

Appeal No. 467/2013,
Mr. Gert Jabin Jan.


4. 26-6-2013.

No body present on behalf of the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunals (Amendment) Ordinance 2013, (Khyber Pakhtunkhwa ord. II of 2013), the case is adjourned on note Reader for proceedings as before on 01.08.2013.


Reader

5. 01.08.2013

No one is present on behalf of the appellant. Case is adjourned. Notice be issued to the appellant/counsel for the appellant for preliminary hearing on 07/10/2013.


Member

6. 07.10.2013

No one is present on behalf of the appellant. To come up for preliminary hearing on 18.11.2013.


Member

7. 18.11.2013

Neither appellant nor his counsel is present. Called several times but non appeared on behalf of the appellant. As such the appeal in hand is dismissed in default. File be consigned to the record.

ANNOUNCED
18.11.2013





Member

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 467 /2013

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	22/02/2013	<p>As per direction of the worthy Chairman the present appeal, filed by Mr. Gul Tahir Jan through Mr. Muhammad Alam Zeb Khan Advocate be entered in the Institution Register and put up to the Primary Bench for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p> <p>To come up for preliminary hearing on <u>6-5-2013</u></p> <p>Notice shall be issued to appellant and his counsel.</p> <p style="text-align: right;"> MEMBER</p>
2	8-4-2013	<p>2-</p> <p>No one is present for the appellant. Notice be issued to the appellant and his Counsel for P-H on 26.6.2013.</p> <p style="text-align: right;"> Member-</p>
3	6.5.2013	


This is an appeal filed by Mr. Gul Tahir Jan EXN Irrigation department today on 14/02/2013 against the order dated 10.1.2013 against which he preferred a departmental appeal on 25.01.2013 which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellants/counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action and also removing the following deficiencies.

- 1- Memorandum of appeal is unsigned which may be got signed by the appellant.
- 2- Three more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 300 /ST,

Dt. 14/02 /2013


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

MUHAMMAD ALAMZEB KHAN ADV. PESH.

(i) The Authority mentioned above is not applicable to the instant case rather it helps the Appellant under para no 14 (XIV) of posting/Transfer policy of provincial Govt says that

For posting/Transfer in violation of provisions of Transfer policy

Departmental Appeal lies to next Higher Authority within 7 days of the receipt of Transfer order, which departmental Appeal would be disposed off within 15 days by concerned Authority otherwise the Appeal would be presumed to have been dismissed

P. T. 2

As the departmental Appeal has not been disposed off within stipulated period, hence presumed as dismissed so the instant Appeal to Tribunal is quite competent,

ii) other objections also met out.

Re-submitted after doing the needful and clarifying the legal position.

19/2/2013

A. J. Rao

Adv

Sir, the observations of this office and reply of Counsel for the appellant is submitted for orders please.

Hon'ble,
The Chairman,

22/2/13

Be pleased before
the learned principal
Bench for dealing with
question raised above

[Signature]
23/2/13

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR

Appeal no. 467/2013

Gul Tahir Jan

VERSUS

Secretary Irrigation Department etc

I N D E X

S NO	DESCRIPTION	ANNEX	PAGE
1.	Appeal, Affidavit alongwith Memo of addresses	-	01 - 04
2.	Application for suspension of impugned transfer order alongwith addresses of parties	-	05 06
3.	Copies of the notifications	-	07 - 10
4.	Copy of the departmental appeal	-	11 - 12
5.	Copy of the judgment of Supreme Court of Pakistan	-	13 - 21
6.	Wakalat Nama (In original)	-	22

Appellant

Through:

A. Zeb Khan
(ALAM ZEB KHAN)
Advocate,

High Court, Peshawar
Cell # 0333-9171362

Dated:-13th January, 2013

(12)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR

Appeal No 467 / 2013

P.W.J. Peshawar
No. 408
Date 14-2-13

Gul Tahir Jan, Executive Engineer Irrigation Division-II, Swabi

(Appellant)

VERSUS

1. Secretary Irrigation Department, Khyber Pakhtunkhwa Peshawar
2. Chief Engineer (North) Irrigation Department
3. Superintending Engineer Headquarter North Irrigation Department
4. Superintending Engineer Headquarter South Irrigation Department
5. Superintending Engineer, Irrigation Circle, Swabi
6. Engineer Abdur Rehman Badshah, XEN Irrigation Swabi

(Respondents)

Appeal against impugned transfer order vide notification No SO (E)/IRR/4-09/77 dated 10th January, 2013 is being wrong, illegal, against facts ~~unconstitutional~~, ultra virus, politically motivated and, hence liable to be cancelled / set aside

[Signature]
24/2/13

PRAYER:-

To set aside the impugned transfer order being ultra virus and for political reasons

Respectfully submitted that:-

- 1) The Appellant has got 27 years of service at his credit with unblemished service record, and is presently XEN Swabi for the last 6/7 months.

- 2) The Appellant previously was XEN Mechanical Division Peshawar, who on 29th October, 2011 was transferred to Malakand Division. (Notification annexed).
- 3) On 17-05-2012 i.e. after about 06 months and 18 days, he was transferred as Deputy Director (Design) in office of Chief Engineer (North). (Notification annexed).
- 4) Thereafter on 29-06-2012 i.e. after about 01 month and 12 days, the Appellant was transferred as XEN Irrigation Swabi. (Notification annexed).
- 5) Now on 10th January, 2013 after 06 months and 11 days of transfer to Swabi, the Appellant has again been transferred and ordered to report to Chief Engineer (North) Irrigation Department, without any reason, rhyme and fault on the part of Appellant. (Notification annexed).
- 6) The Appellant has been made a rolling stone and a scapegoat and is being harassed and humiliated on political grounds and reasons.


GROUND FOR SETTING ASIDE THE IMPUGNED TRANSFER ORDER NO SO (E)/Irr/477 DATED 10-01-2012

- a) The impugned transfer order is in violation of principle as enshrined in the recent judgment of his lordship the Chief Justice of Pakistan tiled.
"Anitha Turab...Vs...Federation of Pakistan vide Constitutional Petition No 23/2012 widely circulated in all the provinces.
- b) That the impugned transfer order is purely on political reasons and grounds hence has been issued with mala-fide intentions and so ultra virus.

