

Form No: HCJD/C.

JUDGEMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Case No: Criminal Original No.52 of 2018

Ms. Amna Imran
Vs.
Naveed Akram Cheema and another

Petitioners by: M/s. Babar Sohail & Abdur Rahim Bhatti, Advocates.

Respondents by: Raja Khalid Mehmood Khan, Deputy Attorney-General. Nadeem Arshad and Abdul Qayyum Kakar, Sections Officers, Establishment Division.

Date of Decision: 18.09.2019

AAMER FAROOQ, J.- This judgment shall decide the instant petition as well as Crl. Orgl. No.61 /2018 titled "*Irum Bukhari v. Maroof Afzal and another*" as common questions of law and facts are involved. The petitioners in the instant petitions allege violation of the orders by this Court in W.P. No.834/2017 titled "*Amna Imran v. Naveed Akram Cheema and another*".

2. The facts leading to the filing of these petitions are that the petitioners are civil servants and presently serving in BPS-21. In past, on a number of occasions, the petitioners were either superseded or deferred. The supersession originally became subject matter of the

Writ Petition No.834/2017 titled “*Amna Imran v. Naveed Akram Cheema and another*”. The petitioner Irum Bukhari in Crl. Orgl. No.61/2018 also agitated the matter by way of petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973. This Court after discussing the law allowed the petitions in the following terms:

“In view of the above decisions to defer the petitioners or supersede them as the case may be, are not tenable. For the above mentioned reasons, recommendations by the CSB vis-à-vis the petitioners and in case where the Competent Authority has not followed the recommendations, the same are set aside with direction that the petitioners shall be considered afresh based on the new criteria devised by the Establishment Division pursuant to directions of the Hon’ble Supreme Court in case reported as 2017 SCMR 969. The respondents are directed to place the cases of petitioners in the forthcoming meeting of CSB.”

3. The petitioners were considered again but were superseded. After the said supersession the petitioners filed the instant petitions alleging violation of directions by this Court; however, the petitioner in Crl. Orgl. No.52/2018 also filed a writ petition challenging her supersession (W.P. No.1810/2018). The said writ

petition was also allowed. Subsequently, in the meeting of Central Selection Board (CSB) both the petitioners were promoted.

4. Learned counsel for the petitioners, *inter alia*, contended that due to non-compliance of the orders of this Court the petitioners have lost their seniority. It was also submitted that the petitioners being senior are eligible and fit for antedated promotion from the date when their juniors were promoted on 25.02.2017. It was also contended that the respondents are committing continuous contempt of Court as length of service in BPS-21 has not been restored. It was also pointed out that in light of the observations of the Hon'ble Supreme Court of Pakistan in case titled **Federation of Pakistan v. Dr. Muhammad Arif** (2017 SCMR 969) the petitioners are entitled to antedated promotion and also retain seniority and have entitlement to consequential benefit without prejudice to their right to future promotion.

5. Learned Deputy Attorney-General, *inter alia*, contended that pursuant to order of this Court dated 10.04.2019 one of the petitioners, Amna Imran filed a representation and in reply thereto the position was affirmed that she retains seniority *qua* her batch mates. It was also observed in reply that for antedated

promotion or other consequential benefits, the petitioner may approach FR-17(1) Committee.

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

7. The background to the controversy in hand has been mentioned above. As already stated, this Court in W.P. No.834/2017 *supra* set aside all the supersessions and deferments and directed the Federal Government that the petitioners before the Court, including the petitioners in the instant petitions, be considered afresh in light of the new criteria devised by the Establishment Division as well as in case titled **Federation of Pakistan v. Dr. Muhammad Arif** (2017 SCMR 969).

The petitioners were promoted in January 2019 on the recommendations of the CSB and were notified accordingly. The said Board and the Competent Authority is not empowered to grant antedated promotion; neither this Court had directed the respondents in W.P. No.834/2017 to grant antedated promotion to the petitioners. The present petitions have been filed for the violation of judgment dated 30.11.2017 passed by this Court in the abovementioned case. Initially the petitioners were superseded as they failed to meet the criteria but subsequently, in January

2019 were promoted. In case the petitioners have any grievance that they should be promoted antedated or should be given consequential benefits, they can avail appropriate remedy as provided under the law. No violation of any direction passed by this Court is borne out from the available record. Even in the representation filed by petitioner Amna Imran, the Established Division has duly responded by observing that she enjoys seniority with her batch mates; with respect to any further grievance may approach FR-17(1) Committee. In case the petitioners feel that their right of further promotion has been affected in any manner they can avail appropriate remedy as has been observed by the Hon'ble Supreme Court of Pakistan in the case titled *Federation of Pakistan v. Dr. Muhammad Arif* (2017 SCMR 969).

8. For the above reasons, the instant petitions are without merit and are accordingly dismissed. During the course of proceedings the petitioners filed a number of applications for stay (C.M. No.1464/18; diary No.3709/18; 4039/18). Since the main petition stands dismissed, therefore, all the pending applications and office objections are disposed of.

(AAMER FAROO)
JUDGE