

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

No. IHC/Judl. Deptt.

(REVISED FORM OF BLUE SLIP)

Case No. WP 933/16

Titled. Dr. Basharat Hasan v/s AE DB etc.

a) Judgment approved for reporting

☒ Yes/No

b) Judgment any comment upon the conduct of the
Judicial officer for quality of the impugned judgment
Is desired to be made.

☒ Yes/No

(In case the answer is affirmative separate
confidential note may be sent to the Registrar
drawing his attention to the particular aspect).

Initial of the Judge.

NOTE.

1. If the slip is used, the Reader must attach on top of first Page of the judgment.
2. Reader may ask the Judge writing the judgment whether the judgment is to be approved for reporting of any comment is to be made about the judicial officer / quality of judgment.
3. This slip is only to be used when some action is to be taken.

ISLAMABAD HIGH COURT, ISLAMABAD,
JUDICIAL DEPARTMENT.

Dr.Basharat Hassan Bashir Vs. Alternative Energy Development Board etc.

Petitioner by: **Hafiz Arfat Ahmed Ch. &
Ms.Kashifa Niaz Awan, Advocates.**

Respondents by: Mr.Rashid Hanif & Mr.Abrar Bashir, Advocates.

Date of hearing: 15.04.2016.

MOHSIN AKHTAR KAYANI, J:- Through this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner has assailed the order dated 09.03.2016, whereby services of the petitioner were terminated.

2. Brief, facts giving rise to the filing of the instant petition are that presently petitioner was serving as Director General Power Projects in Alternative Energy Development Board (hereinafter called as AEDB)/respondent No.1. That AEDB was established under AEDB Act, 2010 as an autonomous body for the purpose of implementation of various policies, programmes and projects in the field of Alternative or Renewable Energy Technologies. The services of the petitioner were terminated vide office order No.HR/AEDB/Consultant/PF-03, dated 09.03.2016 (hereinafter called as impugned order) on the basis of the decision of the Hon'ble Supreme Court of Pakistan vide order dated 13.01.2015, passed in Crl. Petition No.560/2014 titled as Dr.Mukhtar Ahmed and another vs Muhammad Anees Saddozai and another. Initially the petitioner was appointed as Consultant in MP-II through notification dated 08.09.2007 for period of two years w.e.f 01.06.2006. Subsequent to that petitioner was given charge of Director General vide office order dated 02.09.2013 in order to look after the working of the said post but his services were regularized as DG Alternative Energy Scales (AES-II) by AEDB in its

W.P No.933/2016.

28th meeting held on 28.10.2013. The petitioner was appointed as Consultant in AEDB in MP-I scale but an officer in the Prime Minister Secretariate changed the scale to MP-II and the petitioner was appointed in MP-II scale. After the regularization of the petitioner in AEDB, W.P No.2819/2013 was filed before this Court by Muhammad Ali against the regularization of the petitioner and during the pendency of the said writ petition another writ petition No.4394/2013 was filed before this Court by an employee of the AEDB challenging the appointment/regularization of the petitioner. Both the writ petitions were allowed through consolidated judgment dated 23.06.2014. The said writ petitions were allowed with the following observations:-

“In this view of the matter, both the Writ Petitions are allowed and appointment/regularization of Respondent No.6 (Dr.Basharat Hassan Bashir) is declared as illegal, unlawful without lawful authority, against the Constitutional mandate, prescribed procedure and applicable law. The respondent Nos.2 & 3 are directed to hold an inquiry and initiate proceedings against persons responsible for lapse on their part.”

3. The petitioner assailed the said consolidated judgment before the learned Division Bench of this Court in I.C.As No.424 & 425/2014, in which operation of the impugned judgment dated 23.06.2014 was suspended vide order dated 21.07.2016. The said I.C.As are still sub-judice. The termination order of the petitioner was passed on 09.03.2016, therefore, the said I.C.As were sine die adjourned in order to give an opportunity to the petitioner to assail the termination through writ petition.