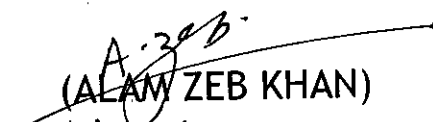
- c) The Appellant is being regularly penalized, embarrassed and harassed for the last one year as is evident from these four transfers within a short pan of one year.
- d) The impugned order is fanciful and perverse as the Appellant could not fulfill the illegitimate demands of some political figure.
- e) No cogent and reasonable grounds given for such a transfer in hast.
- f) The impugned order is a blackmailing tactics to give induction to the incoming XEN for fulfilling the desires and wishes of political authorities.
- g) The impugned order is corum-non-judice and is not based on judicial principles and is open to interference.
- h) Any other grounds will be raised at the time of arguments with the permission of this tribunal

PRAYER:-

For the reasons stated above and in interest of justice, the Appeal be accepted and impugned order be set aside, so is to enable the Appellant to perform his duties whole heartedly and with full dedication and devotion.


Appellant

Through:


(ALAM ZEB KHAN)
Advocate,
High Court, Peshawar

Dated: -13th February, 2013

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR

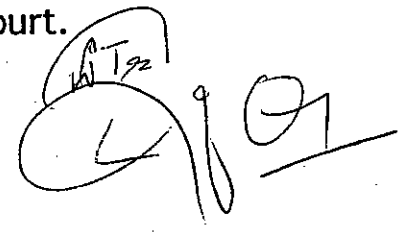
Gul Tahir Jan

VERSUS

Secretary Irrigation Department etc

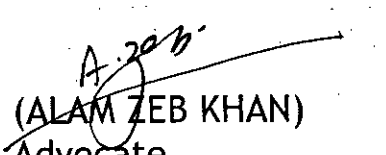
AFFIDAVIT

I, *Gul Tahir Jan*, Executive Engineer Irrigation Divison-II, Swabi, do hereby solemnly affirm and declare that all the contents of accompanying Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed OR with-held from this Honourable Court.



DEPONENT

Identified by


(ALAM ZEB KHAN)
Advocate
High Court, Peshawar

Oath Commissioner
SYEDA SEEMA QURESHI
Advocate
High Court Peshawar.

(53)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR

Gul Tahir Jan

V E R S U S

Secretary Irrigation Department etc

Application for suspension of
impugned transfer order

Respectfully submitted that:-

- 1) The above titled case is being filed today, wherein no date as yet has been fixed.
- 2) The Appellant has got a good prima facie case and if the impugned transfer order is not suspended, the Appellant would suffer irreparable loss.
- 3) The balance of convenience also lies in favour of Appellant.

Hence, in interest of justice, the impugned transfer order be suspended till final disposal of the instant case.

Through:

Appellant

(ALAM ZEB KHAN)

Advocate,

High Court, Peshawar

Dated: -13th February, 2013

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR

Gul Tahir Jan

V E R S U S

Secretary Irrigation Department etc

ADDRESSES OF THE PARTIES

APPELLANT

Gul Tahir Jan, Executive Engineer Irrigation Divison-II, Swabi

RESPONDENTS

1. Secretary Irrigation Department, Khyber Pakhtunkhwa Peshawar
2. Chief Engineer (North) Irrigation Department
3. Superintending Engineer Headquarter North Irrigation Department
4. Superintending Engineer Headquarter South Irrigation Department
5. Superintending Engineer, Irrigation Circle, Swabi
6. Engineer Abdur Rehman Badshah, XEN Irrigation Swabi


Appellant

Through:


(ALAM ZEB KHAN)

Advocate,
High Court, Peshawar

Dated: -13th February, 2013

GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT

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NOTIFICATION

Dated Peshawar 29th Oct. 2011

No. SO(E)/IRR/4-9/77: The competent authority is pleased to approve the postings/transfers of the following officers of Irrigation Department with immediate effect in the public interest:-

S. No	Name of the Officer	From	To	Remarks
1	Mr. Gullar Jan, Executive Engineer (3S-18)	XEN, Mechanical Division, Peshawar	XEN, Malakand Irrigation Division, Malakand	Vice No. 2
2	Mr. Ghulam Ishaq, Assistant Engineer (3S-17)	XEN (OPS), Malakand Irrigation Division, Malakand	XEN, Mechanical Division, Peshawar	Vice No. 1

Secretary to Govt. of Khyber Pakhtunkhwa
Irrigation Department

Encls: No. & Date as above.

Copy of/the above is forwarded to:-

- 1- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- The Chief Engineer (North), Khyber Pakhtunkhwa, Irrigation Department.
- 3- The Chief Engineer (South), Khyber Pakhtunkhwa, Irrigation Department.
- 4- The Director General, Small Dams, Irrigation Department, Peshawar.
- 5- The Director General, FDRD, Khyber Pakhtunkhwa.
- 6- The Superintending Engineer (H/Q), North, Irrigation Department.
- 7- The Superintending Engineer, Mardan Irrigation Circle, Mardan.
- 8- The Officers concerned.
- 9- PS to Minister for Irrigation, Khyber Pakhtunkhwa.
- 10- PS to Secretary to Govt. of Khyber Pakhtunkhwa, Irrigation Department.
- 11- Master File.
- ✓ 12- Personal Files of the Officers.

Misal Khan

(Misal Khan)
SECTION OFFICER (ESTT.)

ATTESTED

Misal Khan
13/10/11
Advocate



GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT

Dated: Peshawar: 17th May, 2012.

