

Form No: HCJD/C-121.

JUDGEMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No. 3504 of 2016

Muhammad Arshad
Vs
Director General, NARC, Islamabad, etc.

DATE OF HEARING: 22-11-2017.

PETITIONER BY: Mr Riaz Hussain Azam Bopara Advocate.

RESPONDENTS BY: Mr Israr ul Haq, Assistant Attorney
General.
Mr Muhammad Zahid Akram, AD Legal
PARC.

ATHAR MINALLAH, J.- The petitioner has invoked the jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred to as the "**Constitution**") seeking a direction to the respondent i.e. National Agriculture Research Centre of Pakistan Agricultural Research Council (hereinafter referred to as the "**Council**") to reinstate him in service.

2. The facts, in brief, are that the petitioner was appointed by the then Chairman of the Council, exercising his discretionary powers and without observing the principles of transparency and competitive recruitment process. There were several other employees who were appointed in such a manner and their services were terminated on 21-05-2011 pursuant to recommendations of a committee which had been constituted on the directives of the Prime Minister of Pakistan so as to review all illegal appointments. The petitioner claims that after his services were terminated he had proceeded abroad in connection with his employment. The instant petition was filed on 28-09-2016. The petitioner vide order, dated 25-06-2012 was asked to join his duties within seven days but he did not report till 06-11-2014. The petitioner had earlier filed W.P. No. 1349/2016 and pursuant to order, dated 15-06-2016, the respondents had afforded an opportunity of hearing and his representation was accordingly dismissed. The petitioner has not assailed order, dated 01-07-2016 and has simply prayed for his reinstatement pursuant to letter, dated 25-06-2012.

3. At the very outset, the learned Assistant Attorney General has contended that the instant petition is not maintainable since the service regulations of the Council

governing the terms and conditions of service of its employees are non-statutory.

4. The learned counsel appearing on behalf of the petitioner was not able to satisfy this Court regarding maintainability of the petition.

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

6. This Court while following the judgment of the august Supreme Court passed in C.P. No. 584 to 590 of 2008 has already held that the service regulations of Pakistan Agricultural Research Council are non statutory.

7. The judgment of the august Supreme Court passed in C.P. No. 584 to 590 of 2008 is binding on this Court and, therefore, no departure can be made. There is no force in the argument of the learned counsel that this Court can proceed and interpret the judgment of the august Supreme Court in the light of the principles laid down in "*Pakistan Defence Officers' Housing Society versus Jawaid Ahmed*" [2013 SCMR 1707].

8. In the light of the above, service regulations of the Council having been declared by the august Supreme Court as non-statutory, the relationship of its employees falls within the ambit of the rule of master and servant.

9. Moreover, it is an admitted position that initial appointment of the petitioner was made by the then Chairman of the Council in a non transparent manner. The initial appointment was, therefore, illegal and no superstructure could have been built thereon. However, grievance of the petitioner relates to terms and conditions of his service and the same cannot be adjudicated because the service regulations of the Council are non-statutory.

10. For what has been discussed above, the instant petition is not maintainable and, therefore, accordingly dismissed.

(ATHAR MINALLAH)
JUDGE

Tanveer Ahmed.