

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

W.P. No.4315-2019

Aziz-ur-Rehman

Vs.

Secretary, Ministry of Foreign Affairs, Government of Pakistan, Islamabad
 & Another

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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11.12.2019	Mr. Saaed Khursheed Ahmad, Advocate for petitioner.
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The petitioner, in the instant petition, has made the following prayers:-

- i) The instant writ petition be accepted with costs,
- ii) The respondents may be directed to bring all complete records in this Honourable Court along with the decision on Pending Appeal of the petitioner which is pending with the Competent Authority of the Ministry from more than seven (07) months;
- iii) Action should be taken against the respondents according to the law for unlawfully staying the decision on the pending appeal of petitioner for more than seven (07) months;
- iv) The petitioner has lost his confidence on the Competent Authority of the Ministry for providing justice and looking forward to our Judicial System for the justice;
- v) Any other relief, which this Honourable Court deems fit and appropriate, may also be awarded".

2. The petitioner is an employee in the Government of Pakistan, Ministry of Foreign Affairs, Islamabad; he was terminated from service on 08.04.2019 and filed an appeal against the same on 18.04.2019.

3. Learned counsel for the petitioner, *inter alia*, contended that despite lapse of considerable time, pending appeal of the petitioner has not

been decided. It was contended that petitioner is entitled to be reinstated in service, as there are major lapses in the departmental proceedings conducted by the respondents. When confronted regarding maintainability of instant petition in light of bar contained in Article 212 of the Constitution, it was submitted that since the order impugned is patently illegal and under Article 19-A of the Constitution, it is the right of the petitioner to be informed about the status of appeal; under Article 4 of the Constitution to be treated under the law, hence this Court has the jurisdiction in the matter. Reliance is placed on cases reported as 'Sufi Ghulam Rasool Vs. Chief Secretary to Government of the Punjab, Civil Secretariat, Lahore and 3-others' [2004 PLC(CS) 101], 'Muhammad Saleem and 2-others Vs. Director General, Establishment Division, Islamabad and 2-others' [2004 PLC(CS) 641], 'Messrs Airport Support Services Vs. The Airport Manager, Quaid-e-Azam International Airport, Karachi and others' (1998 SCMR 2268), 'Province of Sindh through Chief Secretary Sindh, Karachi and 4-others Vs. Gul Muhammad Hajano' (2003 SCMR 325) & 'Income Tax Officer and 2-others Vs. M/s Shaikh Ghulam Shah' (1991 SCMR 2368).

4. Arguments advanced by learned counsel for the petitioner have been heard and the documents, placed on record, examined with his able assistance.

5. The petitioner was dismissed from service vide order dated 08.04.2019. Feeling aggrieved, he filed an appeal before Secretary, Ministry of Foreign Affairs.

6. Admittedly, the petitioner is a civil servant; under Article 212 of the Constitution, there is a

bar, whereby no court is to exercise jurisdiction with respect to matters pertaining to terms and conditions of service of a civil servant including disciplinary proceedings.

7. The contention of learned counsel for the petitioner that, the matter involved is to be treated in accordance with law under Article 4 of the Constitution and that the executive authority has to act in a transparent manner, does not confer jurisdiction upon this Court. Reliance is placed on case reported as 'Ali Azhar Khan Baluch and others Vs. Province of Sindh and others' (2015 SCMR 456).

8. Moreover, appropriate forum for redressal of grievance of petitioner is Federal Service Tribunal and in case the appeal still remains undecided, the petitioner could have approached the said forum within the time span provided under the law, as under section 4 of Federal Service Tribunal Act, 1973, the Federal Service Tribunal has the jurisdiction in the matter. The instant petition is not maintainable and is accordingly dismissed in limine.

(AAMER FAROOQ)
JUDGE

Zawar