NOTIFICATION

No. 'SO(E)/IRR./4-9/77'. The competent authority is pleased to order postings/transfers of the following officers of Irrigation Department with immediate effect:-

S. No	Name of the Officer	From	To	Remarks
1	Engr. Hayat-ud-Din	Deputy Director (Design) Chief Engineer (North)	o/o Malakand Irrigation Division, Malakand	Executive Engineer Malakand Irrigation Division, Malakand Vice No.2
2	Engr. Gul Tar Jan	XEN, Malakand Irrigation Division, Malakand	Deputy Director (Design) o/o Chief Engineer (North)	Vice No. 1

Secretary Irrigation

Endst: No. & Date as above

Copy is forwarded to:-

- 1- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- The Chief Engineer (North), Khyber Pakhtunkhwa, Irrigation Department.
- 3- The Chief Engineer (South), Khyber Pakhtunkhwa, Irrigation Department.
- 4- The Superintending Engineer (H/Q), North, Irrigation Department.
- 5- The Superintending Engineer (H/Q), South, Irrigation Department.
- 6- The Superintending Engineer, Mardan Irrigation Circle, Mardan.
- 7- The District Accounts Officer, Malakand at Dargai.
- 8- The Officers concerned.
- 9- PS to Minister for Irrigation, Khyber Pakhtunkhwa w/p to his letter No. PS.Min.Irrigation.KP/1-1/2012/89 dated 14.5.2012.
- 10- PS to Secretary to Govt. of Khyber Pakhtunkhwa, Irrigation Department.
- 11- Master File.
- 12- Personal Files of the Officers.

(Misaf Khan)
SECTION OFFICER (ESTT.)

ATTESTED

Mohammad Ali Khan
Advocate High Court
Peshawar.



GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT

Dated Peshawar 29th June, 2012

NOTIFICATION

No. SOE/IRRI/4-9/77:

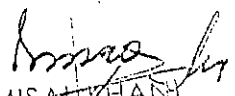
Consequent upon the proceeding of Engr: Khizar Hayat on Ex-Pakistan leave, the competent authority is pleased to post Engr: Gul Tar Jan Deputy Director (Design) office of the Chief Engineer (North) against the vacant post of Executive Engineer, Swabi Irrigation Division-II, Swabi.

Secretary, to Govt. of Khyber Pakhtunkhwa
Irrigation Department


Encls: No. & Date as above

Copy of the above is forwarded to:-

- 1- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- The Chief Engineer (North), Khyber Pakhtunkhwa, Irrigation Department.
- 3- The Chief Engineer (South), Khyber Pakhtunkhwa, Irrigation Department.
- 4- The Superintendent Engineer (HQ) (North & South)
- 5- The Superintendent Engineer Peshawar Irrigation Circle, Peshawar.
- 6- The Superintendent Engineer Swabi Irrigation Circle, Swabi.
- 7- The District Accounts Officer, Swabi.
- 8- The Officer concerned.
- 9- PS to Minister for Irrigation, Khyber Pakhtunkhwa.
- 10- PS to Secretary to Govt. of Khyber Pakhtunkhwa, Irrigation Department.
- 11- Master File.
- 12- Personal Files of the Officers.


(MISAL KHAN)
SECTION OFFICER (ESTT)

ATTESTED


Misal Khan
Advocate High Court
Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
IRRIGATION DEPARTMENT

10

Dated Peshawar 10th January, 2013

NOTIFICATION

No.SO(E)/IRR:/4-9/77: The competent authority is pleased to order postings/transfers of the following officers of Irrigation Department with immediate effect:-

S. No	Name of the Officer	From	To
1	Engr: Gultar Jan, Executive Engineer (BS-18)	Executive Engineer, Swabi Division-II, Swabi	Report to Chief Engineer (North) Irrigation Department
2	Engr: Abdur Rehman Badshah, Executive Engineer (BS-18)	Deputy Director (Design) office of the Chief Engineer (South) Irrigation	Executive Engineer, Swabi Irrigation Division-II, Swabi. Vice No. 01


Secretary Irrigation

Endst: No. & Date as above

Copy is forwarded to:-

- 1- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- The Chief Engineer (North), Irrigation Department.
- 3- The Chief Engineer (South), Irrigation Department.
- 4- The Superintending Engineer (H/Q), North, Irrigation Department.
- 5- The Superintending Engineer (H/Q), South, Irrigation Department.
- 6- The Superintending Engineer, Swabi Irrigation Circle, Swabi.
- 7- The District Accounts Officer, Swabi
- 8- The Officers concerned.
- 9- PS to Minister for Irrigation, Khyber Pakhtunkhwa w/r to his letter dated 11.06.2012.
- 10-PS to Secretary to Govt. of Khyber Pakhtunkhwa, Irrigation Department.
- 11-Master File.
- 12-Personal Files of the Officers.


(Misal Khair)
SECTION OFFICER (ESTT:)

ATTESTED

13/12
Mohammad Alauddin Khan
Advocate High Court
Peshawar

(11)

DEPARTMENTAL APPEAL
THROUGH PROPER CHANNEL

In Respect of:

The Chief Minister
Khyber Pakhtunkhwa
Peshawar.

Respectfully submitted that:-

- i) The appellant presently is serving as X.E.N Swabi Irrigation Department for the last 6/7 months.
- ii) Previously the appellant was X.E.N Mechanical Division Peshawar, who on 29-10-2011 was transferred as X.E.N Irrigation Malakand division.

(Notification Attached)

- iii) On 17-05-2012 i.e after about 6 months and 18 days, he was transferred as Deputy director (Design) in the office of chief engineer (North).

(Notification Attached)

- iv) Thereafter on 29-06-2012 i.e after about 1 month & 12 days, the appellant with Malafide intention & ulterior Motives was transferred as X.E.N irrigation Swabi Division-II

(Notification Attached)

- v) Now on 10-01-2013 i.e after about 6 months & 11 days, the appellant has again been transferred and ordered to report to chief engineer (North) irrigation department.

(Notification Attached)

- vi) The appellant has been made a ~~moving~~^{falling} stone & been made a scapegoat just on political Grounds and motivation with no fault on the part of appellant.

Grounds for setting aside the impugned transfer order vide notification No. SO (E)/IRR/477 dated 10-01-2013.

- a) That the impugned transfer is on political grounds & political reasons so is with Malafide intentions hence untenable in law.
- b) That the appellant is being regularly penalized for the last one year for no fault on his part as within a short span of one year, he has been transferred 4 times with Malafide intentions & for political reason.
- c) The impugned order is perverse and is fanciful.
- d) No valid and cogent reasons given for such transfer to the office of chief engineer.

