

Form No: HCJD/C-121.

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

F.A.O No. 08 of 2020

Raja Saeed Nawab, etc

Vs

Pakistan Electronic Media Regulatory Authority, etc

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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21-03-2022

Mr Muhammad Afzal Khan Jadoon, Advocate
for the petitioner.

Hafiz Hifz ur Rehman, Advocate for
respondent no.1.

Mr Jalal Haider, Law Officer, PEMRA.

Mr Mohsin Dogar, Dy. Director (law), PEMRA.

ATHAR MINALLAH, C.J.- The appellants are employees of the Pakistan Electronic Media Regulatory Authority (hereinafter referred to as the "**Authority**"). They are working against the posts of Assistant (PS-04). They had earlier filed petition seeking up-gradation of their posts by invoking the constitutional jurisdiction of this Court through W.P.No.1042 of 2019, titled "Raja Saeed Nawab, etc vs. Pakistan Electronic Media Regulatory Authority, etc". The petition was disposed of and the Authority was directed to consider grievances of the petitioners and, thereafter, decide the question of up-gradation, inter alia, taking into consideration the principles and law highlighted by

the Court in the case titled "Chairman, Federal Board of Revenue, Islamabad vs. Atta Muhammad Mahsud & others" **2017 PLC (CS)N 58**.

2. The Authority constituted a committee to consider the question of up-gradation and, thereafter, passed the impugned order, dated 18.12.2020.

3. The learned counsel for the petitioners has contended that the latter had been treated differently because the post of Assistant in other departments/ministries had already been upgraded. He has further contended that the Authority has already granted up-gradation in case of other posts.

4. The learned counsel for the Authority had argued that the appeal is not competent under section 30 (A) of the Pakistan Electronic Media Regulatory Authority Ordinance, 2002 (hereinafter referred to as the "**Ordinance of 2002**"); he has argued that the disputes relating to the terms and conditions of service are not appealable under section 30 (A).

5. The learned counsel for the petitioners had concluded their arguments on the last date of hearing and today the appeal was fixed for hearing arguments on behalf of the Authority.

6. The learned counsels have been heard and the record perused with their able assistance.

7. The terms and conditions of employees of the Authority are governed under the Pakistan Electronic Media Regulatory Authority Employees Service Regulations, 2008 (hereinafter referred to as the "**Regulations, 2008**"). The learned counsel has placed reliance on the judgment reported as "Nisar Khan Khattak vs. Haji ADAM, Director General (Admin), PEMRA Headquarter, Mauve Area, Islamabad and another" **2021 PLC (C.S) 140** and **unreported** judgment passed in the case titled "Chairman, Federal Board of Revenue, Islamabad vs. Atta Muhammad Mahsud & others" **2017 PLC (CS)N 58**. He has contended that the Regulations of 2008 were not approved by the government. The learned counsel has rightly argued that section 30 (A) of the Ordinance of 2002 was not extended to disputes relating to the terms and conditions of service of the employees of the Authority.

8. The Ordinance of 2002 is comprehensive and self-contained statute governing matters relating to development of Pakistan Electronic Media Regulatory Authority. A combined reading of sections 29, 30 and 30 (A) of the Ordinance of 2002 clearly shows that the statutory right of appeal does not include disputes

relating to the terms and conditions of service. Nonetheless, even if the appeal is treated as constitutional petition, even then it is meritless. The principles and law regarding up-gradation have been highlighted by the Court in the judgment titled "Chairman, Federal Board of Revenue, Islamabad vs. Atta Muhammad Mahsud & others" **2017 PLC (CS)N 58**. The Authority has passed a speaking order, which does not suffer from any legal infirmity. The Court cannot compel the Authority to upgrade a particular post nor undertake an exercise regarding reorganisation of one of its departments. It is settled law that up-gradation is not a vested right. Moreover, the august Supreme Court has already held in the judgment titled "Government of Pakistan M/O Railways, through Secretary and others vs. Jumshed Hussain Cheema and others" **2016 SCMR 442** that discrimination is not a valid ground while considering the question of up-gradation.

9. For the above reasons, the appeal is without merit and, therefore, accordingly **dismissed**.

CHIEF JUSTICE

Asif Mughal/*