

IN THE HIGH COURT OF SINDH, KARACHI.

C.P. NO. D-2109 OF 2008

PRESENT:**MR. JUSTICE MUHAMMAD ALI MAZHAR.
MR. JUSTICE ARSHAD HUSSAIN KHAN.**

*Muhammad Ramzan
Versus
Federation of Pakistan and others*

Petitioner Through M/s. M. M. Aqil Awan, Arshad Khan Tanoli and Danish Rasheed Advocates.

Respondent No.1: Through Mr. Shaikh Liaquat Hussain, Standing Counsel.

Respondent No.2: Through Mr. Muhammad Asghar Malik, Advocate.

Respondent No.3: Through Mr. Moula Bux Khoso and Ms. Fozia Mushtaq, Advocates.

Date of Hearing: 07.10.2016

JUDGMENT

ARSHAD HUSSAIN KHAN, J. The petitioner through the instant petition sought following reliefs:-

- (a) *declare that the impugned action of respondent No.2 to re-designate respondent No.3 from the post of Group-III to Group-V (Two step promotion, is all mala fide, Coram Non Judice, void ab initio, without any authority and jurisdiction and same cannot be acted upon).*
- (b) *declare that respondent No.3 is not fit to hold particular technical post of Script Producer of Group-V and liable to be repatriated back to his original Ex-cadre Post of Light Man, Group –III.*
- (c) *that respondent No.2 may kindly be directed to consider and re-designate in Group-V as Script Producer on regular basis Vice respondent No.3, to be reverted and the petitioner be re-designated from the date the post of Script Producer Group-V, fell vacant, simplicitor, including all the financial benefits, the petitioner was denied, with no fault of him.*
- (d) *that the respondent No.4 may kindly be directed to file his comments and also affidavit about his unfitness report against the respondent No.3, to assist this Hon'ble Court in administration of justice and determination of the issues in question.*

- (e) *Any other relief(s) which this Hon'ble Court deems fit and proper under the circumstances of the case.*
- (f) *Cost of the petition may also be granted to the petitioner.*

[Underling is to add emphasis]

2. The brief facts leading to the filing of instant petition as averred therein are that on 04.12.1976, the petitioner joined PTV as its employee as Copyist in Pay Group-III, on contract basis for three years, subsequently, his service was regularized. Thereafter, on 29.01.1990 under PTV Service Rules, he was allowed Pay Group-IV w.e.f. 10.12.1989. Subsequently, on 13.11.2001, during the course of service, on the same post of Copyist, he was granted Selection Grade in Pay Group-IV w.e.f. 30.09.2001. Thereafter, on 08.7.2002, the petitioner was allowed Pay Group-V. The qualification of the petitioner is M.A. Political Science (Second Division). That petitioner reached the ceiling of Pay Group-V w.e.f. 01.07.2007, therefore, under office order dated 25.08.2008, he was allowed annual increment of Rs.800/- as personal pay w.e.f. 01.07.2008, which was subject to adjustment in basic pay in case of petitioner's promotion/placement in next higher groups.

3. The PTV through an internal vacancy circular dated 12.04.2007 invited applications from internal candidates for the post of Script Producer (PG-V) under re-designation policy, approved by the Board of Directors on 23/24.12.1998. The educational qualification required for the said post of 'Script Producer' was Master Degree in any subject, at least in second division. It is further alleged that in pursuance of the same about five candidates including petitioner and respondent No.3 had applied for the said post. The petitioner was waiting for interview call but before selection process could have been initiated, surreptitiously respondent No.3, working as a light man in PG-III, Camera Department, having no nexus with the Script Section, managed to obtain the order of appointment as Script Producer. Against the said illegal appointment petitioner made number of representations but yielded no fruits, consequently, present petition was filed.

4. Upon notice of the present petition, respondents No.2, 3 and 4 filed their objections, reply and counter affidavit respectively in the matter.

The respondent No.2 (MD. PTV) in its objections has stated that the vacancy of script producer was circulated amongst internal candidate, however, interview for the said post could not be scheduled. Later on Mr. Sikandar Ali, Light man (PG-III) of T.V. Centre Karachi was re-designated as script producer (PG-V) with effect from 10.03.2008 in accordance with the re-designation policy of the corporation. It is also stated that though the petitioner, pursuant to internal vacancy circular, had applied for the post of script producer (G-V) through proper channel, however, his request was not acceded to by the competent authority. According to re-designation policy, Managing Director is competent to re-designate an employee who meets the laid down criteria of the post. It is further stated that the petitioner with unclean hands has filed the present petition and he would not suffer any loss in the event it is dismissed.