[Handwritten Signature]
Chief Engineer
Irrigation Department
Peshawar

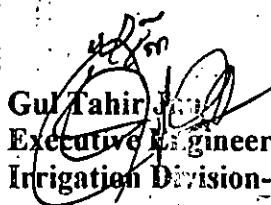
- e) This is the fourth transfer of the appellant and true facts have been suppressed and have not been disclosed.
- f) The impugned transfer of appellant admittedly is for political reasons as the appellant cannot fulfill the political whims, wishes and desires of a political personality.
- g) The impugned transfer order is Coram non Judge and is not based on judicial principals and so in open to interference.
- h) The appellant has been made a scapegoat and so the order is arbitrary in nature and against the norms of natural justice & rules & laws.

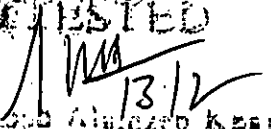
PRAYER

For the above stated reasons & in interest of justice, the appeal be accepted & the impugned order be set aside and the appellant be permitted to serve the department whole heartedly.

Date: 25-01-2013

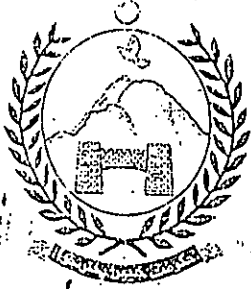
Appellant


 Gul Tahir Khan
 Executive Engineer
 Irrigation Division-II Swabi

ATTESTED

 13/12
 Advocate
 Advocate High Court

74 7 0
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SO. E&AD PNE
Disty No. 1177
Date 27-11-12

Most Immediate
Supreme Court Matter



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(LITIGATION SECTION)

NO.SO(Lit)E&AD/1-721/2012
Dated Peshawar the 19.11.2012

To

1. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
2. All the Administrative Secretaries to Government of Khyber Pakhtunkhwa, Peshawar.

SUBJECT: CONSTITUTION PETITION NO.23 OF 2012 OUT OF SUO MOTO CASE NO.3/2012 (PETITION BY MS. ANITA TURAB FOR PROTECTION OF CIVIL SERVANTS REGISTERED UNDER ARTICLE 184(3) OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973).

Dear Sir,

I am directed to invite your kind attention to the subject noted above and to forward herewith a copy of letter No. Const.P.23/2012-SCJ alongwith self-explanatory judgment dated 12.11.2012 of the august Court received from Assistant Registrar (IMP); For Registrar Supreme Court of Pakistan, Islamabad for information & compliance please.

Being court matter may please be treated as Most Urgent.

Yours faithfully,

Section officer (Litigation)

Enc: As Above
Endst. of even No. & Date

Copy forwarded to the P.A to Additional Secretary (Judicial), E&AD.

Section officer (Litigation)

ATTES TED

Mohammad Alamzeb Khan
Advocate High Court
Peshawar

933
20.11.12
26-11-12

DSA
26/11
8
20/11
(Blit)

Ph: 9214461
Fax: 9220406

19

REGISTERED
No. Const.P. 23/2012- SCJ
SUPREME COURT OF PAKISTAN.

Islamabad dated 13th November, 2012.

From: The Registrar,
Supreme Court of Pakistan,
Islamabad.

PS/C.S Khyber Pakhtunkhwa
Diary No. 11657 (w/c)
Date. 14-11-12

- To
1. The Chief Secretary,
Government of Punjab,
Lahore.
 2. The Chief Secretary,
Government of Sindh,
Karachi.
 3. The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar. *Go DRC*
 4. The Chief Secretary,
Government of Baluchistan,
Quetta.

Add: Secy (Jud) E&AD
Diary No. 103712-9
Date. 11-2012

*PS to Chief Secretary
Govt. of Khyber Pakhtunkhwa*

Subject: **CONSTITUTION PETITION NO. 23 of 2012.**

Out of
SUO MOTO CASE NO. 3/2012

(PETITION BY MS. ANITA TURAB FOR PROTECTION OF CIVIL
SERVANTS REGISTERED UNDER ARTICLE 184(3) OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973).

Dear Sir,

In continuation of this Court's letter No. Const.P. 11 & 23/2012-SCJ dated 30.04.2012, I am directed to enclose herewith a certified copy of the Judgment of this Court dated 12.11.2012 disposing of the above cited constitution petition, in the terms stated therein, for immediate compliance.

I am further directed to say that the directions of this Hon'ble Court contained in the enclosed Judgment be circulated among all the Provincial Secretaries/Head of the Departments under intimation to this Court immediately.

Encl: Judgment

Yours faithfully,

(Signature)
(NAZAR ABBAS)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

ATTESTED

(Signature)
Mohamud Ali Khan
Advocate High Court
Peshawar

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

15

PRESENT:
Mr. Justice Iftikhar Muhammad Chaudhry, HCJ
Mr. Justice Jawwad S. Khawaja
Mr. Justice Khilji Arif Hussain

Constitution Petition No. 23/2012:

(Petition by Ms. Anita Turab for protection of Civil Servants).

AND

Const. Petition No. 11/2012:

(Syed Mahmood Akhtar Naqvi vs. Federation of Pakistan etc.)

AND

Crl. Original Petition No. 23, 24 & 27 of 2012 in Const. P. 11/2012:

(Syed Mahmood Akhtar Naqvi vs. Ghulam Haider Jamali etc.)

AND

H.R. C. No. 14427-P/2012:

(Application of Rai Manzoor Nasir)

AND

CMA's Nos. 1575, 1611, 1792, 197-K, 231-K, 232-K of 2012

AND

Crl. Misc. Application No. 587/2012 in Crl. O.P. 24/2012 in Const. P. 11/2012.

For the Petitioner (s) : Ms. Anita Turab, in person.
Syed Mahmood Akhtar Naqvi, in person.

Amicus Curiae: Hafiz S. A. Rehman, Sr. ASC

For Govt. of Sindh: Mr. Abdul Fateh Malik, A.G.
Mr. Adnan Karim, AAG.
Mr. Ali Sher Jakhani, AIG
Mr. Maqsood Ahmed, DSP

For Govt. of KPK: Syed Arshad Hussain Shah, AAG.

For Govt. of Balochistan: Mr. Azam Khattak, AAG.

For Govt. of Punjab: Mr. Jawad Hassan, AAG.

