

JUDGMENT SHEET.

IN THE ISLAMABAD HIGH COURT,
ISLAMABAD.

W.P. No. 3034 of 2017

Capt. Retd. Tariq Hayat Khan

Versus

Federation of Pakistan, etc.

Petitioners By : M/S Aziz ul Haque Nishtar, Muhammad Shoaib Shaheen, Syed Ali Zafar, Abdul Rahim Bhatti, Barrister Masroor Shah, Ajam Naz Malik, Tahir Munir Malik, Ghulam Mehboob Khokhar, Hifz Ur Rehman, Hafiz S.A Rehman, Muhammad Anwar Muhgal, Syed Shajjar Abbas Hamdani, Dr. Atique Tahir, Zahid Nawaz Cheema, Syed Ishfaq Hussain Naqvi, Muhammad Ramzan Khan, Shafqat Rasool, Farhat Nawaz Lodhi, Malik Muhammad Aqil Awan, Danish Rashid, Ch. Asghar Ali, Tahir Mahmud, Sumaira Khurshid, Syed Hasnain Kazmi, Ch. Shafiq Ur Rehman, Taimoor Aslam Khan, Farook H. Naek, Immad Khan, Amjad Ali, Shireen Imran, Barrister Gohar Ali Khan, Ch. M. Nawaz, Neeli Khan, M. Asad Ullah Siddiqui Advocates.

Respondents By : Mr. Rashid Hafeez, DAG.
M.D. Shahzad, Tajammul Hussain, Advocates for Respondents/FBR.
Mohsin Kamal, Advocate for respondent No.3 in W.P No. 1505/2018.
Omer Bin Zia, Joint Secretary, Establishment Division.

Date of hearing : 07.09.2018

AAMER FAROOQ, J. - This judgment shall decide the instant petition as well as Writ Petitions mentioned in the schedule 'A' attached herewith.

2. The petitioners, in all the petitions, are civil servants either in BS-19 or BS- 20 and are aggrieved of the recommendations/decisions by the Central Selection Board ("**CSB**") and/or the competent authority, whereby, they have either been deferred or superseded for multifarious reasons. Some of the petitioners have also challenged the change made in the Objective Assessment by the Establishment Division, through Office memorandum dated 18.06.2017, amending the promotion policy pursuant to the directions of the Hon'ble

Supreme Court of Pakistan made in case reported as "**Federation of Pakistan vs. Dr. Muhammad Arif**" (2017 SCMR 969).

3. According to the promotion policy of the Establishment Division, Cabinet Secretariat, Government of Pakistan, a civil servant in order to be promoted from BS-19 to BS-20 has to achieve the threshold of 70% marks and the one to be promoted from BS-20 to BS-21 has to obtain threshold of 75% marks. In almost all the petitions, the petitioners did achieve the requisite threshold i.e. in case of promotions from BS-19 to BS-20 they achieved 70% and above threshold and in cases BS-20 to BS-21 more than 75% marks were obtained, however, as is provided in the office memorandum No. 1/1 of 2012 dated 12.10.2012, any candidate who fails to receive category-A in the Objective Assessment by the CSB shall be either deferred or superseded, hence, the petitioners despite achieving the requisite threshold have been deferred or superseded because they were placed in category-C. In three petitions (W.P No. 1004/2018, W.P No. 3177/2017 and W.P No. 2738/2018) the petitioners were promoted but their promotion was reverted in light of the direction of the Hon'ble Supreme Court in 2017 SCMR 969 and they have assailed the same.

4. Learned counsels for the petitioners, *inter alia*, contended that petitioners have been deferred or superseded primarily on the same criteria as they had used in the past, which was challenged time and again before the Courts i.e. personal knowledge of the Members of the CSB. It was further contended that it is a surprising element that almost everyone who has achieved the threshold or scored higher aggregate percentage has been placed in category-C, pursuant to the office memorandum of 2012; that this categorization is due to unbridled discretion exercised by the Members of CSB which they could not have done in light of various pronouncements of Hon'ble Supreme Court of Pakistan. Reliance was placed on case reported as "**Orya Magbool Abbasi Vs. Federation of Pakistan**" (2014 SCMR 817). It was further contended that pursuant to the directions of Hon'ble Supreme Court of Pakistan in the case "**Orya Magbool**

