Courts, and to remove from the process, the blemish and abrasion of unbridled and arbitrary exercise of discretion, and instead provide an open transparent objective criteria based on tangible record which could be lawfully taken into consideration, and to meet the essential

requirements of adequate disclosure and fairness, rather reinforced and further perpetuated the tendencies and practices deprecated by the Courts, and therefore when decision of CSB made under the above dispensation, and thus placing the officers under consideration by the Board in its meetings held in the year 2013, in category-C, was brought under the scrutiny of this Court in the case of Orya Maqboo abbasi (2014 SCMR 817), this Court held that although promotion was not a right but a civil servant fully qualified for promotion has a right to claim that his case may be considered for promotion strictly following the eligibility criteria laid by the authority, and that though the officers not meeting the eligibility criteria for promotion could be deferred, but the deferment could not be arbitrary and not supported by the service record, it was further held that the Board conducted itself arbitrarily as in view of their PERs, the officers were fully eligible for promotion but the Board "failed to take into consideration such reports for the reasons not tenable under the law and their such findings were clear violation and departure from the promotion policy because once the officers have fulfilled the criteria, their cases have to be considered to assess the fitness and suitability to share higher responsibility mostly based on objective criteria, instead of denying promotion to them for the subjective consideration". The impugned decision of the Board was declared to be whimsical, violative of the promotion policy and based on subjective considerations. The notification for promotion of all the officers based on the recommendation of the CSB through the above exercise/process was set aside with direction for conducting the process of promotion of all the officers concerned, strictly on merits

and in consonance with Section 9 of the Civil Servants Act, 1973 and Rules 7, 7-A and 8 of The Civil Servants (Appointment, Promotion and Transfer) Rules, 1973, and the promotion policy. The Government was also directed to evolve an objective criteria for promotion of the civil servants.

20. It was purportedly in pursuance of the above directives that the objective assessment form was, vide OM dated 10.02.2014, revised once again and the form reproduced hereunder was thus introduced:

OBJECTIVE ASSESSMENT BY CSB (as per OM dated 10.02.2014)

S.No.	Parameters/Attributes	Total Marks	Marks Assigned
1.	Output of Work and Quality of Work		
2.	Variety & Relevance of Experience Secretariat/Field Postings; Federal/Provincial Government Postings; Leadership/Routine Postings; Deputation/Foreign Postings		
3.	Professional Expertise		
4.	Personality Profile (As known to the Board Members)	10	
5.	Conduct, Discipline and Behavior (Observation by RO/CO during last 05 years OR as known to the Board Members)		
6.	Functional Ability and Leadership		
7.	Estimated Potential for Middle/Higher Management Based on PERs and Training Evaluation Reports; Management Skills, Ability to take decisions, Strategic Thinking, Leadership Qualities, Drive for Results and Accomplishments in BPS-19 and 20 in policy formulation & implementation		
8.	Integrity/General Reputation/Perception On the basis of PERs/TERs/Opinion of the Board	5	
9.	Total Marks by CSB	15	
10.	Overall Category Cat-A Cat-B Cat-C (11-15) (06-10) (0-05)		

* An officer under consideration, getting less than 3 out of five under this parameter may be defended or superseded by the CSB at their discretion but with reasons to be recorded in writing.

Secretary CSB
Dated

(Chairman CSB)

21. However, the above amended form, as is evident from its plain reading, instead of providing any evaluation structure, not only left it open for the board to choose either the service dossier of the officer concerned as a source material for the evaluation of the various essential & crucial attributes of the officer, or just to rely upon the personal knowledge of its members for the said purpose, whereas in relation to the candidate's personality profile it was left exclusively to be evaluated on the members knowledge, without any reference to any record, and above all, and more crucially, for an officer to avoid deferment or supersession (one out of two at the option of the board) it is made essential to obtain at least 3 out of the 5 discretionary marks in respect of "integrity/general reputation/perception". This created an anomalous situation where an officer who may have otherwise, achieved the required threshold on the basis of evaluation of his service record, may still be superseded by the Board on the basis of the opinion harboured or nurtured by a few of its members, and instead less deserving officer may be recommended, which could result in the degeneration of the civil service, and dissatisfaction & despondency amongst its cadres.

