

Form No: HCJD/C-121

JUDGMENT SHEET.

IN THE ISLAMABAD HIGH COURT,
ISLAMABAD.

Writ Petition No.3896 of 2019

Waqas Danish.

Versus

Federation of Pakistan through Secretary, Ministry of National Health Services
Regulations and Coordination and 02 others.

Petitioner By : Mr. Ghulam Murtaza Wattoo, Advocate.

Respondent By : Raja Khalid Mehmood Khan, learned
Deputy Attorney-General.
Ishtiaq Ahmed, Admn Officer, Polyclinic
Hospital.

Date of Decision : 09.07.2020.

AAMER FAROOQ, J. - The facts, in brief, are that respondents No.2 and 3 advertised the post of Junior Technician (BS-09) in the Newspaper on 05.01.2013, in the Punjab Quota. The petitioner applied for the referred post and participated in the process; he was selected on the Punjab Quota and was at Serial No.01, however, due to internal rifts and disagreements, it was decided that the entire process shall be scrapped; feeling aggrieved some of the candidates in the similar position, as the petitioner, filed a petition under Article 199 of the Constitution titled "*Khurram Abbas Awan and others. Vs. The Secretary, Ministry of Capital Administration and Development Division (CADD), Islamabad and others*" (**Writ Petition No.3095 of 2013**), the said Writ Petition was disposed of by this Court by directing the respondents to complete

the process of successful candidates for their appointments by observing necessary codal formalities. The needful was not done, hence the petitioners, in the referred petition, were constrained to file the Contempt Petitions i.e. Criminal Original No.102-W of 2016 and others. The said Criminal Original was disposed of as compliance to the direction was made and the candidates, who had been successful in the process either were issued letters or not were taken as employees. The petitioner, though never agitated the matter before any forum, has filed the instant petition for similar treatment.

2. Learned counsel for the petitioner, *inter-alia*, contended that the petitioner is entitled to the same treatment as his colleagues because his case is at par with theirs. It was contended that petitioner was successful in the process but due to malafide of the respondents, was not issued an appointment letter.

3. Learned Deputy Attorney General resisted the petition on the ground that the petition suffers from *laches*. It was contended that the petitioner did not take any action for so long, now is not entitled to the benefit of the judgment, however, the representative of the Polyclinic Hospital, in response to the query of the Court, did submit that the petitioner was successful in the process.

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

5. The background, leading to the filing of the instant petition, has been mentioned hereinabove, therefore, need not be reproduced.

6. In light of the submissions of the parties and in particular the submissions by the representative of the Polyclinic Hospital, the petitioner applied for the post mentioned hereinabove and was successful in the process but was never issued appointment letter due to the disagreements between the

Board members. In similar circumstances, this Court handed down judgment in case titled "*Khurram Abbas Awan and others. Vs. The Secretary, Ministry of Capital Administration and Development Division (CADD), Islamabad and others*" (**Writ Petition No.3095 of 2013**) dated 26.11.2015 and observed as follows:-

"7. By incurring huge amount of government exchequer and after completion of lengthy process of recruitment, it was attempted to be ruined by the bureaucratic tactics.

8. Some of the participants in the interview were declared successful by majority of two members and were given offer letters whereas some of them were refused to issue even offer letters for their appointments. Respondent No.5 due to his personal vendettas tried to quash the entire process initiated for recruitment of technical staff. From the correspondence available on record, it transpired that the Committee was validly constituted which by hectic efforts completed the process keeping in view the dire need of technical staff for the hospital. The bureaucratic conduct has spoiled the entire process initiated by incurring huge expenses. The participants who were 800 in number also faced great agony which has been ignored.

9. Another important aspect as noticed is that respondent No.5 by managing 2/3 applications spoiled entire process of recruitment, as a result litigation reached up to the High Court. The authority concerned i.e the Secretary should have commenced inquiry to the extent of those applications moved to S.O. who presented the same before him. Instead of conducting such inquiry, the officer on administrative side attempted to make the entire process questionable. A very significant feature that the technical staff, skills whereof were assessed by the technical members of the Committee was also ignored by administrative side without any reason. Technical evaluation of the recruited staff was possibly adjudged properly by the technical staff for which no second opinion can be formulated. Therefore, I am of the confirmed view that bureaucrats for their personal vendettas or might be some ill demands tried to spoil the entire process which has totally been called for. Hence, that portion of quashing the entire process of recruitment which has no factual or legal bearing is hereby declared illegal. As a consequence thereof, the majority decision having legal base and footing is upheld. The respondents are directed to complete the process of successful candidates for their appointments by observing necessary codal formalities."

The directions issued by this Court were duly complied by the hospital. The fact that the petitioner did not agitate the matter before any forum is not an impediment in this particular case as a vested right had accrued in his favour and the referred right was duly acknowledged by this Court and the same has been implemented by the hospital. There is nothing on record to point out that the case of the petitioner is different from the petitioners in the abovementioned writ petition.

7. In view of the above, the instant petition is **disposed of** with direction to the respondents to complete the process of employment of the petitioner by observing necessary codal formalities.

**M. Zaheer Janjua*

(AAMER FAROOQ)
JUDGE