

ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P.No.2580-2017

Ijaz Arshad Cheema

V.

Muhammad Salahuddin Miangal etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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30.09.2019

Mr. Muhammad Asif Gujjar, Advocate for
petitioner.
Raja Saad Sultan, Assistant Attorney General.

Through the instant petition, the petitioner has challenged the terms and conditions of service of Chairman, Press Council of Pakistan.

2. Learned counsel for the petitioner, *inter alia*, contended that under the Press Council of Pakistan Rules, 2013, the salary, allowances and the privileges of the Chairman, Press Council of Pakistan is equivalent to the serving Judge of the Hon'ble Supreme Court of Pakistan, which cannot be the case in light of various provisions of Esta Code.

3. Learned Assistant Attorney General, *inter alia*, contended that Office of Chairman, Press Council of Pakistan is the creation of Press Council of Pakistan Ordinance, 2002; that pursuant to the powers conferred under the Ordinance, the rules were framed which are duly notified in the national Gazette, hence the same are statutory. It was contended that terms and conditions of service of Chairman, Press Council of Pakistan are not repugnant to any provision of law.

4. Arguments advanced by learned counsels for the parties have been heard and the

documents placed on record examined with their able assistance.

5. The Office of Chairman, Press Council of Pakistan is the creation of Press Council of Pakistan Ordinance, 2002. Under the referred law, rules were framed on March 02-2015 and the same are called 'Press Council Pakistan Rules, 2013'. Under Rule 3 *ibid*, the Chairman, Press Council of Pakistan is entitled to such salary, allowances and privileges as are admissible to the serving Judge of the Hon'ble Supreme Court of Pakistan. The fixation of terms and conditions as of a Judge of Hon'ble Supreme Court of Pakistan cannot be regarded as in violation of any provision of law. In this behalf, learned counsel for the petitioner relied upon Chapter 2 Volume-I Estacode 2007, which reads as follows:-

I) In order to regulate contract appointments in autonomous/semi-autonomous bodes, corporations, public sector companies etc., owned and managed by the Federal Government, the Chief Executive has been pleased to lay down the following policy guidelines:-

(i) In the case of tenure posts, appointment to which is regulated by specific provisions of a law, rule and policy instructions, contract appointments may be made in the manner prescribed in the applicable law, rules and policy guidelines/directions issued by the Federal Government.

(ii) -----

(iv) -----

(v) The contract appointment, where justified, may be made for a period of two years initially, on standard terms including termination clause of one month's notice or one month's pay in lieu thereof. Extension may be made on two yearly basis].

II) The Prime Minister has been pleased to direct that advertisements for recruitment to Federal Government posts should be published in the regional/provincial newspapers also in addition to the national press.

III) In accordance with rule 11 of Rules of Business, "no Division shall, without previous consultation with the Establishment Division,

issue or authorise the issue of any orders which involve a change in the terms and conditions of service of federal civil servants". This provision in the rules makes it obligatory for the Ministries/Divisions to consult the Establishment Division, in matters relating to appointment, deputation of civil servants, to any autonomous body or corporation".

There is nothing in the above Estacode which could be regarded as placing prohibition on the fixation of terms and conditions of service same as terms and conditions of a Judge of Hon'ble Supreme Court of Pakistan.

5. It was one of the grounds of attack by learned counsel for the petitioner that rules have not been framed in accordance with law. In this behalf, it was contended that under section 23 *ibid*, rules are to be framed by the Federal Government, which according to the case reported as 'M/s Mustafa Impex, Karachi and others Vs. Government of Pakistan and others (PLD 2016 SC 808), provides that Federal Government means Prime Minister and the Cabinet. The petitioner has assailed Rule 3 of Pakistan Press Council Rules, 2013 on the touchstone that same is in violation of Establishment Division's Office Memorandum dated 11.04.2005, in this regard, it is observed that rules stand at a higher pedestal whereas office memorandum is an administrative order not having any legal sanctity attached to it. Moreover, the decision in the reported case (PLD 2016 SC 808) cited *supra* was rendered in 2016, whereas rules were framed in 2015. It is trite law that even judgment in *rem* does not operate

retrospectively to open past and closed transaction.

6. For the above reasons, instant petition is without merit and is accordingly dismissed.

(AMER FAROOQ)
JUDGE

Zawar