

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

I.C.A.No.269 of 2018  
Javid Khalid Mughal and others

Versus

Federation of Pakistan through Secretary Law and Justice Division  
and others

**Date of Hearing:** 10.09.2020

**Appellants by:** M/s Muhammad Shoaib Shaheen and Saif-ur-Rehman Shah, Advocates

**Respondents by:** Ms. Shahida Parveen Sukhera, Advocate for respondent No.2

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**MIANGUL HASSAN AURANGZEB, J:-** Through the instant intra Court appeal, the appellants impugn the judgment dated 17.04.2018 passed by the learned Single Judge-in-Chambers, whereby writ petition Nos.1093/2015, 1468/2015 and 3639/2016, were dismissed. Through writ petition No.3639/2016, the petitioners in the said writ petition had assailed the order dated 04.10.2016 passed by the Pakistan Broadcasting Corporation ("P.B.C.") whereby P.B.C.'s earlier order dated 16.04.2015 for the grant of Audit and Accounts Allowance at the rate of 20% of the basic pay to all the Audit and Accounts Officers and Staff of the P.B.C., was held in abeyance till the decision of the Court or Finance Division.

2. The record shows that vide letter dated 27.02.2013 issued by the Finance Division, Audit and Accounts Allowance at the rate of 20% of the basic pay per month was granted with effect from 01.03.2013 to all the officers and staff of the offices of the Controller General of Accounts ("C.G.A.") and the Auditor General of Pakistan ("A.G.P."). This allowance was not to be treated as part of pension, and was admissible during leave as well as leave preparatory to retirement. It was not to be admissible during extra-ordinary leave or during the period of suspension.

3. On 16.04.2015, the P.B.C. issued an order with the approval of the Director General, P.B.C., whereby Audit and Accounts Allowance at the rate of 20% of basic pay per month was granted with effect from 01.04.2015 to the Audit and Accounts Officers

and Staff of P.B.C. on the same terms as the ones contained in the Finance Division's said letter dated 27.02.2013. It was expressly mentioned in the said order that the grant of the said allowance was provisional and subject to the formal approval of the P.B.C. Board.

4. Vide order dated 04.10.2016, the earlier order dated 16.04.2015 was held in abeyance with immediate effect and till the decision of the Court or Finance Division. As a result of the said order dated 04.10.2016, payment of the Audit and Accounts Allowance to the Audit and Accounts Officers and Staff of P.B.C. was stopped forthwith. The said order dated 04.10.2016 was assailed by the appellants by filing a petition under Article 199 of the Constitution. Vide the impugned judgment dated 17.04.2018, the said writ petition along with two other connected writ petitions were dismissed. The said judgment dated 17.04.2018 has been assailed by the appellants in the instant appeal.

5. Learned counsel for the appellants, after narrating the facts leading to the filing of the instant appeal, submitted that valuable rights have accrued in the appellants' favour when the Audit and Accounts Allowance was granted to them vide order dated 16.04.2015; that the said order was issued with the approval of the Director General, P.B.C., who had been delegated the authority by the P.B.C. Board to grant such an allowance; that the Board of the Capital Development Authority ("C.D.A."), in its meeting held on 05.03.2014, approved the grant of Audit and Accounts Allowance at the rate of 20% of the basic pay with effect from 01.03.2013 to all the officers and staff of the Finance, Audit and Accounts Cadre in the C.D.A.; that vide letter dated 08.03.2013, the office of the Military Accountant General also approved the grant of the said allowance to all the PMAD officers and staff with effect from 01.03.2013; and that several other autonomous bodies have also approved the grant of the said allowance to their Audit and Accounts Officers at the same rate and on the same terms and conditions as contained in the Finance Division's letter dated 27.02.2013.

6. Learned counsel for the appellants further submitted that discriminatory treatment had been meted out to the appellants by denying them the benefit of the Audit and Accounts Allowance; that the denial of the said allowance amounts to the violation of the principle '*same work same pay*'; that there cannot be an anomaly in the pay of officers and staff members who perform the same duties; that the decision to hold the earlier decision for the grant of the said allowance had not been approved by the P.B.C. Board; that Section 21 of the Pakistan Broadcasting Act, 1973 ("the P.B.C. Act") provides that the Federal Government may make rules for carrying out the purposes of the said Act whereas Section 22 provides that the P.B.C. Board may, with the previous sanction of the Federal Government, make Regulations to provide for all matters not required to be provided for by the Rules and for which provision is necessary or expedient for carrying out the purposes of the said Act; that as per the order dated 13.09.1973 issued by the P.B.C., the P.B.C. Board adopted *mutatis mutandis* the Government Servants (Conduct) Rules, Government Servants (Efficiency and Discipline) Rules, Fundamental Rules, Supplementary Rules, Civil Service Regulations, Civil Servants Ordinance, 1973 and such other Rules or Regulations of the Federal Government as had not been replaced by the P.B.C. by its own Regulations and as not to contravene any of the provisions of the P.B.C. Act; and that the appellants' Service Rules can be considered to be statutory in nature. Learned counsel for the appellants prayed for the appeal to be allowed and for the impugned judgment dated 17.04.2018 to be set-aside.

