

Form No: HCJD/C.

JUDGMENT SHEET.**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**
JUDICIAL DEPARTMENT.**Writ Petition No.3868 of 2010.*****Talat Mehmood Sheikh******Vs.******The Secretary, M/o Defence (Aviation Wing)***
GOP & three others.***Petitioner's by:*** ***Syed Wusat-ul-Hassan, Advocate for the petitioner.******Respondents by:*** ***Mr. Anis Ud Din, Advocate for respondents No.2 to 4.******Date of Decision:*** ***06.04.2015.***

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AAMER FAROOQ, J.- Through the instant writ petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner seeks a direction to respondents to calculate and pay the pension and other benefits in accordance with decision of the Hon'ble Supreme Court of Pakistan in case titled "Pakistan International Airlines Corporation vs. Aziz-ur-Rehman Ch." (C.A. No.235-K/2009).

2. The facts in brief are that the petitioner joined Pakistan International Airlines (PIA) in December, 1975 as Flight Steward. He was assigned the duties of Flight Pursuer in 1984 and was promoted in Grade-5 in 1986. He served for about twenty (20) years in same cadre and was not promoted to Senior Pursuer but performed duties in the referred cadre. The petitioner was awarded pay-grade 6 after his retirement on 01.07.2006.

3. Learned counsel for the petitioner, inter alia, submitted that the petitioner is being discriminated and should be awarded pension and other benefits in accordance with above mentioned decision of the Hon'ble Apex Court of the Country.

4. Learned counsel for respondents No.2 to 4, inter alia, submitted that this Court does not have jurisdiction to hear the instant writ petition inasmuch as relief sought is against respondent No.2 and its head office is situated at Karachi. In support of his contentions, learned counsel placed reliance on an unreported order of this Court in ***W.P.No.1375/2012*** as well as ***C.S. No.61/2013***. It was further submitted by the learned counsel that the Rules of Service of respondent No.2 are non-statutory and, therefore, writ petition is not maintainable. In support of referred submissions, learned counsel placed reliance on the case of ***“Pakistan International Airlines Corporation vs. Tanveer” (PLD 2010 SC 746)***. It was also contended by the learned counsel that the prayer sought in the constitutional petition is vague and cannot be allowed inasmuch as it is not clear from the judgement of the Hon’ble Supreme Court of Pakistan that what criteria is to be adopted for the payment of pension and other benefits.

5. In the instant case the relief is sought against respondent No.2 i.e. PIA, the head office of which is located at Karachi. Under section 4 of the Islamabad High Court Act, 2010, this Court is to exercise jurisdiction in respect of matters pertaining to Islamabad Capital Territory (ICT). For the sake of gravity the referred provision of law is reproduced and is as follows:

“Jurisdiction.-Islamabad High Court shall have, in respect of the Islamabad Capital Territory, original, appellate, revisional and other jurisdiction, commencement of this Act, is exercisable in respect of the said territory by the Lahore High Court.

Provided that Islamabad High Court shall have original jurisdiction in suits and proceedings having pecuniary value of [One hundred] million rupees or more.”

Moreover, in case titled “Sundar Bar Enterprises (Pvt.) Ltd. vs. CBR (***PLD 97 SC 334***) the Hon’ble Supreme Court of Pakistan observed that while deciding this the Court has to seek the dominant object and where it lies only that Court shall have the jurisdiction.

6. In the present case object for filing the writ petition is for seeking pensionary & other benefits on the basis of the judgement of the Apex Court. The relief sought is against respondent No.2 which is based at Karachi, where the jurisdiction of this Court does not extend. Even otherwise the Rules of Service of respondent No.2 are non-statutory and the relationship between the

petitioner and respondent No.2 is that of master & servant, therefore, the instant writ petition is not competent.

7. In view of above discussion the instant petition is dismissed.

(AAMER FAROOQ)
JUDGE

Altaf Malik

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