The respondent No.3 (Sikandar Ali) in reply to the petition has filed his legal objections only wherein it is stated that since the dispute of the subject petition is related to the terms and conditions of service and PTV does not have statutory Rules, therefore, without availability of statutory Rules of PTV the petition is not maintainable. In this regard along with its objection he has also relied upon an order dated 25.03.2011 passed by this court in his C.P. D- No. 860 of 2011, which he had filed against one of his co-employee in the year 2011, the relevant portion of the said order is reproduced as under:-

“However, since Pakistan Television Corporation doesn’t have any statutory Service Rules, the petition is not maintainable. The petition is, therefore, dismissed along with the pending applications, as being not maintainable.”

The respondent No.4, (Executive Program Manager), the proforma respondent in the case, in its counter affidavit to the petition has stated that on 15.03.2008, the petitioner filed a representation with the prayer to re-designate him as script producer Group-5, on qualification and competency. The respondent No.4, on

the said application of the petitioner, made recommendation as 'deserved to be given preference.

5. The learned counsel for the petitioner in his submission in respect of maintainability of the petition and specifically whether a constitutional petition is maintainable against Pakistan Television Corporation has relied upon the following case law:-

NLR 1981 Service 74 *S.Ikramullah Vs. Pakistan Television Corporation.*

In this case the petitioner, a PTV employee, assailed his removal order from service passed under section 3 of the Corporation Employees (Special Power) Ordinance XIII of 1978, on the ground that the case of the petitioner does not fall within the ambit of section 3 of the said ordinance. The single bench of Lahore High Court, inter alia, dealing with the issue of maintainability of the petition against the PTV, has held that _ "As regard the objection to the competency of this Court to issue a writ to the Pakistan Television Corporation, two earlier decisions of this Court reported as Muhammad Aslam Saleemi vs. Pakistan Television Corporation PLJ 1977 Lahore 424 and Ghulam Mustafa vs. Ulfat Hussain Qureshi PLJ 1979 Lahore 429 offer a complete answer." After citing the excerpt from the judgment of Full Bench, in the last three lines it was held "accordingly, I hold that Pakistan Television Corporation is amenable to the jurisdiction of this Court".

NLR 1995 Service 172 *Ghulam Haider Badini vs. PTV Corporation Islamabad.*

In this case the petitioners, employees of PTV working in its various Section at Quetta TV center, challenged the order of the federal government whereby the employees of PTV Headquarter office and Islamabad Television were getting special allowance at the rate of 20% of the progressive pay while other employees of PTV working at other stations were not getting the benefit of the said order. The division bench of Quetta High Court while dealing with the preliminary objection of maintainability of the petition on the ground of territorial jurisdiction and for want of being a person within ambit of Article 199(5), after discussion it was held that "the upshot of above discussion would be that this court has full jurisdiction to adjudicate upon the matter and accordingly the objection regarding its jurisdiction and maintainability of petition is repelled."

2011 PLC (C.S) 367 *Ejaz Akbar Kasi vs. Ministry of Information and Broadcasting.*

In this case an employee had a grievance that some of his colleagues had been regularized whereas he has been discriminated. Petition was filed in the original jurisdiction of Supreme Court under Article 184(3). Petition was allowed and inter-alia held, no doubt policy in respect of such employees for the regularization to be framed by the PTV but at the same time it is to be borne in mind that there should

not be any discrimination and such like employees who are on contract basis for a period of more than 10 years deserve to be considered for regularization as they are working against existing sanctioned vacancy for which budgetary allocations are also made annually out of which they are being paid regularly. In the comments filed by PTV an admission is made to that effect.

The learned counsel further submitted that notwithstanding the fact that rules of the corporation are non statutory and none of such rule is being enforced through this petition, the petitioner can press his legal right to be considered for a higher post which is nothing but promotion in the garb of re-designation policy. In this regard following case law is relied upon:-

2007 PLC (C.S) 1046 *Muhammad Dawood vs. Federation of Pakistan.*

In this case it is held that Rule of master and servant is inapplicable to cases where there is a violation of statutory provisions or of any other law. Expression “violation of law” would not be confined to statutory law but ought to be considered in its generic sense including judicial principle laid down from time to time by the Superior Courts. It may include, principles of natural justice, the public duty to act fairly and honestly and absence of malafide in fact and in law. Where there is violation of law High Court would be competent to entertain petitions under Article 199 of the Constitution and grant the necessary relief.

