

**ORDER SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

W.P. No.3144 of 2019

Muhammad Bilal etc.

**Versus**

Federation of Pakistan and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	<b>13.08.2020</b>	<b>Mr. Jameel Hussain Qureshi, Advocate for the petitioners, Mr. Muhammad Nadeem Khan Khakwani, learned Assistant Attorney-General, Mr. Qaiser Masood, Additional Director (Law), F.I.A.</b>

Through the instant writ petition, the petitioners seek a direction to the respondents to permit them to participate in the competitive process for appointments against the posts advertised on 28.07.2019 by extending them the benefit of age relaxation in terms of Establishment Division's Office Memorandum ("O.M.") dated 24.06.2010 and the Initial Appointment to Civil Posts (Relaxation of Upper Age Limit) Rules, 1993 ("the 1993 Rules").

2. Learned counsel for the petitioners submitted that the petitioners are permanent employees of the Federal Investigation Agency ("F.I.A."); that the petitioners had applied for appointments against the posts for which applications were invited through advertisement dated 28.07.2019; that in the competitive process, the tests were to be conducted by the Open Testing Service ("O.T.S."); that the petitioners' applications were not being entertained on the ground that they were over-age; that if the benefit of age relaxation was extended to the petitioners, they would have competed for appointment against the posts for which they had applied; and that although the advertisement was published on 28.07.2019, the

petitioners submitted a representation on 03.09.2019, but till the filing of this petition, no response was received by them.

3. Learned counsel for the petitioners further submitted that even though this Court, vide order dated 20.09.2019, had directed the respondents to permit the petitioners to participate in the test, but such permission was not granted, and therefore, the petitioners could not participate in the test; and that during the pendency of the instant petition, an opportunity of hearing was provided to the petitioners and they were told that they could participate in the test to be conducted for the posts which would be advertised in the future. Learned counsel for the petitioners prayed for the writ petition to be allowed in terms of the relief sought therein. In making his submissions, learned counsel for the petitioners placed reliance on the judgments reported as 2015 SCMR 1418, 2018 PLC (C.S.) 822, and judgment dated 21.03.2019 passed by this Court in writ petition No.1180/2018 titled "Hafiz Abdul Sattar Vs. Government of Pakistan and others."

4. On the other hand, learned Assistant Attorney-General submitted that the advertisement for the post in question was published on 28.07.2019 requiring the eligible candidates to submit their applications within a period of 15 days i.e. by 12.08.2019; that the petitioners submitted their representation on 03.09.2019 and filed instant writ petition on 20.09.2019; that the respondents did not know about the injunctive order passed by this Court when the test was conducted; and that the petitioners have been afforded an opportunity of a hearing by the Director General ("D.G."), F.I.A. and they had been told that they can apply for

appointment when the posts are advertised in the future. Learned Assistant Attorney-General prayed for the writ petition to be dismissed.

5. I have heard the contentions of the learned counsel for the petitioners as well as the learned Assistant Attorney-General and have perused the record with their able assistance.

6. It is not disputed that the advertisement inviting applications for appointment against different posts in the F.I.A. was published on 28.07.2019. The eligible candidates were required to submit their applications within a period of 15 days. Assuming that the petitioners' applications were not entertained on the ground that the petitioners were over-age, they waited until 03.09.2019 to submit a representation to the D.G., F.I.A. They waited for a further period of two and a half weeks before filing the instant petition. The tests were scheduled to be conducted only two days after this petition was taken up for hearing. On 20.09.2019, this Court passed an interim order to the effect that if the petitioners satisfied the requirements of age relaxation under the 1993 Rules and O.M. dated 24.06.2010, they should be permitted to participate in the test to be conducted on 22.09.2019.

7. It is an admitted position that the petitioners were not permitted to participate in the test. There is nothing on the record to show that the petitioners had served the respondents with the interim order dated 20.09.2019 prior to the said test being conducted. Learned counsel for the petitioners could not come up with any plausible explanation as to why the petitioners delayed not just the submission of their representation to the D.G., F.I.A. but also the filing of the instant petition. Since the petitioners waited until the

eleventh hour in approaching this Court, I am not inclined to displace the appointments made pursuant to the competitive process in which the petitioners wanted to participate. Since the beneficiaries of such appointments are not parties to the instant petition, no order that affects them adversely can be passed.

8. Be that as it may, the D.G., F.I.A. has admittedly advised the petitioners to appear in the upcoming recruitment that is to be advertised in the near future. This implies that the petitioners would be entitled to age relaxation on the basis of the 1993 Rules and O.M. dated 24.06.2010.

9. In view of the above, I do not find it equitable to interfere in the recruitment process which has already been completed. Consequently, the instant writ petition is dismissed.

**(MIANGUL HASSAN AURANGZEB)**  
**JUDGE**

Sultan\*