Abbasi” supra, an amended O.M was promulgated which was challenged before this Court and was struck down in the decision of this Court in I.C.A No. 368 of 2015, which decision has been upheld by the august Apex Court in case reported as **“Federation of Pakistan vs. Dr. Muhammad Arif” (2017 SCMR 969)**. Learned counsels also contended that after the judgement of Hon’ble Supreme Court of Pakistan in **2017 SMCR 969** supra, the impugned office memorandum dated 18.06.2017 was issued in which though the effort has been made to make the Objective Assessment from personal knowledge to record based, however, it was contended that despite the same the categorization has been retained and resultantly despite achieving the threshold due to the categorization into category-A, B & C on the basis of Objective Assessment by CSB, a civil servant can be either superseded or deferred which is unreasonable exercise of discretion. Learned counsels in support of their contentions placed reliance on cases reported as **“Iram Adnan Vs. Federation of Pakistan” (2012 PLC (CS) 1355)**, **“Tariq Aziz-ud-Din Vs. Federation” (2010 SCMR 1301)**, as well as **“Liaquat Ali Chughtai Vs. Federation of Pakistan” (PLD 2013 Lahore 413)**.

5. Mr. Rashid Hafeez, the learned Deputy Attorney General, *inter alia*, contended that the petitioners have been considered on the basis of reports and other documents and have been granted marks accordingly; that even in respect of Objective Assessment by the CSB the record and documents vis-à-vis individual civil servant were considered and they have been placed in category-C on the basis thereof. It was further submitted that office memorandum of 2017 has been devised in line with the directions of the Hon’ble Supreme Court of Pakistan in **Dr. Muhammad Arif’s** case, however, the categorization into categories A, B & C is provided in office memorandum of 2012 which is still being used and never has been challenged in any case directly. It was also submitted that the persons who were recommended for deferment shall in any case be considered in the forthcoming CSB meetings and those who have been superseded in some cases have been promoted separately, however, have only

filed a petition for attaining seniority qua their batchmates, which is a question of terms and conditions of service and bar under Article 212 of the Constitution is applicable. It was contended that the petitions are not maintainable as question of fitness entails factual inquiry; promotion is not a vested right; promotion is a matter of policy and hence not justiciable; that High Court cannot substitute marks awarded by CSB. Reliance was placed on cases reported as **"Secretary Establishment vs. Aftab Manika" (2015 SCMR 1006)**, **"Government of KPK vs. Hayat Hussain" (2016 SCMR 1021)**, **"Government of KPK vs. Mohammad Javed" (2015 SCMR 269)** and **"Mst. Kausar Ghaffar vs. Government of Punjab" (2013 SCMR 99)**.

6. Arguments advance by the learned counsels for the parties have been heard and documents placed on record have been examined with their able assistance.

7. It is pertinent to observe that individual facts of each case are not being narrated inasmuch as the controversy more or less is the same in all cases i.e. the petitioners are civil servants who are aggrieved of either supersession or deferment despite the fact that they have achieved the threshold aggregate but have been put in category-C, pursuant to Objective Assessment by the CSB.

8. The promotion criteria for DPC and CSB was initially issued in 1982 i.e. on 31.12.1982, the same was revised on 30.04.1984 which in turn again was revised through revised promotion policy 2007 on 24.10.2007, which was further amended in 2012 through O.M dated 12.10.2012. The promotion policy again faced revision on 10.02.2014, which was further revised on 18.06.2017 and then again on 27.12.2017.

9. The two cases which are relevant to understand the controversy and recent amendments made in the promotion policy of 2007 are **"Iram Adnan Vs. Federation of Pakistan" (2012 PLC (CS) 1355)** and **"Liaqat Ali Chughtai Vs. Federation of Pakistan" (PLD 2013 Lahore 413)**. In **"Iram Adnan"** supra, the petitioners, who were civil servants, challenged their supersession/deferment

on almost similar grounds as are in the instant petitions, before this Court. This Court in the referred matter held as follows:-

“In this view of the matter instant writ petitions are allowed, formula of award of 15 marks on the discretion of CSB is declared as illegal, superficial, unconstitutional, against the dictums of court of apex, non-transparent, result of adamant approach, whimsical, sham, unprecedented, infringement to constitutional guarantees and principles of natural justice, therefore, same is set aside. The respondent Establishment Division is directed to implement the judgment of Hon'ble Supreme Court, delivered in Civil Petitions Nos.1083, 58 to 60, 443 and 444 of 2010, in its letter and spirit and restructure the formula of award of 15 marks, in accordance with guidelines provided therein.”