7. On the other hand, learned counsel for the P.B.C. submitted that the Finance Division's letter dated 27.02.2013 does not apply on its own force to the employees of P.B.C.; that till date, the P.B.C. Board has not approved the grant of Audit and Accounts Allowance for any of its employees; that the order dated 16.04.2015 for the grant of the Audit and Accounts Allowance had been issued by P.B.C. without the approval of the P.B.C. Board; that on 20.10.2016, the office of the Director General, Commercial

Audit and Evaluation informed the Ministry of Information and Broadcasting that the decision of the management for the grant of the Audit and Accounts Allowance to its employees was irregular and unjustified as the said decision was taken without the concurrence of the Finance Division and that the said allowance had been allowed by the Finance Division only for the officers and staff in the offices of the C.G.A. and the A.G.P.; that after the audit objection was made, it was decided to place the said order dated 16.04.2015 in abeyance; that while releasing the allocated budget to the P.B.C. for the first quarter of the year 2016-17, the Ministry of Information, Broadcasting and National Heritage stopped the payment of the 20% Audit and Accounts Allowance, which did not have the approval of the competent authority; and that the impugned judgment dated 17.04.2018 does not suffer from any legal infirmity. Learned counsel for the P.B.C. prayed for the appeal to be dismissed.

8. We have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance. The facts leading to the filing of the instant appeal have been set out in sufficient detail in paragraphs 2 to 4 above and need not be recapitulated.

9. It is an admitted position that none of the petitioners were employees of Radio Pakistan whose services had been transferred to the P.B.C. by operation of Section 12 of the P.B.C. Act.

10. It is also an admitted position that till date, the P.B.C. Board has not granted an approval for the payment of Audit and Accounts Allowance to any of the P.B.C.'s employees. At no stage before the issuance of the order dated 16.04.2015 (whereby Audit and Accounts Allowance at the rate of 20% of the basic pay was granted with effect from 01.04.2015 to the Audit and Accounts Officers and Staff of P.B.C. with the approval of the Director General, P.B.C.) was the concurrence of the Finance Division obtained for the grant of such allowance.

11. There is no denying the fact that the Finance Division's letter dated 27.02.2013 was for the grant of the Audit and Accounts Allowance at the rate of 20% of the basic pay with effect from 01.03.2013 only for the officers and staff of the offices of the C.G.A. and the A.G.P. The said letter did not apply on its own force to the P.B.C. or any other autonomous or statutory body. It goes without saying that the competent authorities or the Boards of the autonomous or statutory bodies could take a decision for the grant of an allowance to its employees out of its own respective funds. However, in the case at hand, there is no approval of the P.B.C. Board for the grant of the Audit and Accounts Allowance to any of the employees of P.B.C. and/or the appellants.

12. We now propose to deal with the contention of the learned counsel for the appellants that the appellants had been discriminated against since similarly placed employees in other autonomous bodies and public sector organizations had been receiving the Audit and Accounts Allowance on the basis of decisions taken by their respective Boards. The mere fact that the competent authorities or the Boards of other autonomous or statutory bodies or public sector organizations such as Pakistan Railways, Office of the Military Accountant General or the C.D.A. had decided to grant Audit and Accounts Allowance to their employees working in their respective audit and accounts sections cannot *ipso facto* be made a valid basis for the grant of a writ of mandamus directing the P.B.C. Board to approve the grant of such an allowance in favour of the appellants. The grant of an allowance cannot be termed as a vested right of an employee in one organization on the ground that an employee of another organization had been receiving the same allowance. Additionally, a decision for the grant of an allowance to employees can be modified or even rescinded by the competent authority. In the case of Muhammad Shabbir Ahmad Nasir Vs. Secretary Finance Division (1997 SCMR 1026), it was held by the Hon'ble Supreme Court that the protection available to civil servants under the Civil Servants Act, 1973 was only to the extent of their pay as provided

in Section 17 of the said Act but no such protection was available in respect of the allowance paid to a government servant under the rules framed from time to time. It was also held that the secretariat allowance that was granted only for the employees of the Federal Government serving in the Federal Secretariat, attached departments and offices mentioned in the Finance Division's Office Memorandum dated 01.07.1988 would not be admissible to all the employees of the Federal Government. Therefore, we find that the non-payment of the Audit and Accounts Allowance to the appellants does not violate Article 25 of the Constitution.

13. In view of the above, we do not find any merit in the instant appeal which is accordingly dismissed with no order as to costs.

(LUBNA SALEEM PERVEZ)  
JUDGE

(MIANGUL HASSAN AURANGZEB)  
JUDGE

ANNOUNCED IN AN OPEN COURT ON \_\_\_\_\_/2020

(JUDGE)

(JUDGE)

Qamar Khan\*

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