

Form No: HCJD/C-121
ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
(JUDICIAL DEPARTMENT)

W.P. No.1664/2019

Muhammad Rustam

Versus

Federation of Pakistan through Secretary, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	30-05-2019	Dr G. M. Chaudhry, Advocate for petitioner. Mr M. Saif Ullah Gondal, Asstt. Attorney General. Mr Shahid Ahmed, S.O., Planning Division.

The petitioner through the instant petition has sought multiple prayers.

2. The facts, in brief, are that the petitioner is a civil servant and employed as Daftari in the Ministry of Planning, Development and Reforms, Government of Pakistan. It has been asserted by the latter that he had submitted an application seeking Leave Preparatory to Retirement. The petitioner has alleged that instead of considering the application filed by him, the respondents have illegally withheld his salary. Pursuant to direction given by this Court, the respondents have filed written comments wherein, they have alleged that the petitioner has not been attending the office regularly and that he

remained absent from duty without permission from 08-01-2019 to 30-01-2019. It has been further stated that disciplinary proceedings are in the process of being initiated against the petitioner.

3. The learned Counsel for the petitioner was asked regarding maintainability of the petition because the latter being a civil servant is amenable to the jurisdiction of the learned Federal Service Tribunal. The learned Counsel has stressed that no grievance regarding terms and conditions of service has been agitated through the instant petition. The learned Counsel has stated that the petitioner is aggrieved because of the refusal on part of the respondents to decide his representation.

4. The learned Counsel for the petitioner and the learned Assistant Attorney General have been heard and the record perused with their able assistance.

5. It is an admitted position that the petitioner is a civil servant and his grievance is regarding refusal on part of the respondents to decide his representation wherein he has prayed for grant of Leave Preparatory to Retirement. The learned Counsel has stated that the respondents have failed to perform their duty by not deciding the

representation filed by the petitioner. The prayer sought in the instant petition essentially relates to terms and conditions of the petitioner's service. The petitioner as a civil servant is amenable to the jurisdiction of the learned Federal Service Tribunal and, therefore, this petition is barred under Article 212 of the Constitution of the Islamic Republic of Pakistan, 1973. Nonetheless, it is observed that public functionaries are expected to decide grievance petitions within a reasonable time. The respondents are, therefore, expected to consider and decide the grievance petition filed by the petitioner, failing which he shall at liberty to approach the learned Federal Service Tribunal in view of the proviso to section 4 of the Service Tribunals Act, 1973.

6. This petition stands disposed-of in the above terms.

(CHIEF JUSTICE)

Luqman Khan.