

Form No: HCJD/C-121.

JUDGEMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No. 4413 of 2013

Muhammad Nawaz Gondal , etc

Vs

Islamabad Electric Supply Company, etc

PETITIONERS BY: Ch. Munir Sadiq, Advocate.
RESPONDENTS BY: Muhammad Asif Khan, Barrister Munawar Duggal
and Hamood ur Rehman, Advocates.
Mr. M Saifullah Gonndal, Assistant Attorney
General.
DATE OF HEARING: 07-11-2019.

ATHAR MINALLAH, CJ.- 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 the Islamabad Electric Supply Company (hereinafter referred to as the "***Company***") to upgrade their respective posts i.e. Account Assistant (BPS-14) and Divisional Account Officer (BPS-16) respectively.

2. The learned counsels have been heard at length. It is an admitted position that the Company has been incorporated as a juridical person and is governed under the memorandum and articles of association. The august Supreme Court vide judgment, dated 21.06.2012, rendered in Civil Petition No.1591 of 2011 titled "Chief Executive Officer PESCO, Peshawar vs. Muhammad Aftab ur Rehman and others", has held that a juridical person incorporated under the relevant law does not have statutory rules though it may be

discharging functions in connection with the affairs of the Federation. It has, therefore, been observed and held that in the absence of statutory rules any violation of the terms and conditions of service of employees would not attract the writ jurisdiction of a High Court. Moreover, by now it is settled law that up-gradation of a post is the exclusive prerogative of the organization/department and that an employee does not have a vested right to seek up-gradation of a particular post. A High Court while exercising jurisdiction under Article 199 of the Constitution cannot compel a department/organization to initiate process to restructure its establishment and pursuant thereto upgrade particular posts. Moreover, it is settled law that discrimination cannot be treated as a ground for seeking up-gradation of a post. A learned Division Bench of this Court in the case titled "Chairman FBR versus Atta Muhammad Mahsud, etc" passed in ICA No. 510 of 2014 dated 11.01.2017 has highlighted the principles and law relating to up-gradation of a post. In the light of the said principles and law this petition is devoid of merit.

3. For what has been discussed above, this Court is satisfied that the prayer sought in this petition cannot be granted and, therefore, the instant petition is accordingly dismissed.

(CHIEF JUSTICE)