

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P No.286 of 2013

Pervez Akhtar & others

Vs

Federation of Pakistan & others

Date of Hearing: 04.06.2020

Petitioner By: Ch. Talib Hussain Advocate. (Proxy Counsel)

Respondents By: Ch. Abdul Jabbar, AAG & Nazar Hussain Shah AAG.
Nadeem Arshad, Section Officer (Litigation), East Division, Ishtiaq, Section Officer (Legal) Finance Division.

Ghulam Azam Qambrani, J: Through this petition, the petitioner has invoked the jurisdiction of this Court filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 with the following prayer;-

“ In view of above circumstances, it is humbly prayed that the instant writ may kindly be accepted and order to the respondents to rectify the discriminatory treatment and financial losses of the petitioners by sanctioning them monetized value of the Orderly Allowance amounting to Rs.10,000/- payable alongwith monthly pension w.e.f 01.07.2012, which is already granted to the retired officers in BS-22.”

2. Brief facts as per contents of the petition are that the petitioners are retired employees of BS.20,21 & 22, who after attaining the age of superannuation were granted pension including Special Additional Pension. In past, in 1977 Orderly allowance to Officers in BS-20 to BS-22 were provided Resident Orderly and in 1985, they were allowed an option either to retain the Orderly or to receive an Orderly allowance of Rs 190/- P.M, vide Finance Div. O.M No.F.1 (3) Imp.11

dated 24.10.1985. The Orderly allowance was thereafter revised in 2003 from Rs 1900/- to Rs 2375/- P.M. In 2007 Ministry of Finance revised said allowance as Rs 3000/- P.M w.e.f 01.10.2007. The Cabinet Division on 03.12.2007 extended the entitlement of Staff car and Driver to the Officers in BS-20 as well. The said Orderly Allowance was added as Special Additional Pension to the pension of all civil servants in BS.20 to 22 by Finance Division vide its O.M. dated 29.09.1991. The Finance Division (Regulation Wing) vide O.M No. F.1 (3) Imp/2012 dated 16th July, 2012 has revised Orderly allowance from existing rate of Rs 3000/- P.M to Rs 7000/- P.M which was admissible to the petitioners w.e.f 01.01.2013 as retired officers vide Finance Div. O.M NO. F.1 (2) Reg.6/91-Vol-IX dated 24.12.2012. Thereafter, Finance Division issued an O.M No. F.1 (5) R-4/95-Vol-111 on 10 August, 2012 and increased the Orderly allowance from Rs. 3000/- to Rs. 10000/- P.M to only retired officers in Bs-22 w.e.f 01.7.2012, but discriminated the petitioners. The petitioners prayed for this Orderly allowance on the ground that respondents No. 1 & 2 violated Articles 4, 18,25, 27 & 38 of the Constitution of Islamic Republic of Pakistan, 1973 by depriving the petitioners of financial losses of Rs. 10,000/- P.M as monetized value of Orderly Allowance alongwith monthly pension sanctioned to only the retired officers in BS-22, hence this petition.

3. Learned counsel for the petitioners advanced his arguments and also filed written arguments. The stance of the petitioners is that the petitioners are retired officers of BS-20 & 21 and they had been granted pension including special additional pension (Orderly Allowance); that respondents No. 1 & 2 are violating Articles 4,18,25, 27 & 38 of the Constitution of Islamic Republic of Pakistan, 1973 by subjecting the petitioners to discriminatory treatment and financial loss of Rs. 10,000/- per month as monetized value of Orderly Allowance alongwith monthly pension already sanctioned to only the retired officers in BPS-22 only. Lastly submitted that a direction be issued to the respondents to sanction them monetized value of the Orderly Allowance amounting to Rs. 10,000/- with their monthly pension w.e.f 01.07.2012.

4. On the other hand, learned Assistant Attorney-General submitted that the petitioners are retired officers of BS-20 & 21 and that the Government had sanctioned provisions of an additional benefit of a Driver or an Orderly to the Federal Secretaries on their retirement which was thereafter extended to all other

equivalent officers of BPS-22 w.e.f 01.06.2012; that the Finance Division vide O.M dated 10.08.2012 decided to pay the monetized value of salary of a Driver or an Orderly to the retired officers of BPS-22 @ Rs.10,000/- per month alongwith their monthly pension w.e.f 01.07.2012, whereas the petitioners are not entitled to the monetized value of the salary of a Driver or an Orderly; that no discriminatory treatment has been done to the petitioners and prayed for dismissal of the instant petition.

5. We have heard the arguments of learned counsel for the parties and have perused the record with their able assistance.

6. Perusal of the record reveals that the petitioners are demanding monetized value of the Orderly Allowance amounting to Rs.10,000/- alongwith their monthly pension w.e.f 01.07.2012 whereas the Government had sanctioned provision of an additional benefit of a Driver or an Orderly to the Federal Secretaries BPS-22 on their retirement w.e.f 01.07.2006. Said benefit was subsequently extended to all others retired officers in BPS-22 and equivalent officers w.e.f 01.06.2012. Further Finance Division vide its O.M dated 10.08.2012, decided to pay the monetized value of salary of a Driver or an Orderly to the retired officers BPS-22 @ Rs.10,000/- per month along with their monthly pension w.e.f 01.07.2012 and the rates of said benefit was revised from Rs.10,000/- to Rs.14,000/- per month vide Office Memorandum dated 13.07.2017.

7. Perusal of the record reveals that it is a policy matter of the Federal Government. It is a settled principle of law that this Court has no jurisdiction to interfere in the policy matter of the Federal Government so far as these policy matters remain within the domain of concerned statute, rules and regulations. Question of granting or sanctioning monetized value of the Orderly Allowance squarely falls within the jurisdictional domain of the Federal Government. Reliance in this regard is placed upon case law tiled as “ Dr. Akhtar Hassan Khan & others Vs Federation of Pakistan & others” [2012 SCMR 455], “Dossant Travels Pvt. Ltd & four others” [2013 SCMR 1749], “ Dossani travels Pvt. Ltd & others Vs Messers Travels Shop (Pvt) Ltd. & others” [PLD 2014 SC1] & “ Messers Power Construction Corporation of China Ltd. through Authorised Representative Vs Pakistan Water & Power Development Authority through Chairman Wapda & two others” [PLD 2017 SC 83].

8. Keeping in view the above facts and circumstances, this writ petition is not maintainable on the ground that the petitioners are not entitled to the relief claimed for, which benefit was extended only to the retired officers of BPS-22.

9. For the reasons stated above, this writ petition having no force, is dismissed.


Ghulam Azam Qambrani
Judge

Announced in Open Court, on this 1st day of July, 2020.




Judge

S.Akhtar