Date of Hearing : 18.10.2012

JUDGMENT

Jawwad S. Khawaja, J.- Many centuries before the term 'good governance' became a catch-phrase, we find a remarkably eloquent exposition of the principles of good governance in the Epistle of Hazrat Ali to Malik ibn Ashtar, the Governor of Egypt. The revered Khalifa, may Allah be pleased with him, is reported to have said: "Give careful consideration to the selection of ... officers. Confirm them in their appointments after approval, apprenticeship and probation. Never select men for responsible

ATTESTED

Superintendent
Supreme Court of Pakistan
ISLAMABAD

ATTESTED

Advocate High Court
Peshawar

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posts either out of any regard for personal connections or under any influence, for, that might lead to injustice and corruption.... select for higher posts men of experience, men firm in faith. Such men will not fall an easy prey to temptations and will discharge their duties with an eye on the abiding good of others". The law and the Constitution of Pakistan, with the aim of furthering the welfare of the people of Pakistan, articulate the same principles. The truth is that principles pertaining to the setting up of a just and constitutional government are eternal, not peculiar to our times. Our law, Constitution and courts only apply these universal and time-tested principles to the prevalent situation. In this public interest case seeking elaboration of constitutional and legal safeguards relating to the working of civil servants, we reaffirm these eternal principles which have also been stressed by us in cases decided earlier.

2. The background to this matter is that *Suo Moto* Case No. 3 of 2012 was initiated on the basis of broadcasts on different TV channels on 25.2.2012. In these broadcasts, Syeda Wahida Shah, a candidate of the Pakistan Peoples Party for bye-election to PS-53 (Fando Muhammad Khan) was shown slapping a member of the polling staff. The *Suo Moto* case was concluded vide order dated 12.3.2012. Ms. Anita Turab, who is a civil servant in BS-19, presently working in the Ministry of Interior, filed an application in the aforesaid *Suo Moto* case. Since the case stood concluded, the application was ordered on 12.3.2012 to be registered as a petition under Article 184 (3) of the Constitution. It is this petition which is being decided through the present order.

3. The grievance of the petitioner set out in her petition can be summarized. Firstly, she seeks that the standing of the civil service be restored as service of the State and not the service of any transient government. To achieve this object, her submission is that unlawful political interference in the independent and legitimate functioning of civil servants be stopped. Secondly, the petitioner seeks corrective institutional measures to revert the civil service to rule-based management practices in accordance with the letter and spirit of applicable laws, rules and precedents of this Court.

4. On 12.3.2012, we had directed the Secretary Establishment Division, Government of Pakistan, the Chief Secretaries of the four Provinces and the Chief Commissioner, Islamabad Capital Territory to submit their comments. It was noted in

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the said order that civil servants who act according to law, at times, have to face hardship in the form of immediate transfer or posting as Officers on Special Duty (OSD) even before the completion of their tenure. It was also noticed that frequent transfers, postings and disciplinary proceedings are taken in violation of the law, rules and regulations.

5. The above referred functionaries comprised as a Committee, have submitted their report which includes tentative recommendations. Amongst other things, the Committee has recommended that "[p]ostings and transfers be made on merit", "tenures for various categories of posts be fixed" and that "[n]o civil servant should be posted as OSD for purposes of parking of officers who are unwanted, or, who are not susceptible to pressures." The Committee further recommends that "[a] civil servant should be placed under suspension only by the competent authority after initiation of disciplinary proceedings; and... Officers taken on deputation/borrowed from other tiers of the government should carry the requisite experience and seniority for specific jobs." According to the petitioner, many of the Committee's recommendations are already covered by existing law, rules and regulations, particularly in matters relating to tenure, appointment, transfer and posting of civil servants. There is no dispute or contention that such recommendations must indeed be implemented with immediate effect as a necessary concomitant to good governance. Some other recommendations made by the Committee require legislation or rule making which, necessarily will need to be undertaken by the legislature and/or the competent rule making authority and not by the Court.

6. The petitioner being a civil servant herself has requested revival of the independent, impartial and professional status of the civil service as an institution and to affirm its decision-making authority in furtherance of the rule of law. The petitioner's further grievance is that legal and constitutional safeguards meant to protect the civil service from excessive political interference are being systemically breached. With its safeguards thus withered, the service is growing inefficient and demoralized and with it, the machinery of the State, mandated to enforce good governance, rule of law and fundamental rights of the people of Pakistan, is failing.

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The petition has been held maintainable because the situation portrayed does raise a question of public importance with reference to the enforcement of fundamental rights. In our constitutional scheme of governance, the importance of such a civil service, which is law-abiding and itself legally protected, cannot be over-emphasized. "Good governance", this Court has recently observed, "is largely dependent upon [an] upright, honest and strong bureaucracy. [The] Civil service is the back bone of our administration." per Chaudhry Ijaz Ahmad, J. in *Tariq Aziz-ud-din's case* (2010 SCMR 1301). Additionally, the fundamental rights of civil servants, *inter alia*, under Articles 9, 14 and 18 of the Constitution are also aspects arising in this Constitution Petition. The enforcement of fundamental rights is primarily the responsibility of the Executive branch of the State and civil servants constitute that essential component of the Executive who operate the executive machinery. A duty is thus cast both on the civil service and on the political executive to ensure the effectiveness (in all respects) of the civil service.

It is not in contention that civil servants are public servants and are, therefore, meant to take decisions only in accordance with law in the public interest. In their capacity as advisors in decision making or as administrators and enforcers of law, they are not subservient to the political executive. It is their obligation to remain compliant with the Constitution and law. Hence they are not obliged to be servile or unthinkingly submissive to the political executive. One of their prime duties is to give advice in the best public interest and to administer the law impartially being in charge of the machinery of the State. In this regard, the address made by Quaid-i-Azam Mohammad Ali Jinnah to the members of the civil service at Peshawar on 14th April, 1948 is most relevant. Quaid-i-Azam instructed them not to be "influenced by any political pressure, by any political party or individual politician." While urging them to loyally and faithfully serve whichever government came to power "in the ordinary constitutional course", he also reminded them of the need for "fearlessly, maintaining [their] high-reputation, prestige, honour and the integrity of [their] service." Noting that pressurizing civil servants was, even in those early days, "a very common fault of politicians", he warned politicians that such behaviour would lead to "nothing but corruption, bribery and nepotism which is a

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horrible disease..." Ultimately, he urged both politicians and civil servants to "understand [their] own sphere of duty and responsibility and act with others harmoniously and in complete cooperation." Yet, being fully aware that real life was never ideal, he forewarned the civil servants that "you may even be put to trouble not because you are doing anything wrong but because you are doing right. Sacrifices have to be made, and I appeal to you, if need be, to come forward and make the sacrifice..." (Quaid-e-Azam Mohammad Ali Jinnah, Speeches as Governor General of Pakistan, 1947-48, Sang-e-Meel Publications, Lahore: 2004).