4. Learned counsel for the petitioner contends that the petitioner is foreign qualified Alternative Energy Specialist having 31 years experience in the field of Alternative Energy as he is Ph.D from the University of Newcastle Upon Tyne U.K. That he was invited by Government of Pakistan's "Reversing the Brain Drain Policy" as per HEC's foreign faculty hiring programme. That the Board has found the petitioner competent and capable enough to handle the portfolio as regular employee of AEDB, therefore, prior position of the petitioner become completely

immaterial and irrelevant. That the legislature in section 12 of the Act made its intention clearly known by leaving it to the discretion of the Board to appoint officers, experts and consultants as it may deem appropriate and there was no restriction upon the Board. That judgment passed by Hon'ble Supreme Court is not binding on AEDB/respondent No.1. That the judgment of Hon'ble Supreme Court could not have been given retrospective effect particularly when the petitioner was neither party to the petition nor any notice was given to him. That in the matters of appointment, the procedure prescribed in the Acts/Ordinances must be adhered to and the appointment of petitioner was made under the AEDB Act, 2010. That services of an individual can be terminated on the ground of misconduct, etc after giving opportunity of hearing, however, no such allegation with regard to performance of the petitioner has been leveled in the impugned order. At last learned counsel for the petitioner contends that Article 9 of the Constitution of Pakistan provides guarantee to the dignity to life, right to livelihood and right to work honourably. Learned counsel for the petitioner has relied upon 1996 SCMR 1350, 2015 SCMR 1418, 2006 SCMR 1163, PLD 2015 SC 6, PLD 1987 SC 145, 2013 PLC (C.S) 289, 2013 SCMR 225, PLD 2013 SC 829, PLD 1965 SC 90 & 2011 PLC (C.S) 709.

5. Conversely, learned counsel for respondent No.1/AEDB defended the impugned order dated 09.03.2016 and contended that AEDB is an autonomous body under the Act and CEO of the Board is appointed by Federal Government and Employees Service Regulations of AEDB are non-statutory U/S 9 of the Act. That the instant writ petition is not maintainable as the petitioner is attempting to perpetuate an illegality by invoking Constitutional jurisdiction of this Court, which is not permissible. In this regard learned counsel for respondent No.1 has relied upon PLD 1991 SC 691. Learned counsel for respondent No.1 further contends that the petitioner has not approached this court with clean hands and misstated the facts, therefore, he is not entitled to any discretionary relief. That petitioner joined AEDB as Member of the Board in 2006 and his appointment/regularization has

already been declared as illegal in terms of consolidated judgment by this Court in W.P Nos.2819 & 4394/13 and at present I.C.As are pending against that judgment. Learned counsel for respondent No.1 further contended that services of the petitioner were terminated by the Board through impugned order dated 09.03.2016 in view of the judgment of Hon'ble Supreme Court in Crl. Petition No.560/2014, wherein it was authoritatively declared that by very nature of the posts the holders thereof are not entitled to be regularized or that the holders of the posts be made permanent to hold the same until they reach superannuation.

6. I have heard the arguments and perused the record.

7. I am not oblivious that at the very inception question of jurisdiction to adjudicate upon the matter and maintainability of the captioned writ petition is to be decided by this court.

8. Admittedly **Alternative Energy Development Board was created** through an Act called as **Alternative Energy Development Board Act, 2010**. Sections 18 and 19 of the Act *ibid* empower the Alternative Energy Development Board to make rules as well as to make regulations, which are reproduced here-under for ready reference:-

18. Power to make rules.---The Federal Government may, on the recommendations of the Board, make rules to carry out the purposes of this Act.

19. Power to make regulations.--- (1) The Board, may make regulations, not inconsistent with this Act and the rules, to carry out the purposes of this Act.

(2) Without prejudice to the generality of the forgoing provisions, the regulations may provide for.---

(a) disciplinary proceedings and award of punishments;

(b) terms and conditions alongwith remuneration and privileges, etc. appointments of officers, staff members, experts, advisors and consultants etc;

(c) prescription of different scales and grades etc. for the remuneration and privileges of officers, staff members, experts, advisors and consultants of the Board;

- (d) procedure for appointment of members of different committees and laying down regulations for the conduct of their business; and
- (e) all or any of the matters which by this Act are to be or may be prescribed by the regulations.

9. Section 19 of the **Alternative Energy Development Board Act, 2010** empowers the Board to make regulations and in pursuance of Section 19 of Alternative Energy Development Board (AEDB) Act, 2010, AEDB approved the Employees Service Regulations called as *Alternative Energy Development Board (AEDB) Employees Service Regulations*. Hence inference can safely be drawn that Alternative Energy Development board (AEDB) is a statutory creation under **Alternative Energy Development Board Act, 2010**. Section-19 of the Act *ibid* empowers the AEDB Board to make Regulations. In exercise of such powers AEDB Board approved Regulations called as *Alternative Energy Development Board (AEDB) Employees Service Regulations*. Hence, inference can safely be drawn that the *Alternative Energy Development Board (AEDB) Employees Service Regulations* are statutory in nature, hence, the instant writ petition is maintainable before this Court. In this regard, I am guided by the dictum laid down by the Hon'ble Supreme Court of Pakistan vide Judgment reported as **2010 SCMR 1495 (Chairman State Life Insurance Corporation and others Versus Hamayun Irfan and 2 others)** wherein it was held that:-

"In view of what has been discussed above we find that the regulations framed under the statutory power after completing all the legal formalities are within the ambit of the relevant statute and their status is of statutory regulations."

