

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

W.P. No.1731/2017

Asma Sajid

Vs.

Federation of Pakistan through Secretary, Ministry of Housing and
Works, Islamabad & Another

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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06.12.2017	Mr. Abdul Hafeez Amjad, Advocate for petitioner.
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The petitioner is an employee working as Computer Operator in Federal Government Housing Foundation (the Foundation). She is in BPS-16 and holds the assignment of Assistant Computer Programmer (BPS-17). In 2016, she made a number of applications for promotion, however, despite the same, she was not promoted and the Foundation now has advertised posts in BPS-17, 18 & 10 for fresh appointments.

2. Learned counsel for the petitioner, *inter alia*, contended that the petitioner is eligible and due for promotion to higher Scale, however, despite repeated requests, respondents are not doing the needful; that it

is the legitimate expectation of the petitioner that she shall be considered for promotion and appointed in higher scale; that despite the fact that post in BPS-17 is lying vacant, the respondents are not filling up the same by promoting the petitioner.

3. In response to the query of the Court regarding maintainability of the petition, learned counsel placed reliance on case reported as 2016 SCMR 2146 to argue that even where, the rules are non-statutory, a petition under Article 199 of the Constitution, is maintainable.

4. Admittedly, the Foundation is a Company incorporated under the laws of Pakistan and the service regulations of the Foundation, if any, are not statutory.

5. It is trite law that where service regulations are non-statutory, the relationship between the petitioner and the Foundation is one of 'master and servant' and in such like cases, a petition under Article 199 of the Constitution, is not maintainable.

6. The judgment relied upon by learned counsel for the petitioner 2016 SCMR 2146 is not applicable in the facts and circumstances

of the case inasmuch as in the referred judgment, reliance was placed on an earlier judgment of the august apex Court reported as 2013 SCMR 1707 to hold that even where, rules are non-statutory but there is violation of law or principles of natural justice, a petition under Article 199 of the Constitution, is maintainable. In the instant case, learned counsel for the petitioner was unable to point out any violation of law.

7. In view of above, instant petition is not maintainable and is accordingly dismissed in *limine*.

(AAMER FAROOQ)
JUDGE

Zawar