9. These should, indeed, be the guiding principles informing the relationship between the civil service and the political executive - the two limbs of the Executive branch of government, envisaged in the Constitution. Equally so, these principles should inform the judiciary's interpretation of the articles of the Constitution and legal provisions which relate to the employment of persons in the service of Pakistan. We reaffirm that while civil servants do have a duty to follow the policy guidelines and directions of the political executive yet, because of Article 5 of the Constitution, just like other citizens, their foremost duty is "obedience to the Constitution and the law", not unthinking obedience to all directives (right or wrong) issuing from the political executive. In this context, Rule 5(10) of the Rules of Business, 1973 framed by the Federal Government in accord with Articles 90 and 99 of the Constitution, may be examined: "When the Secretary submits a case to the Minister, the latter may accept the proposal or views of the Secretary or may over-rule him. The Secretary will normally defer to the decision of the Minister and implement it. In case, however, the Secretary feels that the decision of the Minister is manifestly wrong and will cause gross injustice or undue hardship, he may state his reasons and re-submit the case to the Minister. If the Minister still adheres to his earlier decision and the matter is important enough, the Secretary shall request the Minister to refer the case to the Prime Minister and the Minister shall so refer the case for orders of the Prime Minister. If the case is not referred to the Prime Minister, the Secretary shall submit it directly to the Prime Minister with observations of the Minister-in-Charge." In other words, implementation of policy or directives, in some cases may be required notwithstanding the considered views of a civil servant to the contrary. In such event, however, the civil servant should record his/her honest and considered opinion without fear. Decisions

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violating the law relating to appointment and terms and conditions of service of civil servants which are manifestly wrong and are likely to cause gross injustice or undue hardship should be considered important enough for the purpose of Rule 5(10) *ibid*.

10. It is worth noting that the Constitutions of 1956 and 1962 contained chapters outlining certain safeguards for the civil service. In the 1973 Constitution, the framers omitted a similar chapter from the constitution and shifted the onus to ordinary legislation. The Law Minister at the time, who was steering the Constitution Bill informed the Constituent Assembly that in the past, constitutional protection for civil servants had been granted "because those who served came from outside and they needed these protections in respect of service". However, since now "this country [was] being run by the leaders of the people" such protections were no more deemed necessary. The purpose of this change, therefore, was to "[break] away from the past colonial traditions" and to emphasize the point that civil servants were not entitled to "any superior or higher status" compared to other citizens. Another reason the Law Minister gave was that the "Constitution is the basic document providing the fundamentals and this matter was not so fundamental as to be provided in the Constitution." (Parliamentary Debates, 31st December, 1972 and 19th February, 1973). It was therefore decided that, as stated in Articles 240, 241 and 242 of the Constitution, the matter would be dealt with through statutes. Such statutes were subsequently passed and include the Civil Servants Act, 1973. It may be emphasized that whatever else the intent behind these changes may have been, it could not have been meant to subjugate of civil servants to constantly changing political imperatives. The intent of the Constitution cannot but be a fuller realization of the goal set out in the speech of the country's founding father quoted earlier: "fearlessly, maintaining [the] high reputation, prestige, honour and the integrity of [the civil] service."

11. It was in this spirit, i.e. providing meaningful legal guarantees to civil servants and doing away with arbitrariness, that Parliament enacted statutes such as the Civil Servants Act, 1973. The very object of this statute is to legally "regulate the appointment of persons to, and the terms and conditions of service of persons in, the service of Pakistan" (Preamble). The rule of law is the key idea reflected in the whole scheme of the statute.

This impression is textually reinforced by the express stipulation that appointment of

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civil servants shall be made only "in the prescribed manner" (S. 5), that the terms and conditions shall be only such as are "provided in (the) Act and the rules" (S. 3(1)) and not be "varied to his disadvantage" (S. 3(2)) and that promotions shall only be made on the basis of objective criteria such as "merit" (S. 9(2)(a)) and "seniority-cum-fitness" (S. 9(2)(b)).

12. This Court, in a number of precedents has, interpreted and emphasized these very principles, some of which need to be reiterated at this point. Before that, however, we may note the precept and rule of public trust which forms the basis of this area of the law. This court has repeatedly observed that "functionaries of the State are fiduciaries of the people and ultimately responsible to the people who are their pay masters." [Syed Yousaf Raza Gillani v. Assistant Registrar, (PLD 2012 SC 466) affirming Muhammad Yasun v. Federation of Pakistan]. Most recently, in the case relating to civil nationality of Parliamentarian, we have reiterated that "all state authority is in the nature of a 'sacred trust' and its bearers should therefore be seen as fiduciaries" (Mehmood Akhtar Naqvi v. Federation of Pakistan, Const. P. 5/2012). One of the implications of this concept, highlighted in the case law considered below, is that the matter of tenure, appointment, posting, transfer and promotion of civil servants cannot be dealt with in an arbitrary manner; it can only be sustained when it is in accordance with the law. Moreover, the use of the words 'in the public interest' in such matters are not fatuous or pointless, but emphasise the fiduciary nature of orders relating to tenure, posting etc. Thus a proposed decision which deviates from the accepted or rule-based norm without proper justification, can be tested on the touchstone of a manifest public interest.