(underlining and emphasizing is mine)

10. From the perusal of the record, it is evident that the petitioner was appointed as Member from private sector in AEDB vide Establishment Division Notification No.1/34/2005-E-6, dated 04.01.2006 and on the recommendations of the Finance Ministry vide summary dated 23.02.2007 the petitioner was appointed full time Technical Member in the AEDB with salary and perquisites equivalent to MP-II

scale w.e.f 04.01.2006. However, it has been observed that selection of professionals in MP scale is made by a high level selection committee in the light of Establishment Division O.M. No.1(72)/2002-E-6, dated 11.04.2000 and there is no proof that the petitioner was selected through the said prescribed procedure. Moreover, the requirements of open competition after advertising the post have also not been fulfilled. On the directions of Prime Minister's Secretariat case of the petitioner was re-submitted by AEDB after reconsideration and the petitioner was appointed as Consultant in AEDB in MP-II Scale for a period of two years w.e.f 01.06.2006. It has also been observed that some cases of MP scales officers, whose contracts had been expired were submitted to the Ministry for extension of contracts were discussed but the case of the petitioner was not referred for the said purpose as the contract of the petitioner was valid at that time. It has also been observed that two years contract period was expired on 31.05.2008 and the case for extension of the contract of the petitioner was submitted to the Ministry, which was regretted but the petitioner continued his service and the irregularity was subsequently noted during the Special Audit Report of AEDB for FY 2007-08. The Ministry submitted a summary to the Prime Minister for regularization of irregularities but after expiry of contract of Consultant MP-II scale, petitioner was not given extension by the competent authority. It has also been noted that the petitioner was given additional charge of CEO, AEDB vide notification dated 11.6.2013, which was challenged in W.P No.2819/2013 before this Court, whereby the initial appointment of petitioner as Consultant as well as additional charge of CEO, AEDB was assailed. In that writ petition, respondent/AEDB defended the appointment of the petitioner by filing para-wise comments in his favour, however, in view of this back ground the case of the petitioner was placed on the Agenda of AEDB for regularization of service in 28th meeting dated 21.11.2013, whereby the Board had regularized the services of the petitioner as DG in ES-II, AEDB vide office order dated 03.12.2013. After the regularization of the service of the petitioner, Suleman Ishaque Malik, Deputy

Director (Bio Energy)(AEDB) filed a writ petition No.4394/2013 before this Court, which was accepted through consolidated judgment dated 23.06.2014.

11. Hence, from the back ground of appointment and regularization details, it is manifestly clear that the petitioner was appointed in MP-II Scale as Consultant, whereas in the MP Scales, service could not be regularized due to their special status as held by Hon'ble Supreme Court of Pakistan in Criminal Petition No. 560 of 2014 titled **"Dr. Mukhtar Ahmed and another vs. Muhammad Anees Saddozai and another"** in which it was held that:-

"On merits also the respondents have no case. They were appointed on MP Scales. These are special posts with the special package and were created so as to attract professionals from the market who otherwise would not be willing to serve on the regular scales prescribed for the civil services. Those appointed on MP Scales posts are employed for a particular period which may be extended from time to time by the competent authority. By very nature of the posts the holders thereof are not entitled to be regularized or that the holders of the posts be made permanent to hold the same until they reach superannuation. Even the policy of 25.01.2011 is not applicable to MP Scales Posts. The 3rd paragraph of the policy, reproduced above, refers to cases of contract employees of BPS-16 and above. These therefore refer to the regular government scales whereas the MP Scale is not a scale above BPS-16 and does not fall within the hierarchy. From this point of view too the respondents were not entitled to regularization of their posts under the said policy. Seen from any angle the High Court had erred in passing orders on the applications for Contempt of Court filed by the respondents. We therefore convert this petition into appeal, allow the same by setting aside the orders dated 24.09.2014 and 10.03.2014 and consequently dismiss the very Criminal Original No.330 of 2013 file in the High Court. The petition was disposed of by short order in the following terms:

"For reasons to be recorded later, this petition is converted into appeal and allowed. The order dated 31.12.2012 in Writ Petition No.963 of 2012 (Muhammad Anees Saddozai etc. vs. Federation of Pakistan etc.) is set aside and so also all orders subsequently passed from time to time.

