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Form No: HCJD/C-121

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
(JUDICIAL DEPARTMENT)

W.P. No.87/2019

Muhammad Kamran Khan

Versus

Pakistan International Airlines Company Ltd, etc.

| S. No. of order/ proceedings | Date of order/ proceedings | Order with signature of Judge and that of parties or counsel where necessary. |
|------------------------------|----------------------------|---|
| 01 | 10-01-2019 | Mr Abdul Hafeez Amjad, Advocate for petitioner. |

The petitioner has invoked the jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (*hereinafter referred to as the 'Constitution'*) assailing order, dated 27-12-2018.

2. The facts, in brief, are that the petitioner was appointed as Flight Steward in the year 2003 and later absorbed on permanent basis vide order, dated 01-09-2018. The petitioner was served with a show cause notice alleging that his educational certificate, which was submitted by him at the time of his appointment was not genuine. The show

cause notice was adjudicated and vide order, dated 27-12-2018, whereby the petitioner was dismissed from service. The dismissal order, dated 27-12-2018, has been challenged by the petitioner through the instant petition.

3. The learned Counsel for the petitioner was asked to satisfy this Court regarding maintainability of the petition because the prayer sought therein requires a writ to be issued to persons who are outside the territorial jurisdiction of this Court. The learned Counsel despite his able assistance could not satisfy that this Court is vested with jurisdiction to issue a writ relating to respondent no.1 and 3. Respondent no.2 has neither passed any order nor a prayer has been sought to his/her extent.

4. The jurisdiction under Article 199 (1) and clause (a) (i) or (ii) of the Constitution has been restricted by the makers of the Constitution to the territorial jurisdiction of a High Court. The writ sought by the petitioner is of a nature which would fall within Article 199 (1)(a). In terms of Article 199 (1)(a) and Clause (i), a High Court can make an

order on the application of any aggrieved person, directing a person performing *"within the territorial jurisdiction of the Court, functions in connection with the affairs of the Federation, a Province or a local authority, to refrain from doing anything he is not permitted by law to do, or to do anything he is required by law to do"*. Similarly, clause (ii) restricts the jurisdiction of a High Court to make an order *"declaring that any act done or proceeding taken within the territorial jurisdiction of the Court, by a person performing functions in connection with the affairs of the Federation, a Province or a local authority, has been done or taken without lawful authority and is of no legal effect"*.

5. The provisions of the Constitution are unambiguous, and a High Court can exercise its jurisdiction only if a person or authority, in respect of which the writ is to be issued, is situated within its territorial jurisdiction. This is the mandate of the Constitution and a settled law. In the present case the prayer pertains to an order which has been passed by an authority situated outside the territorial jurisdiction of this Court.

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6. For what has been discussed above, the instant petition is not maintainable before this Court and is, therefore, accordingly dismissed.

(CHIEF JUSTICE)

Luqman Khan/*