

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

Writ Petition No.1723 /2013

Amjad Ali
Vs.
Federation of Pakistan & another

Petitioner By: Nemo.
Respondent By: Ch. Abdul Jabbar, A.A.G. along with
Ch. Muhammad Ilyas, Staff Officer, Federal
Shariat Court.
Date of Hearing: 29.04.2020

GHULAM AZAM QAMBRANI. J.:- Through this petition, the petitioner has invoked the jurisdiction of this Court by filing instant Writ Petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 with the following prayer;-

"It is, therefore, respectfully prayed that by accepting this Writ Petition, respondent No.2 may kindly be directed to grant BS-16 to the petitioner w.e.f 08.03.2005 to 31.12.2007 (by way of upgradation of the post of Stenographer) and upgrade the post of Stenographer including the petitioner from BPS-16 to BPS-17 w.e.f 01.01.2018, as has been granted to the Stenographers of the other Hon'ble High Courts and the salary and allowances including increments, arrears etc may kindly be directed to be paid to the petitioner and all other stenographers/ beneficiaries working in the Federal Shariat Court accordingly. Simultaneously, the respondent No.1 may kindly be directed to provide necessary funds to the respondent No.2 accordingly.

It is further prayed that if there is any difference in qualification etc, the same may also be ordered to be made equal, similar and at par from the same date.

It is also prayed that till the final disposal of the titled Writ Petition, the respondents may kindly be directed to pay the salary, allowances including arrears to the petitioner w.e.f.08.03.2005 to 31.12.2007 of BS-16 and w.e.f 01.01.2008 to onward of BS-17. The petitioner undertakes that he will return the emoluments and arrears if he is not ultimately succeeded in the case.

Any other relief which this Hon'ble Court deems fit and appropriate in the peculiar facts and circumstances of the case, be also granted to the petitioner."

2. At the very outset the petitioner was asked to satisfy this Court regarding maintainability of the petition in the light of the principles and law highlighted in a judgment passed by a Larger Bench of this Court in the

case of "Amjad Ali vs. Federal Shariat Court through its Registrar, Islamabad and others" [**2019 PLC (C.S.) N 91**].

3. The petitioner contended that a writ is sought against the administrative actions of the Federal Shariat Court; the terms and conditions of service of employees of the Federal Shariat Court are distinct from those of orders passed in judicial proceedings; employees of the Federal Shariat Court would be left without a remedy; this in itself is an anomaly when employees of other organizations invoke the constitutional jurisdiction of this Court with regard to terms and conditions of service and matters relating to upgradation whereas employees of Federal Shariat Court are restrained to invoke such jurisdiction merely because of their employment in a constitutional Court.

4. On the other hand, learned AAG assisted by learned Staff Officer of Federal Shariat Court submitted that Federal Shariat Court is a Constitutional body, and as per Article 208 of the Constitution, it is competent to make its own rules for the appointment of officers and servants of the Courts and their terms and conditions of appointment and in other words, Federal Shariat Court is not bound by any law for the time. He further submitted that this petition is not maintainable in view of the bar contained in Article 203-G of the Constitution and that no case is made out for exercising jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, therefore, the instant writ petition is liable to be dismissed.

5. Arguments heard, record perused.

6. The petitioner is an employee of the Federal Shariat Court. The petitioner earlier invoked the jurisdiction of this Court by assailing administrative order of Federal Shariat Court with regard to the terms and conditions of service. A Larger Bench of this Court in that very case i.e. "Amjad Ali vs. Federal Shariat Court through its Registrar, Islamabad and others" [**2019 PLC (C.S.) N 91**] declared that a writ cannot be issued against the Federal Shariat Court and held the petition to be not maintainable before this Court. The referred judgment rendered by a Larger Bench of this Court holds the field. The petitioner through this petition has sought upgradation of the post of Stenographer from various dates to various basic pay scales. The petitioner has again sought issuance of a writ against the Federal Shariat Court. Nature of both the

petitions is the same; therefore, the principles and law highlighted in the judgment of the Larger Bench of this Court are attracted. The instant petition is, therefore, not maintainable before this Court.

7. For the foregoing reasons, this petition is not maintainable and the same is hereby, **dismissed**.

(GHULAM AZAM QAMBRANI)
JUDGE

Announced In Open Court on this 11th day of May, 2020
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JUDGE

Rana. M. Ift.