

HCJD/C-121
JUDGMENT SHEET

ISLAMABAD HIGH COURT
ISLAMABAD

W.P. No.4607/2014

HUSSAIN KARRAR KHAWAJA
VERSUS
FEDERATION OF PAKISTAN, ETC.

Petitioner by : **Mr Khawaja Shahid Rasool Siddiqui Advocate**

Date of Hearing : **10-11-2014.**

ATHAR MINALLAH J: Through the instant petition, the petitioner has invoked the jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 (hereinafter referred to as the “Constitution”) seeking a writ to declare the order passed by the Committee recommending promotion of officers to BPS-22 as illegal. It is also prayed that a direction may be issued to the Promotion Committee to reconsider the matter afresh and, recommend the petitioner for promotion from BPS-21 to BPS-22.

2. The learned counsel for the petitioner contends that it was reported in the daily newspaper “Jang”, vide a report published on 24-09-2014, that the petitioner had been recommended for promotion. It is further contended that the petitioner was subsequently informed that he was deferred and not recommended, contrary to the news report dated 24-09-2014. On the question of maintainability the learned counsel has placed reliance on “Muhammad Iqbal and others vs Executive District Officer (Revenue), Lodhran”, 2007 SCMR 682, “Mubarak Ali Athar vs Government of Pakistan”

2013 PLC (CS) 62, “Muhammad Ashraf vs Government of Pakistan and another”, 2007 PLC (CS) 669, “Shaukat Ali vs Federation of Pakistan and othes”, 2007 PLC (CS) 1300 & 2006 PLC (CS) 6119. On the courts’ query the leaned counsel admits that the petitioner is a civil servant.

3. After hearing the learned counsel at length the opinion of this Court is as follows:

4. The grievance of the petitioner relates to the proceedings of the Promotion Committee which considered officers for promotion from BPS-21 to BPS-22, in its meeting held on 22-9-2014. It is an admitted fact that the petitioner is a civil servant and the grievance relates to the terms and conditions of his service and, therefore, amenable to the jurisdiction of the Federal Service Tribunal. It is also an admitted fact that the Federal Services Tribunal has become functional and, therefore, this Court has no jurisdiction to entertain the petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, in the light of the bar contained in Article 212 *ibid*. Moreover, the petitioner, being a responsible civil servant ought to have been aware that he is required to seek his remedy in accordance with law. The petitioner has neither placed on record the impugned order nor any representation made to the competent authority as required under the law. The petitioner has relied on a news report, while simultaneously contradicting himself by stating in the petition that he was considered but his case was deferred in the meeting held on 22-09-2014. The petition, besides being not maintainable in the light of the bar contained under Article 212 of the Constitution, is not in a form expected from an officer claiming his promotion to the highest grade i.e. BPS-22.

5. On the Courts query, the learned counsel has candidly conceded that the petitioner did not seek permission from the competent authority to invoke the jurisdiction of this Court under Article 199 of the Constitution.

6. It may be noted that ignorance of law cannot be pleaded as an excuse. The petitioner may have a grievance but the remedy is to be sought in accordance with law and in the manner as provided in case of a civil servant. The petition falls within the ambit of the definition of a 'frivolous litigation' which inevitably amounts to the abuse of the process of this Court and consuming the precious time of other bonafide litigants.

7. In the light of the above, the present petition is dismissed in limine. A cost of Rs.10,000/- is also imposed on the petitioner, which shall be deposited by him with the Deputy Registrar Accounts of this Court within 30 days. The amount of cost as deposited shall be remitted to the fund maintained for payment of professional fee to counsels appointed at State expense for those under trial accused, who do not have the means to engage a counsel.

(ATHAR MINALLAH)
JUDGE

Announced in open Court on November, 2014.

JUDGE