

“2006 SCMR 602” and it is held that the rules pertaining to promotion, seniority etc. being foremost terms and condition of service, as such can only be questioned before service tribunal established under Service Tribunal Act, 1974 besides, in terms of Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, the jurisdiction of this court is barred, therefore, writ petition was dismissed for want of jurisdiction. In view of verdicts of Peshawar High Court and verdict of Worthy Chairman to determined real controversy in issue and to reach just and fair conclusion, in my humble opinion it will be in the interest of justice that let this appeal be converted into application under section 12(2) petition. Office is directed to enter it into the relevant register and issue notices to the respondents for submission of written reply. To come up for written reply/arguments 14.05.2024 before D.B. P.P given to the parties.


(Rashida Bano)
Member (J)

11.03.2024

Learned counsel for the appellant present and sought adjournment on the ground that he has not made preparation for preliminary arguments. Adjourned. Last opportunity given. To come up for preliminary hearing on 16.04.2024 before the S.B. Parcha Peshi given to learned counsel for the appellant.

SCANNED
KPST
Peshawar


(Salah-ud-Din)
Member (J)

Naeem Amin

16.04.2024 Learned counsel for the appellant present and argued that earlier appellant filed service appeal bearing No. 7439/21 upon the same cause of action challenging the notification dated 28.01.2013 whereby Sr. No. 9 in column No. 5 the post of Lab Attendant have not been included for promotion to the post of Lab Assistant. Said service appeal was dismissed in limine on 25.03.2022 by the Worthy Chairman by holding that this Tribunal lacks the jurisdiction to issue writ of mandamus which is exclusive jurisdiction of Worthy Peshawar High Court, under Article 199 of Constitution of Islamic Republic of Pakistan 1973, by placing reliance on judgment reported as 2019 PLC (C.S) 721 titled "Zulfiqar Ahmad and another Vs. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education". Appellant after decision of this Tribunal approached worthy Peshawar High Court by filing writ bearing No. 2045-P/2022 which was decided vide order dated 04.10.2022 by their lordship wherein reliance is placed on "I.A Shirwani Case "1991 SCMR 1041" and Mubin Ul Salam case

