

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

F.A.O. No.92/2016
Waqar un Nisa
Versus
Federation of Pakistan & others

F.A.O. No.93/2016
Sidra Shaheen Hussain, Information Officer
Versus
Federation of Pakistan & another

F.A.O. No.94/2016
Rabia Asghar
Versus
Federation of Pakistan & another

F.A.O. No.95/2016
Syeda Addila Rubbab Kazmi, Assistant Director
Versus
Federation of Pakistan & others

Appellant by: Malik Javed Iqbal Wains, Advocate,
Respondents by: Ch. Muhammad Tahir Mehmood, AAG,
Mahmood Ullah Farrukh, AD Legal
FPSC.
Date of Hearing: 11.09.2020.

FIAZ AHMAD ANJUM JANDRAN, J.- Listed
appeals entail common subject matter, therefore, being
decided through this single judgment.

2. Facts, relevant for the disposal, are that the appellants (*M/s Waqar un Nisa, Sidra Shaheen Hussain, Rabia Asghar and Syeda Addila Rubab Kazmi*) appeared in Central Superior Services (CSS) Examination 2008 and placed on All Pakistan Merit List at No. 454, 331, 340 and 361 respectively; that as per Press Note dated 11.04.2009 issued by the respondent No.1/Establishment Division total vacancies were 445, out of which 398 had to be filled on merit while 47 from woman quota; that said vacancies of merit and woman quota were further bifurcated into All Pakistan Merit and Provinces. The province wise bifurcation

was made in terms that 160 seats from Punjab merit and 19 women quota, while 37 from KPK Province on merit and 6 women quota were reserved and so on; that the appellants due to having low merit could not qualify merit seats from respective Provinces i.e. Punjab and KPK and were not allocated any seat in any of the Service Group.

Subsequently, one of their counterpart namely Ms. Nargis Shazia Chaudhry resorted remedy before this Court for allocation of women quota seat and remained successful up till the Hon'ble Apex Court vide order dated 03.06.2010 as review petition filed by the respondent No.2/FPSC was dismissed vide order dated 25.08.2010; thereafter the appellant (*Waqar un Nisa*) was allocated Railway (Commercial & Transport) Group, while appellants of connected appeals were given the Information Group; that once again their counterpart Ms. Nargis Shazia Chaudhry, who was also allocated Information Group, filed another writ petition for allocation of proper Group i.e. Pakistan Administrative Services (PAS) as she claims her entitlement against the said Group; that second round of litigation also culminated in favour of their counterpart vide order dated 10.09.2012 and was allocated PAS Group; that by following the same course, initially appellants moved the respondent No.2/FPSC through representation & then revision petitions but remained unsuccessful and then approached this Court from where they were held entitled for the relief prayed for in terms as was granted to their counterpart Ms. Nargis Shazia Chaudhry. The matter ultimately went up to the Hon'ble Apex Court where the respondent No.2/FPSC filed Civil Review Petitions against the Judgment of the Hon'ble High Court, rendered in favour of Ms. Nargis Shazia Chaudhry and in the cases of the appellants. Ultimately the Civil Review Petition was allowed vide Judgment dated 08.02.2016, while that of appellants were rendered

infructuous and were allowed to voice their grievances before the respondent No.2/FPSC, which course they adopted through representation and then review petitions but the same were dismissed through separate orders of even dates i.e. 25.04.2016 & 30.06.2016 respectively, hence these appeals.

3. The crux of the submissions advanced by learned counsel for the appellants is that the decision of respondent No.2/FBPC is against the law because quota reserved for women had been allocated to males and in some cases *vis vis*; that the appellants have been given seats of open merit and not those reserved for women quota and that the respondent No.2/FPSC had no power to change the same at this belated stage.

4. On the other hand, learned AAG is of the view that allocations were made on the golden principle of "higher merit, better choice"; no discrimination had been caused to any of the appellants and that since judgments in favour of the appellants and others have been finally reviewed, the decision of the Authority, appellants cannot be held entitled to the relief claimed, which is otherwise has become past and closed transaction.

5. Heard the learned counsel for the appellants, learned AA-G besides representative of the respondents (FPSC & Establishment Division) and have gone through the record with their able assistance.

6. Much stress had been on the point that the appellants are entitled to allocation of better groups at par with their merit position.

7. The stance of the respondent No.2/FPSC was to the effect that the Merit List of finally qualified candidates of CSS-2008 was combined for male and female candidates from all domiciles. Every candidate higher in merit was

entitled for better choice than lower merit candidates. Total 685 candidates qualified the examination and were allocated available seats in order of merit on the principle '*higher merit, better choice*'. It was asserted that the request of the appellants that the woman quota should be applied after 162 merit quota vacancies is exhausted i.e. from Merit No. 262, is against the spirit of natural justice as by doing so, Merit No. 280 and 281 would get DMG Group, whereas Merit No. 49 and 59 would get lower groups and lower merit female candidate would get better groups. The allocation as explained appears to be inconsonance with the principle of fair play and natural justice.

8. Another important aspect of the matter is that in case where their counterpart was allocated better Service Group, in CRP No. 238/2012, the Hon'ble Apex Court set aside its own Order dated 10.09.2012 by converting petition into appeal, set aside the impugned judgment and send the case back to respondent No.2/FPSC for decision afresh. The appellants were also given the chance to voice their grievances by the respondent No.2/FPSC through representation and review petitions. It was graciously observed that:-

"No direction for her adjustment in DMG could thus be said to have been given when eleven female candidates, as per merit list having secured high merit stand ahead of her."

9. It is also matter of record that the representations as well as review petitions of the appellants before the respondent No.2/FPSC remained unsuccessful in both rounds i.e. before and after the decision of the Hon'ble Apex Court, *referred to above*. Moreover, the appellants have already joined their respective Groups, way back in 2009, while the vacancies of CSS-2008 have already been filled.

FAO Nos.92,93,94 & 95 of 2016.

This factual position when considered in 2020 also goes against the appellants.

10. For what has been discussed above, no case for interference in the impugned orders is made out. Consequently, the instant appeal as well as connected appeals being devoid of merits are accordingly **dismissed**.

(FIAZ AHMAD ANJUM JANDRAN)
JUDGE

Imran

Announced in open Court on 28-09-2020

JUDGE