

*Form No: HCJD/C-121.*  
**JUDGEMENT SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

ICA No. 280-W of 2012

Nadeem Basit Khan  
***Vs***  
Director General, Intelligence Bureau, etc.

DATE OF HEARING: 19-01-2021.

APPELLANTS BY: Mr. S.A Mehmood Khan  
Saddozai, Advocate.

RESPONDENTS BY: Mr. M. Saif Ullah Gondal,  
Assistant Attorney General.  
Mr. Amjad Iqbal, Assistant  
Director (Litigation) Intelligence  
Bureau.

**BABAR SATTAR, J.-** Through this consolidated judgment we will decide the instant Intra Court Appeal along with the Intra Court Appeals listed in "Annexure-A" attached hereto.

2. Through these ICAs the appellants have impugned the order of the learned Judge-in-Chambers dated

16.05.2012 through which Writ Petitions No. 1827 to 1838 of 2011 were dismissed.

3. Learned counsel for the appellants submits that the learned Judge-in-Chambers did not appreciate that the appellants had a right (i) to be appointed as Assistant Directors (BPS-17) by virtue of section 4 of the Sacked Employees (Reinstatement) Act, 2010 (**"Reinstatement Act"**), and (ii) receive gross monthly emoluments of three years under section 16 of the Reinstatement Act.

4. Learned Assistant Attorney General states that the grievance of the appellants is not covered under the Reinstatement Act, that the appellants were never dismissed, removed or terminated from service and were merely reverted to lower posts in accordance with section 11(1) of the Civil Servants Act, 1973 (**"Civil Servants Act"**) by notification dated 19.02.1997.

5. We heard the arguments of the learned counsel for the parties and have viewed the record of the ICAs and the writ petitions.

6. It is not disputed that by notification dated 19.02.1997 the appellants were reverted to their original posts within the Intelligence Bureau with effect from February 19, 1997 after promulgation of the Reinstatement Act. Through memorandum dated 06.01.2011 the appellants were

given the option by respondent No.1 to resume service on the post of Inspector in a scale higher i.e. (BS-17) than the scale in which they were serving upon being reverted to their original posts in 1997. The said memorandum also advised that they would be placed at the bottom of the seniority list of the post in which they were being reinstated and regularized, that they would not be entitled to any additional compensation pursuant to section 16 of the Reinstatement Act and that they would have no right to claim seniority or arrears of pay after being promoted to BS-17. Through circular dated 03.02.2011, respondent No.1 advised all heads of the Intelligence Bureau Wings that the option afforded to the employees of respondent No.1 by memorandum dated 06.01.2011 could not be exercised on a conditional basis. Pursuant to the memorandum dated 06.01.2011, the appellants accepted the option afforded to them under the memorandum and then subsequently filed writ petitions on the ground of being aggrieved by the same memorandum, the dismissal of which has led to the instant ICAs.

7. The Reinstatement Act defines "sacked employee" under section 2(f) and includes an "employee who was dismissed, removed or terminated from service or whose contract period was expired or who was given forced golden hand shake during the period from the 1<sup>st</sup> day of November, 1996 to the 12<sup>th</sup> day of October, 1999". The preamble of the

Reinstatement Act states that "it is an act to provide relief to persons who were appointed in a corporation service or autonomous or semi-autonomous bodies or in Government service and were dismissed, removed or terminated from service. The preamble together with the definition of the "sacked employee" and the other provisions of the Reinstatement Act leave no ambiguity that the intent of the legislature was to create a beneficial legislation for various categories of employees who were "dismissed, removed or terminated from service" within the period specified in the Reinstatement Act.

8. Admittedly the appellants were never dismissed, removed or terminated from service in the Intelligence Bureau and were only reverted to lower posts against which they held lien. They remained in the service of respondent no.1 all along. The reversion of a civil servant or employee within the period specified in the Reinstatement Act i.e. 01.11.1996 to 12.10.1999 is not a subject matter addressed within the Reinstatement Act and the said Act neither creates any right for an employee or civil servant that has been subjected to reversion to a lower post within the specified period nor a mechanism to remedy an employee aggrieved by such action.

9. The doctrine of casus omissus is well settled and courts cannot supply language that is not provided in a statute. Given that the Reinstatement Act does not cater to purported grievance of the appellants, they can claim no right or remedy under it and we cannot interpret provisions of the Reinstatement Act such as to include therein what is not provided in the text of the statute.

10. It is also an admitted position that that the appellants are civil servants covered by the Civil Servants Act, 1973 and consequently their writ petitions seeking adjudication of the terms and conditions of their service were barred under Article 212 of the Constitution of the Islamic Republic of Pakistan, 1973, in the first place.

11. In view of the above, these ICAs are without merit and, therefore, accordingly dismissed with costs.

(CHIEF JUSTICE)

(BABAR SATTAR)  
JUDGE

**Approved for reporting.**

Saeed.

**ANNEXURE-A**

<b>SR. No.</b>	<b>Case No.</b>	<b>Case Title</b>
1.	ICA No. 281-W/2012	Fida Hussain Shah vs. Director General, Intelligence Bureau, etc.
2.	ICA No. 282-W/2012	Rana Muhammad Masood Anwar vs. Director General, Intelligence Bureau, etc.
3.	ICA No. 283-W/2012	Muhammad Nadeem vs. Director General, Intelligence Bureau, etc.
4.	ICA No. 284-W/2012	Hassan Mumtaz vs. Director General, Intelligence Bureau, etc.
5.	ICA No. 285-W/2012	Imran Latif vs. Director General, Intelligence Bureau, etc.
6.	ICA No. 286-W/2012	Muhammad Imran vs. Director General, Intelligence Bureau, etc.
7.	ICA No. 287-W/2012	Zulqarnain Ali vs. Director General, Intelligence Bureau, etc.
8.	ICA No. 288-W/2012	Muhammad Naeem Awan vs. Director General, Intelligence Bureau, etc.
9.	ICA No. 289-W/2012	Muhammad Safdar vs. Director General, Intelligence Bureau, etc.
10.	ICA No. 290-W/2012	Muhammad Shahid Imran vs. Director General, Intelligence Bureau, etc.