

**IN THE SUPREME COURT OF PAKISTAN**

(Original Jurisdiction)

**Present:**

Mr. Justice Iftikhar Muhammad Chaudhry, CJ  
Mr. Justice Ijaz Ahmed Chaudhry  
Mr. Justice Gulzar Ahmed

**Constitution Petition No.30 of 2013**

Khawaja Muhammad Asif

***Petitioner(s)***

**VERSUS**

Federation of Pakistan & others

***Respondent(s)***

**AND**

**CMA No.2991 of 2013 in Const. Petition No.23 of 2012**

[Regarding appointments, postings and transfers made by the Caretaker Government]

**AND**

**CMA No.3015 of 2013 in Const. Petition No.23 of 2012**

[Regarding appointment of Mr. Justice (Retd) Faqir Muhammad Khokhar,  
as Chairman Anti-Dumping Appellate Tribunal on 16.05.2013]

Petitioner : Khawaja Muhammad Asif, MNA, in person.

On Court's Notice : Mr. Irfan Qadir, Attorney General for Pakistan

For the Applicant(s)

(For Chairman, POA)	: Mr. Shaiq Usmani, Sr. ASC
(For ETPB)	: Raja Abdul Ghafoor, AOR
(in CMA.3343/13)	: Mr. Shahid Kamal Khan, ASC
(in CMA.3379-80/13)	: Mr. Shahid Mehmood Khokhar, ASC
(in CMA.3378/13)	: Mr. Aftab Alam Rana, ASC
(in CMA.3404-3406/13)	: Mr. Muhammad Akram Gondal, ASC
(in CMA.3355-3356/13)	: Sardar Muhammad Aslam, ASC
(in CMA.3382/13)	: Ms. Afshan Ghazanfar, ASC
(in CMA.3383/13)	: Rai Muhammad Nawaz Kharal, ASC
(in CMA.3354/13)	: Mr. Shah Khawar, ASC
(in CMA.3396/13)	: Mr. Muhammad Altaf Bawany, in person.
(in CMA.3375/13)	: Mr. Tariq Mehmood Pirzada, in person.
(in CMA.3377 & 3381/13)	: Mr. Farooq Sultan Khattak, in person.
(in CMA.3373/13)	: Dr. Fayyaz Ahmed Ranjha, in person.
(in CMA.3385/13)	: Mr. Asif Ghafoor, in person.
(in CMA.3403/13)	: Syed Khalil Gardazi, in person.
(in CMA.3416/13)	: Mr. Muhammad Ahsan Raja, in person.

Mr. Tariq Asad, ASC,  
Mr. M. Shoaib Shaheen, ASC  
Mr. Naseer Ahmed Bhutta, ASC  
Mr. Abdul Rehman Siddiqui, ASC  
Raja Aamir Abbas, ASC

Miss Tehmina Aamer, DS, PM Sectt.  
Mr. Rashid Bashir Mazari, ED, NAVTCL.  
Mr. Hafeez, DG, Wafaqi Mohtasib.  
Mr. Saeed Chishti, Dir. Wafaqi Mohtasib.  
Mr. K.M.Zubair, Ex-DG, Wafaqi Mohtasib.  
Mr. Mumtaz Khan, Member, IRSA, Balochistan.  
Mr. Abid Javed Akram, CE/TDAP.  
Syed Muhammad Amin, PSP.  
Mr. Muhammad Akbar Khan Hoti, Ex-IGP, KPK.  
Rana Asad Amin, Advisor, Finance Division.  
Mr. M. Saleem Ahmed Ranjha, Ex-MD, PSEB  
Mr. Arif Ala-o-Din, MD, Enercon.  
Mr. Faraz Khan Jadon, Law Officer, PTA.  
(all in person)

For Establishment Division : Mr. Sher Afzal, Joint Secretary

For Respondent No.1-2 : Nemo

Date of Hearing : 04.06.2013

### **ORDER**

It is informed by the learned Attorney General for Pakistan that Chairman, Anti Dumping Appellate Tribunal, after his appointment on 16.05.2013 tendered resignation on 22.05.2013 which has been accepted on 31.05.2013. Similarly, Raja Aamir Abbas, learned ASC stated that Chairman NEPRA (Mr. Justice (Retd.) Ahmed Khan Lashari) has tendered resignation on 2<sup>nd</sup> June, 2013, but he is not aware as to whether the same has been accepted or not.

2. Khawaja Muhammad Asif, petitioner, appeared in person and stated that the order dated 22.05.2013 has not been complied with in letter and spirit inasmuch as the Caretaker Government without lawful authority terminated the services of

some of those officers who were already working and performing their duties in Finance Division and I.T., either as Advisors or on contract. As duly elected government is likely to take over within a day or so and budget is likely to be prepared shortly, therefore, due to unlawful action of Caretaker Government concerned Divisions are facing a lot of difficulties. He has further stated that about more than 100 officers have been sent on deputation to different organizations from the Province of Balochistan after 22<sup>nd</sup> May, 2013 without adhering to the rules and regulations knowing well that the orders relating to the policy making cannot be passed by the Caretaker Government.

3. Similarly, Mr. Tariq Asad, learned ASC stated that services of some of the doctors who were holding contractual posts in the Federal Government Services Hospital (Poly Clinic) Islamabad, have also been terminated and there are so many such like examples, on the basis of which disturbance has been created.

4. Since all these issues are important in nature, therefore, we direct to the Secretaries, Establishment, Cabinet, Health, Water & Power, Finance Division(s) and all other concerned Departments/Corporations to file lists of the officers :-

- (a) *who were appointed against any post, by the Caretaker Government after taking over including Chairmen etc of the Corporations whose list finds mention in the order dated 22.05.2013;*
- (b) *whose services were acquired on deputation from different organizations on different positions in the*

*Departments and Corporations controlled by the Federal Government;*

- (c) whose services were terminated because they were holding different positions on contract basis in all the Government Departments/Hospitals;*
- (d) Whose transfers have been made contrary to the Judgment of Anita Turab's case etc;*
- (e) Deputationists brought to Federal Government Departments from the Province of Balochistan.*

5. In the meanwhile all above orders of termination/transfer/posting or deputation etc., shall remain suspended till passing of the final order.

6. Syed Adil Gillani, Advisor, Transparency International, Pakistan, has submitted an application (CMA No.3393/13) stating therein that appointment of Federal Ombudsman has taken place after passing of the order of this Court dated 22.05.2013 whereas the Secretary to the Federal Ombudsman has communicated that the appointment of Federal Ombudsman has been made on 1<sup>st</sup> of March, 2013, by the President of Pakistan and Oath of his office has also taken place. Let Syed Adil Gillani, appear in person to substantiate his application and in the meanwhile Secretary, Establishment Division as well as Secretary Law and Principal Secretary to the Prime Minister are directed to submit reports confirming or otherwise the contents of the allegations contained in the application. Notice to Salman Farooqi be also issued through the Secretary, Ombudsman.

7. Let the case be fixed on 06.06.2013 at Serial No.1 for further hearing.

***Chief Justice***

***Judge***

Islamabad  
04.06.2013

***Hashmi\****

***Judge***