

Form No: HCJD/C-121.

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Crl. Org No. 86-W/2018

Muhammad Kalim Khalid

Vs

Maroof Afzal, Secretary, Establishment Division, Islamabad, 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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03)	05-11-2019	Rana Muhammad Yousaf Saddiqui, Advocate for the petitioner. Mr. Saif Ullah Gondal, AAG. Mr. Chan Sajjad, Assistant Legal, Special Education.
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Through this petition, the petitioner has alleged violation of this Courts order, dated 15.01.2018, passed in W.P.No.115/2018, whereby respondent no.3 i.e. Director General, Special Education, Ministry of Social Welfare & Special Education Government of Pakistan was directed to decide the representation of the petitioner.

2. The petitioner had invoked the jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 seeking a direction to upgrade him to the next higher grade. The up-gradation has no nexus with the holder of the post. Rather up-gradation of a post is the sole and exclusive prerogative of the department/organization. The department has to consider up-gradation of a post in the light of the policy prescribed by the Federal Government. Moreover, a post is upgraded and the process in this regard is initiated if the department or organization intends to restructure its office(s).
The principles and law relating to up-gradation have been

highlighted by this Court vide judgment, dated 11.01.2017, passed in I.C.A No.510 of 2014 titled "Chairman FBR versus Atta Muhammad Mahsud, etc". The learned counsel for the petitioner, despite his able assistance, could not satisfy this Court that a vested right exists in favour of the petitioner in light of the aforementioned judgment for grant of the prayer. Moreover, the petitioner can also not be treated as an aggrieved person for the purposes of Article 199 of the Constitution. The Director General, Special Education, Ministry of Social Welfare & Special Education may consider the representation of the petitioner having regard to the principles and law relating to up-gradation which have been highlighted by this Court in judgment dated 11.01.2017, passed in I.C.A No.510 of 2014 titled "Chairman FBR versus Atta Muhammad Mahsud, etc".

3. The petition is, therefore, accordingly disposed of.

(CHIEF JUSTICE)

*Asif Mughal/**