10. Similarly in “**Liaqat Ali Chughtai**” supra similar controversy was raised and it was observed as follows:-

“ The process employed by CSB of placing reliance on the personal opinion of the Members of CSB in arriving at the impugned reasons leading to the supersession of the petitioners is an affront to fairness, due process and Article 10A of the Constitution.

Another dimension of this case is that a senior officer in Grade-20 or 21 is being labelled as "dead corrupt" or "incompetent" after more than 30 years of unblemished service according to his service record, without any tangible evidence and without affording the petitioners a right to defence. This insensitive abuse of due process resulting in the indecorous recommendations against the petitioners, lowers their self esteem and social reputation thereby affecting their dignity”.

It was also observed that:-

“The other aspect of the case is whether CSB developed structured objective criteria for the award of 15 marks and whether collective discretion of CSB has been exercised lawfully. The facts narrated above paint a very sorry picture as the collective discretion of CSB has been pegged on personal opinions of some of the Members. Instead of relying on the criteria and factors mentioned in the Revised Promotion Policy (mentioned above) the CSB developed the following so called criteria:

Sr. No.	Category of Officer	Marks to be awarded
1.	Outstanding	13-14
2.	Very Good	10-12
3.	Good	7-9
4.	Average	4-6
5.	Below Average	2-3

ove objective criteria, reproduced above, is not sufficiently structured or elaborately tailored to reflect thorough deliberation and proper analytical assessment of the officers to be promoted by the CSB. Slackness in the objective criteria, questions the transparency of the process and therefore weakens credibility of the selection by such, a high powered Central Selection Board.

11. The Hon’ble Lahore High Court concluded that CSB is directed to formulate a well thought out Objective criteria in accordance with the revised promotion policy. After the said two decisions the promotion policy 2007 was revised through O.M dated 12.10.2012 in the following terms:-

“2. With approval of the Competent Authority, the following changes are hereby made in the said policies/ guidelines:-

- a. The existing parameters/attributes namely 1) Quality & Output of Work; 2) Variety and Relevance of Experience; 3) Top Management Potential contained in the Guidelines for CSB attached with Promotion Policy, 1982 read with Revised Promotion Policy, 2007 shall continue to apply for consideration of civil servants for promotion, deferment and supersession.**
- b. New parameters/ attributes namely 1) Integrity/ General Reputation/ Perception; 2) Personality Profile; and 3) Conduct, discipline & Behaviour are added in the said Guidelines attached with 1982 Policy.**
- c. “Quality & Output of Work” and “Integrity” contained in the Guidelines attached with 1982 Policy as well as relevant boxes in the PER Forms, deleted in 2003, are revised. Changes in the PER Forms being issued separately.**
- d. A new Objective Assessment Form (Annexure-A) for assessment of each officer on the panel by CSB against the attributes namely 1) Quality & Output of Work; 2) Integrity/ General Reputation/ Perception; 3) Variety and Relevance of Experience; 4) Top Man agement Potential; 5) Personality Profile; and 6) Conduct, discipline & Behaviour is hereby introduced.**
- e. The said Objective Assessment Form shall be placed before the CSB alongwith panel proforma of every officer for his/her objective evaluation by the CSB. The Board shall assess each officer on the panel on the basis of said parameters/ attributes. After assessment/ evaluation, the CSB shall place the officer in any of the following categories and assign appropriate marks accordingly:**

<u>SI.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

- f. Sub Para-b of Para-4 of Revised Promotion Policy, 2007 provides that the officers securing requisite percentage of marks viz: 70 and 75 will be promoted to BS-20 & 21 respectively. The said para, is modified as under:**

“(b) The Selection Board shall recommend the officers on the panel securing requisite % and above in the efficiency index for promotion unless deferred (in order of seniority, depending upon the number of vacancies). An officer meeting the aggregate threshold shall also be superseded if CSB places him in Category-C. the senior officers, if not recommended for promotion on account of low threshold, shall be superseded whereas the junior officers if not recommended for promotion for want of vacancies shall be deemed not to have been considered.”

g. The aforementioned criteria for award of 15 marks by the CSB shall henceforth be treated as part of the Guidelines for Selection Board attached with Promotion Policy, 1982.