However in view of the aforesaid discussion the said order need to be rectified in that the judgment in Writ Petition No.963 of 2012 was not impugned before us and therefore the same does not stand set aside. Nevertheless for reasons afore-stated the said judgment is no longer implementable.

12. From the perusal of judgment of Hon'ble Supreme Court of Pakistan, it can safely be concluded that persons appointed on MP Scales are declared as persons appointed against Special Posts with special package, which were created to attract

the professionals from market, who are not willing to serve against regular Pay Scales in terms of civil service, therefore, their cases could not be regularized except extension from time to time by the competent authority but moot point in the instant case is as to whether the Board under AEDB Act, 2010 could regularize the services of the petitioner and the regularization dated 28.10.2013 in 28th Board meeting could be made under the law and whether the judgment of Hon'ble Supreme Court of Pakistan will decide the fate of the petitioner or not?

13. In view of the judgment of the Hon'ble Supreme Court of Pakistan, I am of the view that the petitioner was initially appointed in MP Scale on contract basis, however, both the petitioner as well as respondent No.1 have failed to produce any employment contract, even respondent conferred the status on the day of regularization in 28th Board meeting held on 28.10.2013, the petitioner does not hold any valid contract, through which he can substantiate his contractual employment but at the same time conduct of respondent No.1 is highly objectionable which had allowed the petitioner to continue the service till the 28th Board Meeting on one pretext or the other on some political motivation but at the same time learned counsel for petitioner has drawn attention of this Court towards the provisions of section 3.4 Chapter-3 of the regulations, wherein different categories of the employees of AEDB can be appointed, transferred and dealt with by the authority referred therein. At serial No.5 post in AES-10 & 11, the appointing authority is AEDB Board. Learned counsel for the petitioner has also drawn the attention of this Court towards section 17.2 Chapter-17 Termination And Resignation From Service, in which procedure of termination of an employee is mentioned. However, in the instant case, situation is altogether different as the petitioner was terminated vide order dated 9th March, 2016 and the said order is based upon the Judgment passed by Hon'ble Supreme Court of Pakistan in Crl. Petition No. 560 of 2014. Learned counsel for the petitioner has argued that after regularization of the petitioner, the matter has become a past and closed transaction

which could not have been reopened on a flimsy ground like the one mentioned in the impugned order.

14. In order to reach at a just and fair conclusion, the circumstances as well as the criteria through which the petitioner's services were regularized in AES-11 are required to be taken into consideration. In order to understand the controversy in its true perspective the criteria, which was adopted for regularization of the petitioner's service requires deeper appreciation. The case of the petitioner was considered in 28 Board Meeting of AEDB through Agenda Item No.5, which is reproduced below:-

Determination of Services of Dr.Basharat Hasan Bashir

The Board was apprised that Dr.Basharat Hasan Bashir was appointed in AEDB as Consultant, MP-II scale by the Prime Minister vide notification dated 08-09-2007 and was later on temporarily adjusted in AES-10 as per the decision of the Board in the emergent Board Meeting held on 28th November 2007. The Board was further requested to consider a decision regarding his services in AEDB.

Decision:

Board approved regularization of services of Dr.Basharat Hasan Bashir in AES-11."

15. Above mentioned back ground referred in the Board Meeting and its decision of regularization of petitioner's services is based upon the previous working of petitioner in MP-II scale, which was sole prerogative of Prime Minister, therefore, it is manifestly clear that the petitioner has been regularized rather appointed without recourse to the requirements of law i.e. advertisement, test and interview, hence, as a result of such illegal procedure, when a person has not been appointed in accordance with law, then his regularization and subsequent protection, if any, will not be considered under the principle of *locus ponetentiae*, close and past transaction, therefore, judgment given by the Apex Court in Crl. Petition 560/14 is fully applicable and the same has its effect on MP scales as such,

the impugned order does not suffer from any illegality.

