

JUDGMENT SHEET
ISLAMABAD HIGH COURT, ISLAMABAD,
JUDICIAL DEPARTMENT

W.P. No.2045/2018

Syed Mubashar Ali Rizvi

versus

Printing Corporation of Pakistan through its M.D.

Petitioner by: Mr. Azid Nafees and Mr. Badar Iqbal, Advocates.

Respondent by: Mr. Muhammad Asif Iqbal, Advocate.

Date of Decision: 11.11.2019.

MOHSIN AKHTAR KAYANI, J: Through this writ petition, the petitioner has called in question office order dated 10.05.2018 of the respondent, whereby petitioner's case has not been considered for promotion against the post of Assistant Internal Audit Officer (BPS-17).

2. Brief facts referred in the instant writ petition are that the petitioner was initially appointed as LDC in the Printing Corporation of Pakistan on 05.05.1988 and later on promoted as Key Punch Operator on 13.03.1995, Assistant on 01.04.2013, Audit Assistant on 26.05.2016 and finally as Assistant Internal Audit Officer w.e.f. 15.07.2016, however the later promotion was declared illegal and withdrawn vide office order dated 08.09.2016 and the petitioner was reverted to his earlier post held by him. The said event resulted into different litigations before this Court and NIRC, Islamabad and ultimately, the respondent pursuant to direction passed by this Court in earlier writ petition of the petitioner has issued impugned letter dated 10.05.2018, whereby petitioner's case for promotion has been turned down. Hence, the instant writ petition.

3. Learned counsel for petitioner contends that the respondent in violation of direction passed by this Court in earlier petition i.e. W.P. No.503/2017, vide order dated 21.03.2018, has not considered the case of the petitioner; that in the light of principle of *locus poenitentiae* the respondent had no legal authority to

declare the promotion of the petitioner as null and void; that the impugned office order and impugned letter are against the principles of natural justice having been issued in complete disregard to the provisions of Section 24-A of the General Clauses Act, 1897; that the respondent had badly failed to reconsider the case of the petitioner for promotion and passed the impugned letter, which is liable to be set-aside and petitioner may be declared lawfully promoted against the post of Assistant Internal Audit Officer.

4. Conversely, learned counsel for respondent while opposing the instant writ petition has contended that Printing Corporation of Pakistan has been registered as a private limited company and has non-statutory service rules; that the case of petitioner for promotion had been considered but he did not possess the requisite length of service for next promotion; that since relationship between the petitioner and respondent is governed by the principle of master and servant, therefore, the instant writ petition is not maintainable and accordingly, the same may be dismissed.

5. Arguments heard, record perused.

6. Perusal of record reveals that the petitioner is mainly aggrieved with the office order dated 10.05.2018, whereby he has not been promoted by the respondent authority against the post of Assistant Internal Audit Officer (BPS-17).

7. The petitioner is claiming promotion to the post of Assistant Internal Audit Officer (BPS-17), for which the respondent Corporation has considered him on the strength of the PCP Employees Service Rules, 1997 (as amended/revised), 2008, which provides the service length of 07 years, whereas the petitioner was promoted as Assistant (BPS-14) vide letter dated 01.04.2013 after completion of five (05) years service, which is evidently less than the

requisite length of service, and even the respondent Corporation had considered other incumbents, who also failed to fulfill the requisite criteria.

8. Besides the above referred factual aspect, the respondent Corporation was registered as a private limited company under the Companies Act, 1913 read with Companies Ordinance, 1984 having its own service rules known as PCP Employees Service Rules, 1997, which are non-statutory and as such, the instant writ petition is not maintainable as writ petition is only maintainable if the service rules are statutory in nature as held in 2018 PLC (CS) 73 (Chairperson, National Commission for Human Development vs. Abdul Jabbar Memon).

9. The respondent Corporation for having non-statutory rules entails relationship of master and servant, whereas the petitioner being an employee of the respondent Corporation enjoys such relationship, and as such, the employees who are governed by statutory rules could invoke the constitutional jurisdiction of the High Court. Reliance is placed upon 2018 PLC (CS) 1224 Islamabad (Manzoor Ahmad vs. Federation of Pakistan).

10. Similarly, it has also been held in 2018 SCMR 278 (Pakistan Airline Pilots Association vs. Pakistan International Airline) that where conditions of service of employees are not regulated by statutory provisions, then such employees are to be governed by the principle of master and servant and as such, the writ petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 is not maintainable.

11. In view of above discussion, the instant writ petition is not maintainable and the same is hereby DISMISSED.

MOHSIN AKHTAR KAYANI)
JUDGE

Khalid Z.