

JUDGMENT SHEET

ISLAMABAD HIGH COURT, ISLAMABAD,
JUDICIAL DEPARTMENT

Writ Petition No.558/2019

Syed Hamid Raza

versus

Federation of Pakistan through Secretary, Ministry of Law & 5 others

and

Writ Petition No.757/2019

Nusrat Bilal

versus

Federation of Pakistan through Secretary, Ministry of Law & 6 others

Petitioners by: Petitioners in-person along with Mr. Ansar Ali
Kayani, Proxy Counsel.

Respondents by: Mr. Sajjar Abbas Hamdani, Advocate for
Respondent No.6
Ms. Ruqia Samee, AAG.
Mr. Muhammad Atif Khokhar, State Counsel.
Mr. Muhammad Asif Iqbal, Deputy Registrar,
Islamabad High Court, Islamabad.

Date of Decision: 03.03.2020.

MOHSIN AKHTAR KAYANI, J: By way of this common judgment, I intend to decide the captioned writ petitions as having involved common questions of law and facts.

2. In the captioned W.P. No.558/2019, the petitioner is mainly aggrieved by the conduct of respondent authorities in not considering him for promotion as Assistant/Reader (BPS-16) as per his seniority through notification dated 24.02.2012, issued by the Registrar, Islamabad High Court and as such, the petitioner is also claiming remuneration benefits of his position after upgradation mainly on the ground that the process from his initial appointment till his claim of promotion, the respondent authorities have violated the principle of natural justice as they have selected and even promoted the blue eyed employees without merits in violation of service quota.

3. Likewise, in the captioned W.P. No.757/2019, the petitioner Nusrat Bilal claims that he has been appointed as Process Server on Balochistan quota despite

the fact that he had applied for Assistant Record Keeper and since then he has not been given promotion nor his other rights have been acknowledged by the respondents.

4. Learned counsel for petitioners contended that the act of respondent authorities by not promoting the petitioner (Syed Hamid Raza) from Civil Division to Sessions Division as per his seniority and criteria of eligibility is illegal, unlawful and against the law guaranteed under the Constitution of the Islamic Republic of Pakistan, 1973; that the act of respondents by promoting other colleagues and low pay scale employees except the petitioner (Syed Hamid Raza) without constituting the departmental committee or considering the service rules is nothing but a colorful exercise of powers having been pressed in order to hurt the valuable rights and interest of the petitioner; that the act of respondent authorities by not promoting the petitioner (Nusrat Bilal) from the post of Acting Bailiff to the post Assistant Record Keeper (BPS-07) as per his selection, seniority and criteria of eligibility is illegal, unlawful and against the law; that it is fundamental rights of the petitioners to be treated in accordance with law and to enjoy equal protection under the law as enshrined in Article 4 of the Constitution of the Islamic Republic of Pakistan, 1973, therefore, direction may be issued to respondent authorities to promote the petitioners namely Syed Hamid Raza and Nusrat Bilal as Assistant/Reader (BPS-16) and Assistant Record Keeper (BPS-07), respectively, as per their selection/seniority.

5. Conversely, learned State Counsel along with learned AAG and learned counsel for respondent No.6 opposed the instant writ petition by contending that no illegality has been observed in the recruitment process; that this Hon'ble Court has already dealt with such matter in another writ petition i.e. W.P. No.665/2012 (Ch. Imran Wali, etc. v. Federation of Pakistan, etc.) and the judgment passed therein renders the instant writ petition to be dismissed.

6. Arguments heard, record perused.
7. I have given anxious thoughts to comments filed by Additional Registrar, Islamabad High Court and observed that a Departmental Selection Committee was constituted for supervision of the entire selection process.
8. While considering the above background and the reply filed by the Registrar, Islamabad High Court, it has been highlighted by the learned AAG in attendance that in similar cases the Hon'ble Chief Justice, vide order dated 18.09.2019, passed in W.P. No.665/2012 (Ch. Imran Wali, etc. v. Federation of Pakistan, etc.), had opined for initiation of inquiry.
9. In view of above position, this Court is of the view that the entire process of selection and recruitment by the then Departmental Recruitment Committee is tainted and based on illegalities and *prima facie* such recruitment process requires proper verification in a regular inquiry and as such, the Hon'ble Chief Justice in the case of *Ch. Imran Wali supra* has already observed this aspect and directed the Registrar of this Court to inquire into the matter.
10. Besides the above referred position, the instant writ petitions are not maintainable in the light of recent pronouncement of this Court reported as 2019 PLC(CS) Note 91 Islamabad (Amjad Ali vs. Federal Shariat Court), therefore, both the captioned writ petitions are hereby **DISMISSED** with direction to the Registrar of the Islamabad High Court to inquire into these allegations through the learned Sessions Judge concerned and if it is found that the appointments were illegal, all those appointments shall be declared illegal in accordance with law after conducting proper inquiry.

(MOHSIN AKHTAR KAYANI)
JUDGE

Khalid Z.