16. I would also like to discuss the citations referred by learned counsel for the petitioner, which are:-

2006 SCMR 1163 (Hussain Badshah and another vs. Akhtar Zaman and others), in which it was held that:-

“Judgment passed by High Court in Constitutional jurisdiction---Effect---Past and closed transaction, doctrine of---Applicability---Policy adopted by Provincial Government regarding appointment of teachers was declared by Full Bench of High Court as void ab initio and without lawful authority---Appellants were appointed prior to such declaration and their appointments were on merits---Grievance of appellants was that their appointments could not be affected the declaration given by Full Bench of High Court---Validity---Declaration to the effect that all appointments made under the earlier policy were illegal, void and without lawful authority could not sustain being against the law as the judgment of High Court would operate prospectively and not retrospectively adversely affecting the rights already accrued to the teachers appointed before the declaration of law by Full Bench of High Court---Appointments made prior to the judgment were neither inherently illegal nor ultra vires the law---Appellants were amongst the candidates who qualified from Elementary P.T.C. Colleges of N.W.F.P., Allama Iqbal Open University and other Institutions on merits and having regard to the qualifications obtained by such persons, many of the appellants were even not party to the Constitutional petitions before the High Court---Vested rights of the appellants could not be disturbed to their disadvantage---Case of appellants was protected by the doctrine of past and closed transaction and the same could not be reopened---Appeal was allowed .”

2013 SCMR 225 (Muhammad Farooq through legal heirs and others vs. Muhammad Hussain and others), in which it was held that:-

“Provisions of law challenged in court as being repugnant to Injunctions of Islam---Case/litigation pending under such provision of law---Effect---Notwithstanding the fact that a provision had been challenged, all proceedings pending in any court should not only continue but would be decided in accordance with the provisions of law challenged, which would continue to be in force until the date specified in the judgment declaring it to be repugnant to the Injunctions of Islam.”

PLD 2013 SC 829 (Begum Nusrat Ali Gonda vs. Federation of Pakistan and others), in which it was held that:-

“Prospective/retrospective application of a judgment---Scope---Prospective or the retrospective application of a particular judgment depended upon the fact and circumstances of each case, and it was for the court to decide (in each case), if the judgment should be made applicable prospectively or otherwise.”

2015 SCMR 1418 (Mst.Basharat Jehan vs. Director General, Federal Government Education, FGEI (C/Q) Rawalpindi), in which it was held that:-

“Appointment letter, cancellation of---scope---Vested right of appointment---Once a person was appointed after fulfilling all the codal formalities and appointment letter was issued, a vested right was created and appointment letter could not be withdrawn.”

2011 PLC (C.S) 709 (Ghulam Murtaza and others vs. Federation of Pakistan through Secretary Cabinet Division and others), in which it was held that:-

"Petitioners were recruited by Intellectual Property Organization of Pakistan but one month after joining, their services were terminated by a notification---Petitioners contended that they were selected after following due procedure so they had acquired vested right in appointments--- Authority contended that petitioners were appointed by incompetent authority--- Validity--- No illegality or irregularity was found in the entire process of selection---Impugned orders of termination being not sustainable in law, were liable to be set aside---No inquiry regarding alleged illegality of lack of transparency had been conducted by the authorities before withdrawing the appointment orders of the petitioners---Negligence on the part of authorities could not take away rights of the petitioners created by appointment letters issued after complying with all codal formalities--- Petitioners were condemned unheard against principles of natural justice--- Appointment letters once issued, could not be withdrawn--- Petition was allowed."

1996 SCMR 1350 (Director, Social Welfare, N.W.F.P., Peshawar vs. Sadullah Khan), in which it was held that:-

"Services of civil servant were terminated on the ground that besides being irregular, his appointment was violative of R. 10(2), North-West Frontier Province Civil Servants (Appointment Promotion and Transfer) Rules, 1989---Service Tribunal noted that even irregular appointments, according to practice of Authorities themselves, were regularized in cases exactly similar to that of civil servant--- Service Tribunal found that although civil servant's appointment was temporary, yet it had been made by Competent Authority---Civil servant was thus, re-instated from the date of termination in his service---Validity---Authority being responsible for making irregular appointment on alleged purely temporary basis, had subsequently turned round and terminated civil servant's service which was utterly untenable--- Authority did not claim that civil servant lacked qualifications or could not be allowed to take benefit of its lapses in order to terminate services of civil servant merely because it had itself committed irregularity in violating procedure governing appointment--- Service Tribunal was not shown to have committed any irregularity in re-instating civil servant---Leave to appeal was refused in circumstances."