3. The promotion Policy, 1982 read with Revised Promotion Policy, 2007 as well as the Guidelines for Departmental Promotion committees/ Central Selection Boards attached with the 1982 Policy shall be deemed to have been modified to the above extent.

4. Instructions contained in the Promotion Policy, 1982 read with revised Promotion Policy, 2007, as amended from time to time, and Guidelines for Departmental Promotion Committees/ Central Selection Boards attached with the 1982 Policy in so far as not inconsistent with the provisions of this OM shall remain in force.

5. Subject to the provisions of Civil Servants (Appointment, Promotion & Transfer) Rules, 1973 and such other rules made under the Civil Servant Act, 1973, the Civil servants shall be considered for promotion to higher post in accordance with the Promotion Policy issued by the Federal Government for the time being in force. The amendment in the Civil Servants (Appointment, Promotion & Transfer) Rules, 1973 shall be notified separately.”

Likewise, the Objective Assessment Form was revised which is as follows:

“OBJECTIVE ASSESSMENT BY CSB

Officer’s Name:_____Seniority No._____

Group/Service/Cadre:_____Present Scale_____

S.No.	Parameters/Attributes	Categories		
		Cat-A [11-15]	Cat-B [06-10]	Cat-C [00-05]
1	Quality & Output of Work			
2	Integrity/ General Reputation/ Perception [last 05-yrs of Synopsis OR as known to the Board Members]			
3	Variety & Relevance of Experience Nature of duties, duration & location of positions held in previous two grades or 15 Yrs			

	whichever is longer relevant to the function 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 OR as known to the Board Members]			
5	Personality Profile [As known to the Board Members]			
6	Conduct, Discipline & Behaviour [Observation by RO/CO during last five years OR as known to the Board Members]			
7	Total			
8	Average			
9	Marks By CSB			

[Chairman CSB]

[Secretary, CSB]

Dated:

Dated:

12. It is an admitted position that the above office memorandum was never assailed directly but was pondered over in the case **2014 SCMR 817** supra with and the following observations were made:-

- “(i)

The petition under Article 184(3) of the Constitution has been held to be maintainable and is allowed.
- (ii)

The promotion form BS-20 to 21 against available vacancies has to be made in accordance with reserved quota for the promotion of different groups i.e. PAS, Secretariat etc., as a result whereof instead of cancelling the promotion of the officers from Sr. Nos. 57 to 80 all cases of promotion against 88 vacancies of BS-21 is hereby cancelled being void and unlawful and fresh exercise has to be undertaken along with the cases of the civil servants which have been remanded by the Lahore High Court in *Laiqat Ali Chughtai’s case* (PLD 2013 Lahore 413) and the cases decided Islamabad High Court in W.P. No. 3483 of 2011. Consequently, notification of promotion of all the officers issued in pursuance of the recommendations of CSB held on 11th-14th February and 27th February, 2013 is hereby set aside with direction to the competent authority to undertake the process of the promotion to all of them as observed hereinabove strictly in accordance with law on merits under section 9 of the Civil Servants Act, 1973, read with rules 7, 7A and 8 of the Civil Servants (Appointments Promotions and Transfers)

Rules, 1973 as well as Promotion Policy as amended up to date, vide O.M. dated 13.01.2013.

(iii) The Government shall also undertake exercise to outline the objective criteria for promotion to make the civil servant an honest officer and free from political pressure as has been noted hereinabove.”

13. After the directions by the august Apex Court in **2014 SCMR 817** supra the Objective Assessment criteria was issued through office memorandum dated 10.02.2014, whereby, the following Objective Assessment criteria was laid down.

