

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

Writ Petition No. 2220/2011
Muhammad Iftikhar Khan
Vs
Federation of Pakistan 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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06.05.2020	Mr.Riasat Ali Azad, Advocate for the petitioner, Ch. Muhammad Tahir Mahmood, AAG alongwith Masood-ul-Hameed Malik, Deputy Director (Legal),Ministry of FE&PT and S.M. Reehan Naqvi, AD (Legal) FDE.
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Through the instant writ petition, petitioner seeks direction against the respondents in following terms:-

“It is therefore, most respectfully prayed that this Honourable Court may kindly be pleased to dispose of this writ petition by issuing the direction that the petitioner name may be deleted from the said list and the petitioner outstanding monthly salary be released in favour of the petitioner and also be paid to the petitioner in future as per the procedure and it may also be directed the respondents that outstanding dues/salaries of two years be also released in favour of the petitioner.”

2- The facts, relevant for the disposal of the instant writ petition are that it is the claim of the petitioner that he is serving as LDC BS-8 in the Federal Directorate of Education, Government of Pakistan since 18.02.1998; that subsequently he was dismissed from service due to political influence; that pursuant to promulgation of the Sacked Employees (Reinstatement) Ordinance, 2009 (*“the Ordinance 2009”*) he was reinstated on

01.8.2009 and on the same day joined his service; that thereafter he was required to submit surety bond before the concerned authority which he accordingly tendered; that after the reinstatement he had been posted in the FDE Headquarter as LDC; that his outstanding salaries for one year have also been released with the promise that the remaining salaries will also be paid subsequently.

3- It is further asserted that the monthly salary had also been paid till February 2011 through the salary slip; that on 12.02.2011, respondent No.2 (DG, FDE) had issued a list of 407 reinstated sacked employees raising certain objections and it was objected that petitioner had not provided the educational documents; that on the basis of said list salary of the petitioner had been stopped since March 2011 without any justification and that the petitioner time and again requested the authority for the release of salaries and to remove his name from the list of 407 sacked employees but to no avail, hence the instant writ petition.

4- The respondents in their parawise comments controverted the stance of the petitioner, *inter alia*, stating that the petitioner had managed his employment on the basis of fake documents; that the concerned principal did not verify the claim of the petitioner regarding payment of salaries and attendance; that name of the petitioner was not approved in the list forwarded by the ministry of Education to the AGPR for the purpose of drawal of salaries; that petitioner was not reinstated under the

Ordinance, 2009 in a legal manner but by submitting fake and bogus documents.

5- Heard the learned counsel for the petitioner, learned AAG and examined the record with their able assistance.

6- It is settled principle that in order to seek equitable discretionary relief, it is mandatory to explore *bonafide*, besides the infringement of any law, rule or regulations or that the petitioner had been treated with any discrimination. The jurisdiction under Article 199 of the Constitution is not meant to invoke for having probe and investigation of the disputed facts.

7- In the present case, the claim of the petitioner right from the beginning to have appointment on regular basis till his reinstatement and thereafter had been unequivocally controverted by the Department *inter alia* stating that the petitioner had maneuvered his appointment and subsequent claimed reinstatement on the basis of bogus documents; that he was never appointed on regular basis and that his credentials had been found bogus and FIR bearing No.4 was registered against the petitioner on 29.5.2012 under Sections 409, 420, 468, 471/109 PPC read with Section 5(2), 47 of PCA at Police Station FIA Crime Circle Islamabad.

8- Admittedly, the petitioner is facing criminal charge of managing his appointment on the basis of bogus educational certificates. The documents, being relied by the petitioner, have been expressly controverted by the Department being the product of fraud and forgery

therefore, without having any inquiry with regard to genuineness or otherwise of the said documents, it will not be just to lay any comments upon their veracity.

9- Where factual controversy is involved, constitutional jurisdiction under Article 199 of the Constitution is not permitted to be exercised. In this respect reliance is placed upon case law reported as Amir Jamal Vs Malik Zahoor ul Haq (2011 SCMR 1023).

10- In view of above, the instant writ petition being devoid of merits, is accordingly dismissed.

(FIAZ AHMAD ANJUM JANDRAN)
JUDGE

Imran