

ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

ICA No.405/2019
Amir Butt
versus
Managing Director PTVC, Islamabad, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
(02)	17.09.2020	Mr. Muhammad Habib Ullah Khan, Advocate for appellant.

MOHSIN AKHTAR KAYANI, J: Through this intra court appeal, the appellant has assailed order of the learned Single Judge in Chambers, dated 01.10.2019, passed in W.P. No.4767/2016, whereby said writ petition of appellant has been dismissed.

2. Brief facts referred in the instant intra court appeal are that Amir Butt (appellant) being second most senior incumbent working on the post of Programme Producer is eligible to be promoted as Producer, however respondent PTVC, vide impugned office order dated 01.08.2016, promoted Respondents No.7 to 17 (as mentioned in writ petition) after their re-designation of existing posts in violation of Service Rules, 1978 of the respondent PTVC. Feeling aggrieved thereto the appellant filed writ petition, which has been dismissed by learned Single Judge in Chambers vide impugned judgment dated 01.10.2019. Hence, instant intra court appeal.

3. Learned counsel for appellant contends that PTVC is fully owned and controlled by the Government of Pakistan as M.D., PTVC has been performing the functions in connection with affairs of the Federation; that as per Section 6 of the PTV Employees Service Rules, 1978 regular employees are to be promoted on the basis of seniority-cum-fitness basis, therefore, appointment of contractual employees on the post of Producer directly deprives the appellant and similarly placed employees of their right of promotion; that learned Single Judge in Chambers has not appreciated the facts of the case and law on the subject, rather passed the impugned judgment in haste,

which is liable to be set-aside and office order dated 01.08.2016 together with office order dated 07.06.2018 may kindly be declared unlawful and without jurisdiction.

4. Arguments heard, record perused.

5. Perusal of record reveals that petitioner is mainly aggrieved by the impugned action of PTVC, whereby the respondent has allegedly not observed their Employee Service Rules with respect to the concept of seniority cum fitness. Similarly, the appellant has also been aggrieved with the contractual appointments made by the PTVC subsequent to appointment of appellant, who have been regularized by PTVC. As such, all these aspects have been considered by learned Single Judge in Chambers while considering the question of maintainability of the writ petition on the ground that the employee service rules of PTVC are non statutory in nature and writ petition is not competent.

6. The record further reveals that the grievance of the appellant is related to terms and conditions of his service and as such, said grievances could not be considered in the constitutional jurisdiction due to status of PTVC Employee Service Rules, which are non statutory in nature.

7. This Court has to apply the functional test to deal with the maintainability of instant writ petition, which has been settled by now that all the Rules of an organization, if not approved by the Federal Government, considered for the internal arrangement and functioning of such organization, are to be called non-statutory rules. Reliance is placed upon 1992 SCMR 1093 (University of the Punjab, Lahore v. Ch. Sardar Ali), 1994 SCMR 1024 (M.H. Mirza v. Federation of Pakistan), PLD 1975 SC 678 (Manager, Jammu & Kashmir, State Property in Pakistan v. Khuda Yar), 2009 PLC (CS) 565 (Sohail Abbas Bokhari v. Secretary Information and Broadcasting/Chairman PTVC), 2017 PLC (CS) Note 71 (Muhammad Ramzan v. Federation of Pakistan), 2017 SCMR 571 (Muhammad Zaman v. Government of Pakistan), 2017 SCMR 2010 (Pakistan Defence Housing Authority v. Mrs. Itrar Sajjad Khan), 2013 SCMR 747 (Muhammad Aslam Khan v. Federation of Pakistan), 2013 SCMR 642 (ZTBL v. Said Rehman), 2014 SCMR 982 (Syed Nazir Gillani v. Pakistan Red Crescent Society), 2013 SCMR 1159

(Muhammad Ashraf Tiwana v. Pakistan, etc.) and 2016 SCMR 2146 (Muhammad Rafi v. Federation of Pakistan), wherein it has been opined that where conditions of service of employees of a statutory body are not regulated by Rules/Regulations framed under the Statute, but only Rules or Instructions issued for its internal uses, any violation thereof cannot normally be enforced through writ jurisdiction and they would be governed by the principle of 'Master and Servant'.

8. In view of above reasons, the learned Single Judge in Chambers has passed the judgment while considering each and every aspect of the case in hand and rightly observed that writ petition is not competent, therefore, instant ICA is meritless and same is hereby **DISMISSED** *in limine*.

(FIAZ AHMAD ANJUM JANDRAN) (MOHSIN AKHTAR KAYANI)
JUDGE JUDGE

Khalid Z.

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