“OBJECTIVE ASSESSMENT BY CENTRAL SELECTION BOARD

Officer’s Name:_____Seniority No._____

Group/Service/Cadre:_____Present Scale_____

S.No.	Parameters/Attributes	Total Marks	Marks Assigned
1	Output of Work and Quality of Work	10	
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)		
5	Conduct, Discipline and Behaviour [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/ Protection 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 maybe deferred or superseded by the CSB at their discretion but with reasons to be recorded in writing”

14. In the said policy the Objective Assessment marks had an overriding effect inasmuch as any officer, who obtained less than 3 marks out of 5 was to be

deferred or superseded. This amendment came under challenge before this Court and O.M dated 10.02.2014 was struck down. The decision of this Court was assailed before Hon'ble Supreme Court of Pakistan in case "**Federation of Pakistan vs. Dr. Muhammad Arif**" (2017 SCMR 969) wherein, the Hon'ble Supreme Court of Pakistan observed as follows:-

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 vis-a-vis 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 affected.

After the above mentioned observations by the Hon'ble Supreme Court of Pakistan the respondents yet again revised the Objective Assessment criteria and replaced the earlier one with the following criteria:-

OFFICE MEMORANDUM

Subject: REVIEW OF PROMOTION POLICY – REVISION OF OBJECTIVE ASSESSEMNT FORM BY THE CSB.

The undersigned is directed to refer to this Division's O.M. No. 1/1/2012-CP-II, dated 10.02.2014 read with O.M. No. 1/1/2012-CP-II, dated 12.10.2012 on the subject captioned above and to state that with the approval of the Competent Authority, existing Objective Assessment Form for assessment of each officer on the panel by the Central Selection Board has been revised (Annexure) in pursuance of Supreme Court Judgment dated 13.03.2017 in civil appeal Nos. 2109-2139/2016.

2. The Ministries/Divisions are requested to bring the aforesaid amendment to the notice of all Attached Departments/Sub-Ordinate Offices under their administrative control for compliance.

(Faaiz Aali Gill)
Section Officer (Policy)

Government of Pakistan
Ministry of _____

"OBJECTIVE ASSESSMENT BY CENTRAL SELECTION BOARD

Officer's Name: _____ Seniority No. _____
Group/Service/Cadre: _____ Present Scale _____

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 Profile		
4	Personality Profile (As known to the Board Members primarily on the basis of dossier/documentary evidence)		
5	Conduct, Discipline & Behaviour [Observation by RO/CO during last 05 years OR as known to the Board Members primarily on the basis of dossier/documentary evidence]		
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 primarily based on dossier/documentary evidence.		
9	Total Marks By CSB	15	
10	Overall Category Cat-A Cat-B Cat-C (11-15) (06-10) (0-05)		

[Secretary, CSB]

[Chairman CSB]

Dated: _____

15. As noted above the petitioners have assailed the above recent Objective Assessment form and are aggrieved of either their deferment or

supersession on the basis thereof. In almost all cases the petitioners have obtained the threshold aggregated, however, were placed in category-C as they scored less than 5 marks. According to learned Deputy Attorney General the categorization of civil servants into category-C is based on the record i.e. dossier and other documents on the file of a civil servant and pursuant to the said documents CSB in its collective wisdom placed the civil servants into category-C. The referred argument by the learned Deputy Attorney General is not tenable and hence is spurned inasmuch as it is anomalous that an individual achieves the requisite threshold i.e. in the case of civil servant in BS-19, who is to be promoted to BS-20, 70% marks or more and in the case of promotion from BS-20 to BS-21, 75% or more on the basis of documents on record, however, when marks are to be awarded on the basis of same documents by CSB Members in their discretion place a civil servant in category-C in light of clauses **2.E** and **F** of O.M dated 12.10.2012. The examination of Office Memorandum shows that as per Objective Assessment to be made by CSB; the record comprises PERs, TERs and dossier etc of a civil servant and the same are to be examined and personal knowledge of members of CSB is not to be used in awarding marks. The Objective Assessment form apparently does comply with the directions of Hon'ble Supreme Court of Pakistan made in **Dr. Arif's** case, supra. The Office Memorandum, hence, is not in violation of the principles propounded by the august Apex Court and does not merit setting aside.

