

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Crl. Original No. 75/W/2019.

National Organization of Postal Employees Union

Versus

Dr. Naseer Ahmed Khan, Director General Pakistan Post, Islamabad, etc.

| S. No. of order/ proceedings | Date of order/ Proceedings | Order with signature of Judge and that of parties or counsel where necessary. |
|------------------------------|----------------------------|---|
| | 12.02.2020. | Mr. Muhammad Asif Gujjar, Advocate for petitioner. Barrister Muhammad Mumtaz Ali, AAG. Amin Khan, SO (Legal), Finance Division. Mahmood Khan Lakho, SO (Lit-vi), Establishment Division. |

Through this Criminal Original petition, the applicant seeks initiation of contempt of Court proceedings against respondents for non-compliance of order dated 13.02.2018, passed in W.P No.2420/2016.

2. Learned counsel for the applicant contends that despite elapse of 13 months period respondents have failed to comply with the directions passed by this Court in W.P No.2420/2016 and have willfully committed contempt of Court.

3. Conversely, learned AAG alongwith official representatives contends that order of this Court has been complied with, however, order passed by this Court for up-gradation of post, which was agreed by Establishment Division has been regretted mainly on the ground that huge expenditure of Rs.1.287 billion is not available due to prevailing financial constraints of

Federal Government, as such Finance Division has regretted the same.

4. Arguments heard, record perused.

5. Perusal of record reveals that following order was passed by this Court in W.P No.2420/2016:-

After hearing the parties at length, it has been observed that office of D.G Pakistan Post Office has already recommended upgradation of non-ministerial staff against various cadres in Pakistan Post Office Department. Whereas Establishment Division has earlier upgraded four (04) different positions only whereas present petitioner/ National Organizations of Postal Employees Union is claiming upgradation of fourteen (14) posts of non-ministerial cadre on the same analogy.

2. Representative of Regulation Wing, Establishment Division in attendance contends that they have recently received the letter regarding detailed study of 14 posts of non-ministerial of Pakistan Post Office, whereafter they will submit the report for their recommendation as to whether the same should be upgraded or not? He further contends that Establishment Division shall require some reasonable time to complete the study after considering the record as the strength of the employees of Pakistan Post Office is approximately 35,000.

3. Keeping in view, the circumstances discussed in preceding paragraph respondents are in agreement to forward the case of employees of Pakistan Post Office to the Regulation Wing, Establishment Division in order to complete study for the purpose of upgradation and shall submit the report in this regard.

4. Learned counsel for petitioner contends that petitioner feels satisfied if this petition is transmitted to Secretary, Establishment Division Islamabad alongwith direction to decide the same.

within a specific period. He further contends that 14 posts of non-ministerial cadre have been ignored by the D.G, Pakistan Post Office as other similar employees have been upgraded in the same office, whereas employees of Circles and Regions have not been upgraded as having same nomenclature, as such these employees have been subjected to discriminatory treatment.

5. In view of above, office is directed to transmit a copy of instant writ petition along with annexures to Secretary, Establishment Division, Islamabad, who shall decide the matter within a period of six (06) months in accordance with law under intimation to this Court.

6. With the above directions, instant writ petition stands disposed of.

6. The record further reveals that Finance Division has regretted the claim of the petitioner on the following grounds:-

- a. The employees in (BS-1 to 4) included in the proposed upgradation have already been granted move-up in scale as per Finance Division O.M. dated 29.06.2007 and 31.12.2012. Therefore, the proposed upgradation of employees in (BS-1 to 4) in PPOD will result in double benefit for them. Similarly it will create discrimination with the similarly placed employees of other Ministries/ Divisions/Departments.*
- b. Higher time scale was granted to Ministerial Superintendents working in Ministries/Divisions /Departments who were appointed under uniform Recruitment Rules since they have no further avenue of promotion to higher grade whereas the Postal Superintendent as per their Recruitment Rules have regular promotional channel and promoted to BS-17 and above, therefore, they may*

not be compared with Ministerial Superintendent. The duties/job description responsibilities of Superintendents/Welfare Officers/Administrative Officers in PPOD have no similarities/relevancies with the post of Superintendents working in Ministries/Divisions as these are governed by different Recruitment Rules. Moreover, this will also disturb the existing Civil Service Structure resultantly a discrimination shall be created as similar demands will start from the employees of other Ministries/Divisions/Departments.

- c. Postal Superintendents (BS-16) have their own Recruitment Rules and have promotional channel, therefore, upgradation/grant of time scale may disturb this channel.*
- d. Upgradation of employees in BS-05 to BS-14 is not viable due to the prevailing financial constraints of Federal Government/PPOD which do not allow to accommodate such a huge expenditure amounting of Rs.1.287 billion on account of the proposed upgradation.*
- e. The proposed upgradation of post in PPOD may distort the service structure therefore the proposal is against Honorable Supreme Court of Pakistan's Judgment dated 17.02.2016 passed in Civil Appeal No.101-102-P of 2011.*

7. In view of above background, there is no question left for determination by this Court as order dated 13.02.2018 has been complied with and upgradation of post could not be made as huge expenditure of Rs.1.287 billion is involved, which is not agreed due to prevailing financial constraints of Federal Government.

8. In view of above position, no illegality has been

committed by respondents and directions of this Court have been duly complied with in letter & spirit. Hence, instant criminal original petition stands **disposed of** as no defiance of this Court's order dated 13.02.2018 has been committed by the respondents.

(MOHSIN AKHTAR KAYANI)
JUDGE

Zahid