PLD 2015 SC 6 (Ghulam Rasool vs. Government of Pakistan through Secretary, Establishment Division Islamabad and others), in which it was held that:-

"In Syed Mahmood Akhtar Naqvi and others v. Federation of Pakistan etc (PLD 2013 SC 195), this Court has held that "whenever there are statutory provisions or rules or regulations which govern the matter of appointments, the same must be followed". Keeping in view the above discussion, it can be said that the matter of appointment of heads of statutory bodies, autonomous/semi-autonomous bodies, corporations, regulatory authorities etcetera are governed under specific statutory provisions which cannot be overlooked or substituted by some other mechanism. We have noted that various Acts/Ordinances lay down a specific criteria/qualifications for high-level appointments and empower the Federal Government to make such appointments. Some of them are (i) Federal Public Service Commission of Pakistan Ordinance, 1977, (ii) Competition Act, 2010, (iii) Pakistan Electricity Media Regulatory Authority Ordinance, 2002, (iv) Oil and Gas Regulatory Authority Ordinance, 2002, (v) NEPRA Act, 1997, (vi) Securities and Exchange Commission Act, 1996, and (viii) Companies Ordinance 1984. The appointments, which the Federal Government is bound to comply with as mandated under Article 5 of the Constitution."

PLD 1987 SC 145 (Pir Bakhsh represented by his legal heirs and others vs. The Chairman, Allotment Committee and others), in which it was held that:-

"Where grievance was an individual grievance and related to satisfaction of claim in full or in part, proceedings were actions in personam against definite persons arrayed as respondents and determination a judgment in personam. Judgment in appeal was operative as from the date it was announced and it did not have the effect of re-opening the rights of the parties concluded

finally under the High Court judgment Authority of law laid down by Supreme Court under Art. 189 being prospective, decision of High Court nonetheless stood overruled on same question of law but that will not affect rights of parties already determined by High Court."

2013 PLC (C.S) 289 (Aziz ur Rehman Akbar vs. Secretary, Health Department Government of the Punjab, Lahore and another), in which it was held that:-

"If any irregularity was found at later stage in appointment of appellant, he should not suffer in any manner---Even if appellant was appointed against a vacancy which was not in existence, the fault could not be attributed to him but fault if any, was of the department or the competent Authority. Even under the principle of locus poenitentiae, appellant's services were required to be regularized---Impugned order was set aside and authorities were directed to reinstate the appellant into service from the date he was removed; and also forward his name for regularization of his service to Public Service Commission."

PLD 1965 SC 90 (The University of Dacca through its Vice Chairman, etc vs. Zakir Ahmed), in which it was held that:-

"in all proceedings by whomsoever held, whether judicial or administrative, the principles of natural justice have to be observed if the proceedings might result in consequences affecting "the person or property or other right of the parties concerned". This rule applies even though there may be no positive words in the statute or legal document whereby the power is vested to take such proceedings, for, in such cases this requirement is to be implied into it as the minimum requirement of fairness."

17. In the above referred judgments, following principles were held:-

(i) The person, who is not party before the Court has a vested right, which can not be disturbed by the judgment of the Court to his disadvantages as the previous acts and transactions were protected in the doctrine of past and close transaction.

(ii) Principle of Fairness.

(iii) Principle of locus-ponetentea.

(iv) Judgment in personam.

18. The above mentioned principles referred in the judgments supra are duly regarded, however, the principles settled in these judgments are quite distinguishable on the ground that the case of the petitioner is distinguishable on different counts as the petitioner has no written employment contract in his favour rather he cannot demonstrate from the record that his services were regularized in accordance with law and even he failed to demonstrate that his services were regularized in 28th Board Meeting of AEDB in accordance with requirements of the Act, rules and regulations and after adopting due process. Even otherwise the

judgment passed by Hon'ble Supreme Court of Pakistan in Crl. Petition No.560/2014 is applicable to all those individual who are holding the positions in MP Scales and if the said judgment is applied to the case of petitioner, his previous service, which has been regularized by the Board is illegal and if he takes exception to the said Board Meeting, the case of the petitioner comes to the purview of a contract employee but the petitioner has not been given any contract by respondent No.1, even there was and there is no contract on the record, therefore, the impugned order dated 09.03.2016 has rightly been issued.

19. Hence, the petitioner has no employment contract in his favour, he has no extension in his favour and he cannot claim any right on the basis of his regularization in AES-II as his appointment was made without adopting due process and without following the codal formalities.

20. For what has been discussed above, the instant writ petition is without any merits. Resultantly the instant writ petition stands dismissed.

(MOHSIN AKHTAR KAYANI)
JUDGE

Announced in open Court on 28.04.2016

(MOHSIN AKHTAR KAYANI)
JUDGE

R.Anjam

Approved for Reporting