

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No.452 /2021

Mian Imtiaz Ali Shah
Vs
Government of Pakistan 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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02.06.2021 Malik Nasrum Minallah, Advocate for the petitioner.

The petitioner is an employee of Federal Board of Revenue. He was reinstated in service in BPS-15 in 2010 pursuant to Sacked Employees (Reinstatement) Ordinance, 2010 (the Ordinance). He is aggrieved of the fact that though he has been reinstated but has not been granted the entire benefits applicable to him under the referred law including inclusion of his name in the seniority list of Inspectors.

2. Learned counsel for the petitioner, *inter alia*, contended that under Section 4 (c)(iii) of the Sacked Employees (Re-instatement) Act, 2010 (the Act) the petitioner is to be placed at the bottom of the seniority but is entitled to promotion and all other service benefits as to the other employees. It is contended that the name of the petitioner is not in the seniority list. When

confronted whether the petitioner is a civil servant the candid reply was in affirmative. It was also inquired from the learned counsel for the petitioner that the relief being claimed in the instant petition whether forms part of terms and conditions of service and the answer was also in affirmative. However, learned counsel for the petitioner contended that in light of the judgment of this Court in case titled **Waqar Alam and others v. Secretary, Establishment Division and others** (2013 PLC (C.S.) 12) the petitioner is entitled to all the benefits.

3. Arguments advanced by the learned counsel for the petitioner have been heard and the documents placed on record examined with his able assistance.

4. The petitioner is currently serving as Inspector in BPS-16 at MCC Quetta Baluchistan. He is claiming the service benefits applicable to him under Section 4(c)(iii) of the Act. The thrust of the arguments by the learned counsel for the petitioner was that the petitioner is entitled to have his name in the seniority list. It is an admitted position that the petitioner is civil servant and the grievance raised in the instant petition regarding the receipt of benefits under

the Act and/or inclusion of his name in the seniority list pertains to the terms and conditions of service. Since the matter in hand pertains to the terms and conditions of civil servant the instant petition is barred under Article 212 of the Constitutional of the Islamic Republic of Pakistan, 1973 and the remedy lies with the Federal Service Tribunal.

5. In view of the above, the instant petition is not maintainable and is accordingly dismissed *in limine*.

(AAMER FAROOQ)
JUDGE

M.Naveed