22. The recommendation of the board made in its meetings held on 05.05.2015 and 07.05.2015, on the basis of the assessment form, as discussed above, were impugned through 57 different writ petitions, filed by its affectees before the Islamabad High Court. The petitions were disposed of through a judgment dated 27.07.2015, which was assailed before a Division Bench of that Court resulting in the

impugned judgment, whereby the appeals, challenging the striking down of the OM dated 10.02.2014 along with the objective assessment form annexed thereto to the extent of five (5) overriding discretionary marks, have been dismissed and the entire process carried out by the CSB on the basis of OM dated 10.02.2014 and the objective assessment form annexed thereto, and resulting in the recommendations of the CSB for deferment/supersession of the officers under consideration has been declared to be unlawful and violative of the law laid down by this Court in *Orya Maqbool Abbasi's* case, with direction to the Establishment Division to reframe the formula in light of the observations contained in the impugned judgment with a further direction to reconsider the cases of all the officers whether promoted or not promoted by it through the impugned process/exercise in accordance with directions as contained in the judgment.

23. The entire impugned process being flawed for want of a well thought out structured objective criteria, and lacking in due process, gave way to arbitrariness, ambiguity and a whimsical approach, inasmuch as drifting from reliance upon the service dossier of the officer, (which were duly and meticulously qualified with all assessment spectrum, including overall performance and output and also regarding the integrity of the officer), and instead placing reliance on undefined personal opinion, and that too without qualifying it with the necessity of being based on any tangible evidence/material, resulted in adverse recommendation, like as reproduced hereunder:-

S.No.	Name of Petitioner	WP No.	Reasons for supersession as recommended by CSB
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1.	Qaiser Majeed Malik (PAS)	1401/2015	Followings reasons provided: "Though the officer met the minimum threshold of 75 marks, yet the Board, after assessing the officer against the prescribed objective assessment criteria, besides keeping in view the PERs, TERs and knowledge of the Board members, placed in category C and accordingly recommended him for supersession."
2.	S.Asif Mateen Zaidi	1506/2015	Following reasons provided: "Though the officer met the minimum threshold of 70 marks, yet the Board, after assessing the officer against the prescribed objective assessment criteria, besides keeping in view the PERs, TERs and knowledge of the Board members, placed in category C and accordingly recommended him for supersession."
3.	Samin Ullah Khan	1507/2015	Following reasons provided: "Though the officer met the minimum threshold of 70 marks, yet the Board, after assessing the officer against the prescribed objective assessment criteria, besides keeping in view the PERs, TERs and knowledge of the Board members, recommended him for supersession."

24. As can be seen from the foregoing, though all the officer named therein, achieved the prescribed threshold on the basis of their PERs and TERs, but have been superseded on the basis of knowledge of the board's members, but neither has any reason given for ignoring the quantification in the service record, nor the nature and/or source of the so called knowledge been disclosed. Since it has not even been stated as to what came to the knowledge of the members (and to which of them) so as to persuade them to override the evaluation on the basis of the service dossier of the officer covering the entire spectrum of his performance and conduct, spread over long years of his service, and recommend his supersession in the face of his meeting the prescribed criteria otherwise, and therefore neither was the board in a position to disclose or convey to the effectee any ground/reason

for his predicament, nor was any explained before us, despite our repeated queries, and thus the process not only violated the requirement of adequate disclosure, but also offended the principle of fairness, due process and procedural propriety. Even otherwise the appellant has not been able to show any thing adverse against the officer in their respective service dossiers. We have also noted that in the cases of deferment also no plausible explanation or reason has been mentioned. The matter of promotion, deferment or supersession of a civil servant and that too of BPS-20 and 21, is of enormous significance, having a bearing on the state structure and cannot be left to be dealt with in an arbitrary, casual and capricious manner, like in the present case.

25. It was for the foregoing reasons that we through a short order dated 13.3.2017, dismissed the titled appeals/petition, and would hereby direct the Establishment Division to place all of those cases which were laid before the board through the impugned exercise/process, afresh, after withdrawing the overriding effect of five (5) marks assigned for integrity/reputation etc. and removing the deviation of the focus of the board from the service dossier to the personal knowledge of its members. The above exercise be initiated within four weeks, and be concluded within ten weeks from 13.4.2017. In the meanwhile, those who may have been promoted on the basis of impugned recommendations shall maintain their such elevated position/status. However, in the event the officers whose cases for promotion have been recommended to be deferred or superseded, are through the proposed process recommended for promotion, they

shall maintain their seniority viz'a'viz those who were recommended for promotion through the impugned process, and may again be so recommended, so that the seniority of the presently left out officers and so also their entitlement to the consequential benefits, including prospects of their future promotion is not adversely effected.

CHIEF JUSTICE

JUDGE

JUDGE

ISLAMABAD.
13th March, 2017
Rizwan

"APPROVED FOR REPORTING"