

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE MIAN SAQIB NISAR, HCJ
MR. JUSTICE UMAR ATA BANDIAL
MR. JUSTICE IJAZ UL AHSAN

Civil Petitions No.3451 to 3464 of 2017

AND

Civil Petitions No.3473 to 3651 of 2017

Against order dated 17.07.2017 of Federal Service Tribunal, Islamabad, passed in Miscellaneous Petitions No.2630 to 2715 of 2016, etc.

Wapda through its Chairman & others

Petitioners

VERSUS

Raja Iftikhar Ahmed & others

Respondents

For the Petitioner(s) : Mr. Umar Aslam Khan, ASC
Ch. Akhtar Ali, AOR
Ahmed Bakhsh Tarar, DG (Law), Wapda

For the Respondent(s) : N.R.

Date of Hearing : 15.12.2017

ORDER

IJAZ UL AHSAN, J-. Through this single order, we propose to decide the titled Civil Petitions which raise common questions of law and facts.

2. The petitioners, who are functionaries of the State, seek leave to appeal against an order dated 17.07.2017 passed by the Federal Service Tribunal, Islamabad. Through this order, various Miscellaneous Petitions filed by the Respondents, seeking implementation of judgments/orders of the Service Tribunal have been allowed. The petitioners have been directed to implement the said judgments/orders in letter and spirit within one month, failing which coercive measures have been directed to be taken against them under the relevant provisions of law.

3. The issue in the matter pertains to generation allowance, which had been allowed to generation staff of Tarbela Power Plant. Other employees of the Plant having been denied such allowance filed representations before the competent authority for grant of such allowance. These were dismissed. Therefore, they approached the Service Tribunal by way of appeals which were allowed on 22.03.1997. The petitioners challenged the order of the Service Tribunal before this Court through Civil Petitions No.840 to 844 of 1997 which were dismissed, vide order dated 10.10.1997. Subsequently, some other employees, 255 in number, also claimed the same benefits granted to other similarly placed employees. However, having been denied the same by the competent authorities their matters also ended up before the Service Tribunal which allowed their appeals on 22.10.2009. Undeterred by the dismissal of their earlier Civil Petitions before this Court, the petitioners again filed Civil Petitions No.2281 to 2534 of 2009. These too were dismissed by this Court on 12.10.2010.

4. Surprisingly enough, despite having lost all their challenges, the petitioners did not implement the judgments of the Service Tribunal and this Court. The employees were therefore constrained to seek implementation by filing Miscellaneous Petitions (MPs) before the Service Tribunal which were allowed vide order dated 31.03.2015. In an obvious effort to drag the litigation further, the petitioners yet again filed appeals before this Court, which were dismissed vide order dated 05.10.2015. Review Petitions filed against the said orders too met the same fate, vide order dated 24.02.2016.

5. Having exhausted all remedies before all *fora*, the petitioners passed an order to implement the judgment with effect from 31.03.2015. This was a clear violation of the orders dated 22.03.1997 and 22.10.2009 passed by the Service Tribunal and upheld by this Court. The hapless employees were again constrained to approach the Service Tribunal through MPs pleading/ imploring for implementation of the judgments of the highest *fora* of the country. Vide impugned order dated 17.07.2017, the MPs were allowed in the following terms:-

“They tried their level best upto the level of Hon’ble Apex Court but miserably failed at every forum. Now, after exhausting all the fora/remedies, they are bound to implant the judgments/orders in its true perspective and make payment of generation allowance and extend other facilities allowed to General employees like revised free electricity units and overtime allowance, etc to the petitioners/appellants from the date of their initial appointment. The respondents are given one month more time to implement the judgments/order in letter and spirit, failing which coercive measures shall be taken against them under the relevant provisions of law/rules.”

6. The learned counsel for the petitioners has argued that the impugned order of the Service Tribunal is legally and factually untenable. He maintains that the Service Tribunal has failed to appreciate the underlying philosophy, object and purpose behind the policy regarding grant of generation allowance by Wapda. He further maintains that the Service Tribunal has erred in law by interfering with the policy making domain of the Executive which is beyond the scope of its jurisdictional parameters. He has pointed out that generation allowance was only admissible to technical employees of the Power Stations who may be actually engaged in generation duties and not to others.

7. We have heard the learned counsel for the petitioners and gone through the record. We find that all points raised by the learned counsel for the petitioners have repeatedly been considered, addressed and rejected by the Service Tribunal as well as this Court. The same cannot be re-agitated and reopened for the umpteenth time and the attempt on the part of the petitioners to do so reeks of *mala fide*. It constitutes denial of the fruits of justice and gross abuse of the process of this Court. We are disappointed, shocked and perturbed by the conduct of the State functionaries, who have blatantly violated and consciously refused to implement the judgments of the Service Tribunal as well as this Court with impunity. Such conduct must be deprecated in the strongest terms. It is the command of the Constitution that all executive and judicial authorities throughout Pakistan are bound to act in aid of this Court. Any failure to heed and implement this command cannot be taken lightly. Such conduct threatens to strike the very foundation of constitutionalism, rule of law and administration of justice. We were minded to take more stringent action but have opted to exercise judicial restraint.

8. Therefore, while dismissing these petitions and refusing leave to appeal, we impose special cost of Rs.50,000/- on Chairman, Wapda in his personal capacity. The said amount shall be paid out of his own pocket and deposited with Fatimid Foundation under intimation to the Registrar of this Court alongwith its receipt issued by the said Foundation. In view of the fact that the time of one month granted by the Service Tribunal has already expired, the petitioners shall forthwith implement the orders in letter and spirit and submit a report within 07 days of the date of receipt of this order with the

Registrar of this Court. The office is directed to transmit a copy of this Court to Chairman, Wapda immediately.

CHIEF JUSTICE

JUDGE

JUDGE

ISLAMABAD, THE
15th of December, 2017.

ZR/*

NOT APPROVED FOR REPORTING