13. Tenure, appointment, promotion and posting/transfer are of utmost importance in the civil service. If these are made on merit in accordance with definite rules, instructions etc., the same will rightly be considered and treated as part of the terms and conditions of service of a civil servant. If, however, rules and instructions are deviated from and as a result merit is discouraged on account of favoritism, sifarish or considerations other than merit, it should be evident the civil service will not remain independent or efficient. It is necessary once again, to hark back to the considerations

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set out in the speech of Quaid-i-Azam and the eternal wisdom reflected in the Epistle of Hazrat Ali, may Allah be pleased with him, cited at the start of this opinion. It is also relevant to note that the principles of good governance are already envisioned in the Constitution and are also encoded in statutes such as the Civil Servants Act, 1973, the Civil Servants (Appointment, Promotion & Transfer) Rules, 1973 and other rules made under the aforesaid Act and in regulations and instructions given in the Civil Establishment Code (Estacode). It is, however, apparent from precedent and civil service matters coming up before Service Tribunals and this Court that problems/difficulties arise for civil servants when the rules of good governance so encoded are breached and the reason for such breach appears to be abuse of discretion. We are aware that matters relating to tenure etc. cannot be put in a strait-jacket and that there is to be an element of flexibility. A balance between the competing pulls of discretion and rule based decision making is a fine one where perception of fairness and even handed treatment is of utmost importance. It is for this reason that transparency in decisions relating to tenure etc. are required to be entrenched and cemented to assure the quality, effectiveness and morale of the civil service. Since executive decisions generally are subject to judicial review, the assurance of transparency is itself likely to eliminate decision making based on considerations other than merit. We have referred to accepted principles and rules above and may now advert to certain relevant rulings earlier rendered by this Court.

A - On the Issue of Appointments and Removals

14. In a number of judgments, the courts have clarified that whenever there are statutory provisions or rules or regulations which govern the matter of appointments, the same must be followed, honestly and scrupulously. In the Corruption of Haji Arrangements' case (PLD 2011 SC 963) and Tariq Aziz-ud-din's case ibid, it has been clarified that even where there are no explicit rules governing the appointment process, and appointments are to be made in the exercise of discretionary powers, such discretion must be employed in a structured and reasonable manner and in the public interest. Appointing authorities cannot be allowed to exercise discretion at their whims, or in an arbitrary manner; rather they are bound to act fairly, evenly and justly

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and their exercise of power is judicially reviewable. And in Muhammad Yasin v. Federation of Pakistan (PLD 2012 SC 132), we have clarified that, when called upon to do so, the Courts are "duty bound to examine the integrity of the selection process", although they "will not engage in any exhaustive or full-fledged assessment of the merits of the appointee nor [...] seek to substitute [their] own opinion for that of the Executive." It may also be noted that just like the appointment of civil servants, their removal and dismissal from service has not been left to anyone's whims and caprice. It is governed by rules and regulations, amongst them the Civil Servants (Efficiency and Discipline Rules), 1973. Indeed, the anachronistic concept where government servants held office during the pleasure of the Crown has no place in a dispensation created and paid for by the people.

B - On the Matter of Promotions

15. In Tariq Aziz-ud-din's case, we have dealt with some important facets of the civil service including the exercise of discretion in matters of promotion. Such discretion must be exercised fairly and in a transparent manner. Discretion has to be understood within the four corners of the concept of rule of law upon which our system of governance is founded. Every authority in the State is bound to obey the dictates of the law and has no personal or absolute discretion. It was therefore held that "[t]he right [to be considered for promotion] contemplated under section 9 [of the Civil Servants Act] is neither illusory nor a perfunctory ritual and withholding of promotion of an officer is a major penalty in accordance with the Civil Servants (Efficiency and Disciplinary) Rules, 1973, therefore, consideration of an officer for promotion is to be based not only on the relevant law and the rules but also to be based on some tangible material relating to merit and eligibility which can be lawfully taken note of."

C - On the Matter of Transfers and Tenure

16. In the Hajj Corruption Case, the Court reiterated its earlier ruling in Zahid Akhtar v. Government of Punjab (PLD 1995 SC 530), where it had been held that "the normal period of posting of a Government servant at a station, according to Rule 21 of the Rules of Business is three years, which has to be followed in the ordinary circumstances, unless for reasons or exigencies of service a transfer before expiry of the said period becomes necessary"

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"in the opinion of the competent authority." Furthermore, with regard to transfers of civil servants, this Court has stated that transfers by political figures which are capricious and are based on considerations not in the public interest are not legally sustainable. Fauziah Gulzar vs. Secretary Local Government and Rural Development Department, Lahore and 7 Others (1998 SCMR 2222). These are principles of law enunciated by this Court and are to be followed in terms of Article 189 of the Constitution. We, however, repeatedly come across violations of such principles. This unnecessarily leads to litigation which, in turn, clogs Courts and Service Tribunals.

D - On the matter of obeying illegal orders from superiors

17. In Syrd Nazar Abbas Infr vs. Secretary to the Government of the Punjab and Another (2005 SCMR 606), this Court held that the duty of public officers is to independently discharge their functions and not be influenced by, "dictatorial misuse of powers" at the hands of political figures. The Court has also emphasized that the appointment and removal of civil servants is not to be politically motivated. Province of Punjab vs. Azhar Abbas (2002 SCMR 1). These decisions highlight the concept of a civil service which enjoys certain legal protections and is thus capable of performing its envisioned role as a law-enforcing institution.

18. The compliance of illegal orders of superiors is not justified on the basis of having been issued from higher authority as it is the law and Constitution which must be obeyed. Here it would be relevant to cite the judgment of this Court in Samiullah Khan Murwat vs. Government of Pakistan (2003 SCMR 1140) where it was stated: "...the exercise of powers by the public functionaries in derogation to the direction of law would amount to disobey[ing] the command of law and the Constitution..." Furthermore, in the case of Iqbal Hussain vs. Province of Sindh (2008 SCMR 105) the Court held that "the compliance of any illegal and arbitrary order is neither binding on the subordinate forums nor valid in the eyes of law." In case the subordinates are directed to implement an illegal order "they should put on record their dissenting note" Human Rights Cases No. 4668 of 2006, 1111 of 2007 and 15283-C of 2010 (PLD 2010 SC 759). Similarly, illegal orders cannot be defended on the plea that these could expose the concerned government

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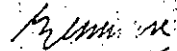
servant to the risk of disciplinary action. Zahid Akhtar vs. Government of Punjab (PLD 1995 SC 530).

