

*Form No: HCJD/C-121.*

**JUDGEMENT SHEET**

**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**

**JUDICIAL DEPARTMENT**

**W.P. No. 2099 of 2019**

Abid Ghani Mir and others

***Vs***

Federation of Pakistan, etc.

PETITIONERS BY: Raja Saif ur Rehman, Advocate.

RESPONDENTS BY: Syed Muhammad Tayyab, DAG.  
Mr. Saeed Ahmed Zaidi, Advocate for  
respondent no.2.

DATE OF HEARING: 19-11-2019.

**ATHAR MINALLAH, CJ.-** Through this petition the petitioners have invoked the jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred to as the "***Constitution***") seeking a direction to respondents no. 2 and 3 to regularize them as permanent employees of the Earthquake Reconstruction and Rehabilitation Authority (hereinafter referred to as the "***Authority***").

2. The facts, in brief, are that the petitioners in response to advertisements published in various newspapers by the State Earthquake Reconstruction and Rehabilitation Agency (hereinafter referred to as the "**Agency**") were appointed on contract basis. The respective appointment letters issued by the Agency have been attached with the petition. The Authority has been established under the Earthquake Reconstruction and Rehabilitation Authority Act, 2011 (hereinafter referred to as the "**Act of 2011**") whereas the Agency was established by the President of Azad Jammu and Kashmir vide notification, dated 07.03.2006. The Agency was established in the Planning and Development Department of Azad Government of the State of Jammu and Kashmir for the purposes of coordinating, planning, implementing and supervising the activities funded by the Authority.

3. The learned counsel for the petitioners has been heard at length. He has referred to several documents in order to establish that the Agency is an integral part of the Authority and thus the petitioners are deemed to be contract employees of the latter. He has argued that salaries of the petitioners were paid from funds of the Authority and that the latter regulated their terms and conditions of service. The learned counsel has referred to letter, dated 01.11.2018 issued by the Prime Minister of Azad Government of the State of Jammu and Kashmir in support of his contention that the Agency was established as an integral part of the Authority.

4. The learned Counsel for the Authority, on the other hand, has argued that the Agency was not established under the Act of 2011 and arrangement between the Authority and Azad Government of the State of Jammu and Kashmir cannot be construed in such manner so as to treat the Agency and its employees as an integral part of the Authority.

5. The learned counsels have been heard and the record perused with their able assistance.

6. The Authority has been established under the Act of 2011, while the Agency through notification, dated 07.03.2006 by the President of Azad Government of the State of Jammu and Kashmir. A plain reading of the said notification unambiguously shows that the Agency was established in the Planning and Development Department of Azad Government of the State of Jammu and Kashmir with the object to coordinate, plan, implement and supervise the activates funded by the Authority. The petitioners were appointed by the Agency and not the Authority. There is nothing on record to show that the Agency and its employees are governed under the Act of 2011 or were declared as employees of the Authority after promulgation of the Act of 2011. The funding of projects by the Authority is not sufficient to make the petitioners as contract employees thereof. The petitioners, therefore, having been employed by the Agency established by Azad Government of the State of Jammu and Kashmir cannot claim a right under the Act of 2011. This Court is

bereft of ~~the~~ jurisdiction to issue a writ in relation to the Agency.

7. For the above reasons, this petition is not maintainable and is, therefore, accordingly dismissed.

**(CHIEF JUSTICE)**

Announced in open Court on 13-01-2020.

**(CHIEF JUSTICE)**

Saeed.