16. It is evident from the arguments by the learned counsels for the parties as well as the examination of meeting of CSB that CSB still exercises discretion, while awarding marks out of 15, whimsically and in an arbitrary manner. The Hon'ble Supreme Court of Pakistan in case reported as "**Tariq Aziz-ud-Din Vs. Federation**" (**2010 SCMR 1301**), laid down parameters regarding exercise of discretion, the august Apex Court observed as follows:-

"It is the duty and obligation of the competent authority to consider the merit of all the eligible candidates while putting them in juxtaposition to find out the meritorious amongst them otherwise is one of the organs of the State i.e. Executive could not survive as an independent organ

which is the command of the Constitution. Expression 'merit' includes limitations prescribed under the law. Discretion is to be exercised according to rational reasons which means that; (a) there be finding of primary facts based on good evidence; and (b) decisions about facts be made, for reasons which serve the purposes of statute in an intelligible and reasonable manner. Actions which do not meet these threshold requirements are considered arbitrary and misuse of power [Director Food, N.-W.F.P. v. Messrs Madina Flour and General Mills (Pvt.) Ltd. PLD 2001 SC 1]. Equally, discretionary power conferred on Government should be exercised reasonably subject to existence of essential conditions, required for exercise of such power within the scope of law. All judicial, quasi judicial and administrative authorities must exercise power in reasonable manner and also must ensure justice as per spirit of law and seven instruments which have already been referred to above regarding exercise of discretion. The obligation to act fairly on the part of the administrative authority has been evolved to ensure the rule of law and to prevent failure of justice [Mansukhlal Vithaldas Chauhan v. State of Gujrat {1997 (7) SCC 622}]."

17. CSB has not acted while placing the petitioners in category-C in a reasonable manner and has exercised discretion arbitrarily and unreasonably. Though an effort has been made pursuant to the directions of the august Apex Court in the case of **Dr. Muhammad Arif** to make the Objective Assessment record based, however, the use of discretion while awarding 15 marks and giving the same overriding effect despite the fact that a person achieved the threshold is in-violation of the pronouncements of the Hon'ble Supreme Court of Pakistan and even this Court in **Irum Adnan's** case supra. It is reiterated that in **Irum Adnan's** case this Court directed Establishment Division to declare that discretion of CSB is illegal and superficial, inasmuch as, as noted above a civil servant achieving marks more than threshold on the basis of record fails to obtain qualifying marks when Objective Assessment is made by CSB on the basis of same record is irrational, unreasonable and improper exercise of discretion.

18. In view of the above facts and legal position the recommendations/decisions to defer the petitioners or supersede them are not tenable. However, the O.M dated 18.06.2017 does not suffer from any infirmity.

19. For the above mentioned reasons, the above petitions except (W.P Nos. 1004/17, 2738/18 and 3177/2017) are allowed and the recommendations by the CSB and/or by the Competent Authority qua the deferment or supersession of the petitioner's as the case may be are set aside with the direction, that the petitioners shall be considered afresh in light of the law pronounced by the Hon'ble Supreme Court of Pakistan from time to time. It is pertinent to observe that respondents are expected to follow the dicta of Hon'ble Supreme Court of Pakistan, wherein, various directions have been issued which are either by-passed or are avoided under one pretext or the other without formation of transparent promotion policy in light of the referred pronouncements. It is further expected that the Federal Government/Establishment Division shall look into the matter and do the needful, so as to, put an end to the recurrent litigation on part of aggrieved civil servants. The prayer regarding setting aside Office Memorandum dated 18.06.2017 is turned down. In Writ Petitions 3177/2017, 1004/2018 and 2738/2018, as noted above their promotions were reverted on the basis of direction of Hon'ble Supreme Court of Pakistan, hence no exception can be taken thereto. The request for setting aside reversion is therefore declined and petitions are dismissed. However, the petitioners in the said petitions shall be considered for promotion in accordance with law, if they are eligible for the same.

(AAMER FAROOQ)
JUDGE

Announced in Open Court on 27.09.2018

JUDGE

Shakeel Afzal/.

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