E - On the matter of posting civil servant as Officers on Special Duty (OSD)

19. Ordinarily, no government employee should be posted as OSD except under compelling circumstances. In the Hajj Corruption case, (PLD 2011 SC 963) the Court held: "It is well settled that placing an officer as OSD is tantamount to penalizing him because the expression 'OSD' is not known to either the Civil Servants Act, 1973 or the Civil Servants Appointment Promotion and Transfer Rules, 1973." Reference in this regard may also be made to the cases of Mir Shah Nawaz Marri vs. Government of Baluchistan etc [2000 PLC (C.S) 533], Syed Ajmal Hussain Bokhari vs. Commissioner, Rawalpindi [1997 PLC (CS) 754], Sajjad Ahmad Javed Bhatti vs. Federation of Pakistan (2009 SCMR 1448) and Lt. Col. (R) Abdul Wajid Malik vs. Government of the Punjab (2006 SCMR 1360).

20. The above referred precedents have shaped the contour of the law relating to civil servants and the civil service. In the established tradition of a common law jurisdiction, Article 189 of the Constitution stipulates that, "[a]ny decision of the Supreme Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all other courts in Pakistan." As this Court has already held "... the interpretation of the various Articles by this Court becomes part of the Constitution". Al-Ichad Trust v. Federation of Pakistan (PLD 1997 SC 84). Specific to the law relating to civil servants and matters in respect of their service, we have enunciated a principle of law in the case titled Hanecc' Akhtar Niazi versus The Secretary Establishment Division (1996 SCMR 1185) holding that a decision given by this Court on a point of law will be binding on concerned departmental functionaries who will be obliged to apply such legal principle in other similar cases, regardless of whether or not a civil servant has litigated the matter in his own case. We are conscious that in some instances the application of a legal principle enunciated in a precedent may be possible without difficulty or ambiguity, while in other cases there may be some uncertainty in determining if a legal principle is in fact applicable as precedent. It is, however, clear that in view of Articles 189 and 190 of the Constitution, a civil servant will be entitled

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to make a departmental representation or initiate legal proceedings before a competent forum to enforce a legal principle enunciated by this Court.

21. In appropriate cases the failure of a state functionary to apply a legal principle which is clearly and unambiguously attracted to a case, may expose him to proceedings also under Article 204(2)(a) of the Constitution. This article, it may be recalled, grants this Court the power to punish for contempt any person who "disobeys any order of the Court". In a recent judgment, the Court has clarified the significance of the law of contempt as an enforcement mechanism. It was held "...the Court, in and of itself, has to pass orders and to require the implementation of its orders; responsibility for implementation has been made obligatory on other organs of the state, primarily the Executive. Moreover, in the unfortunate situation that a functionary of the Executive refuses to discharge his constitutional duty, the Court is empowered to punish him for contempt...Simply put, a government of laws cannot be created or continued with toothless courts and defiant or blithely non-compliant public functionaries". Buaz Muhammad Kakar vs. Federation of Pakistan (Const. P. No.77/2012). If there still remains any doubt, let us clarify that those executive functionaries who continue to ignore the Constitution and the law, do so at their own peril.

22. The principles of law enunciated hereinabove can be summarized as under:-

- i) Appointments, Removals and Promotions: Appointments, removals and promotions must be made in accordance with the law and the rules made thereunder; where no such law or rules are made the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.
- ii) Tenure, posting and transfer: When the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.
- iii) Illegal orders: Civil servants owe their first and foremost allegiance to the law and the Constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rules.

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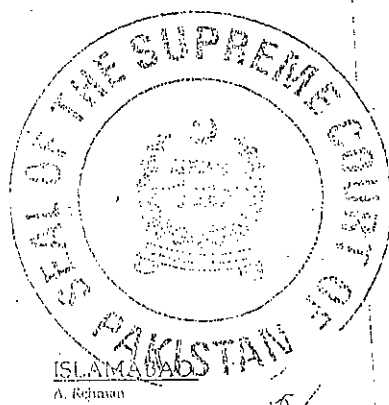
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based norms; instead, in such situations, they must record their opinion and, if necessary, dissent.

- (iv) OSD: Officers should not be posted as OSD except for compelling reasons, which must be recorded in writing and are judicially reviewable. If at all an officer is to be posted as OSD, such posting should be for the minimum period possible and if there is a disciplinary inquiry going on against him, such inquiry must be completed at the earliest.

23. We are fully conscious that the aforesaid matters relate to decision making and administration of the machinery of the State. As such the responsibility of deciding as to suitability of an appointment, posting or transfer falls primarily on the executive branch of the State which comprises of both the political executive and civil servants. Courts ordinarily will not interfere in the functioning of the executive as long as it adheres to the law and established norms and acts in furtherance of its fiduciary responsibility. However, while hearing this petition we have recognized the need for ensuring that decision making in relation to tenure, appointments, promotions and transfers remains rule based and is not susceptible to arbitrariness or absolute and unfettered discretion.

24. Copies of this judgment shall be sent to the Federal Secretary Establishment, the Chief Secretaries of the Provinces, the Commissioner Islamabad Capital Territory and to the Secretaries of all Federal and Provincial government departments.



A. Rehman

Announced on 24th Nov, 2012

APPROVED FOR REPORTING

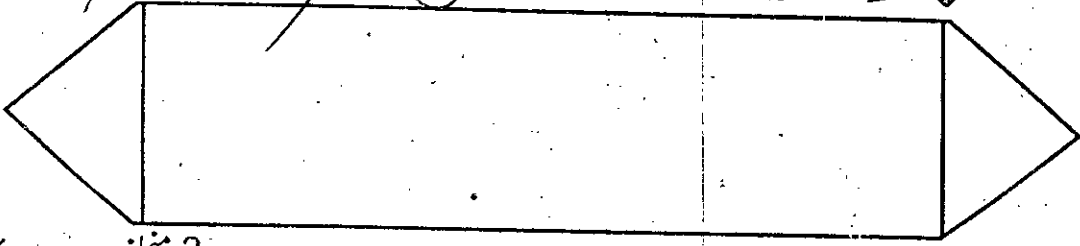
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باعث تحریراً نکتہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام لندن کیلئے محمد اعجاز علی خان صاحب کو مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقررات ہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا سامانہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
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