

Form No: HCJD/C-121.

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No. 3826 of 2013

Arif Khan
Vs
AGPR, 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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05. 10-12-2014. Mr Ghulam Rasool Bhatti, advocate for the applicant / writ petitioner.
Malik Manzoor Ahmad Awan, Standing Counsel.

C.M. No. 5964 of 2014.

This is an application for withdrawal of the writ petition.

2. The learned counsel for the applicant submits that since similar matters have been sent to Federal Service Tribunal and requests that this case may also be sent to the Tribunal. He further submits that today only the above said application is fixed and requests that the main petition may be taken up.

3. In the circumstances, main petition is taken up.

Main Writ Petition.

In the light of the judgment reported as "*PLD 2014 Supreme Court 232*", this Court has no jurisdiction to proceed in the matter as, admittedly the *Federal Service Tribunal* has become functional.

2. However, the petitions were filed before this Court when the *Federal Service Tribunal* was not functional. The Federal Government failed in its obligation to take appropriate action to make the *Federal*

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Service Tribunal functional and thereby deprived the civil servants from availing remedies before a competent forum established under the law.

3. Now the *Federal Service Tribunal* has become functional; therefore, all the matters which had been entertained by this Court during the period when the Tribunal was not functional, are required to be placed before the forum having the exclusive jurisdiction. It is also noted that the Federal Government had failed to comply with the directions of the Supreme Court to complete the process of making the Tribunal functional within thirty days from the date of judgment referred to above.

4. Both, the learned counsel for the petitioner and the learned Standing Counsel, consent that the present petition may be referred to the learned Tribunal. This would be in line with the judgment of the august Supreme Court.

5. In the light of the above, the petitioner shall file an appeal before the learned Tribunal within two weeks. The *Registrar* of the Tribunal is directed to fix the appeal before any available Bench within one week from the date of filing.

6. This Court expects that while considering the question of condonation of delay, the Tribunal will take into consideration the peculiar circumstances, particularly the fact that the Tribunal remained non-functional for a considerable time and the petitioners were not at fault. Moreover, this order is pursuant to the consent of the respondents and, therefore, it is expected

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that no objection shall be raised regarding condonation of delay or raising other technical objections.

7. It is further expected that the Tribunal shall decide the appeal of the petitioner expeditiously.

(ATHAR MINALLAH)
JUDGE

*Asad K/**

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