2010 SCMR 1301. *Tariq Aziz-ud-din vs. Federation of Pakistan.*

In this HR Case, initiated on the application of one Mr. Tariq Aziz-ud-Din from the Foreign Service Group, addressed to Chief Justice of Pakistan, stating therein that Government of Pakistan has made promotions of officers of various occupational groups, including Foreign Service group to which he also belong, from BS-21 to BS-22, in total violation of Constitutional basis and principles of merit, seniority and fair play. The Hon’ble Supreme Court while dealing with the case has, inter alia, observed that good governance is largely dependent upon the upright, honest and strong bureaucracy particularly in written Constitution wherein important role of implementation has been assigned to the bureaucracy, civil service is the back bone of our administration. The purity of administration to a large extent depends upon the purity of the services. Such purity can be obtained only if the promotions are made on merit in accordance with law and Constitution, without favouritism or nepotism. It is a time tested, recognized fact that institution is destroyed if promotions/appointments are made in violation of law. It was also observed that no doubt petitioners / affectee officers had no right to be promoted yet in accordance with section 9 of the CSA, 1973, they were, at least, entitled to be considered for promotion. The right contemplated under section 9 (supra) is neither illusionary

nor a perfunctory ritual and withholding of promotion of an officer is a major penalty in accordance with the Civil Servants (Efficiency and Disciplinary) Rules, 1973, therefore, consideration of an officer for promotion is to be based not only on the relevant law and the rules but also to be based on some tangible material relating to merit and eligibility which can be lawfully taken note of. According to Article 4 of the Constitution the word "law" is of wider import and in itself mandatorily cast the duty upon every public functionary to act in the matter justly, fairly and without arbitrariness.

2011 SCMR 1 *Government of Pakistan vs. Farheen Rasheed.*

In this case the appeal was directed against the judgment passed by the Federal Service Tribunal, Islamabad, whereby the appeal of the respondent was accepted partly and her major penalty of dismissal from service was converted into minor penalty of stoppage of annual increments for a period of two years without cumulative effect. The Hon'ble Supreme Court in this case while interpreting Article 4 of the Constitution defined the word 'law' as follows:-

“The word law used in the Constitution has been interpreted to include all such principles as having the binding force on account of moral, customary or other sociological reasons”.

PLD 2010 SC. 483 *Justice Khursheed Anwar vs. Federation of*

Pakistan

In this case the larger Bench, comprising of 14 judges of the Hon'ble Supreme Court while dealing with the applications for permission to file review petitions against judgment dated 31-7-2009 passed in Constitutional Petitions No.9 and 8 of 2009, has, inter alia, discussed the scope of decision of Supreme Court and held as under:-

“Where the Supreme Court deliberately and with the intention of settling the law, pronounces upon a question, such pronouncement is the law declared by the Supreme Court within the meaning of Art.189 of the Constitution and is binding on all courts in Pakistan. Such pronouncement cannot be treated as mere obiter dictum. Furthermore, even obiter dictum of the Supreme Court, due to the high place which the court holds in the hierarchy of courts in the country, enjoy a highly respected position as if it contains a definite expression of the court's view on a legal principle, or the meaning of the law.”

It is further submitted that as per the re-designation policy, it was the duty of personnel department to scrutinize applications, arrange interview of eligible candidates through duly constituted Selection Board and personnel department would recommend on the basis of Selection Board's recommendation to the M.D. for passing

of the necessary order. This whole procedure is violated. It is also stated that in the above case the impugned order dated 11.03.2008 itself shows that neither, it is signed by the M.D. of respondent No.2, nor it is based on the recommendation of the Selection Board. Even it does not read the ordinary official language on the recommendation of Section Board and with the “approval of the competent authority”. Controller Administration and Personnel is no body under the Rules/Law or the Circular relied upon by the PTV itself to pass an order thereby re-designating any employee against any post. Learned Counsel has relied upon the following case law.

PLJ 1995 S.C. 387 *Wilayat Ali Meer vs. PIAC.*

In this case the appellant challenged the judgment of the Federal Shariat Tribunal, whereby his appeal against the order of PIAC, refusing to promote him in Group IX was dismissed. While dealing with the case the Hon’ble Supreme Court held that a Service Structure has been created with grades and groups and proper regulation has been framed to deal with cases of appointment, promotion, retirement and dismissal. These provisions have been made to ensure security of service to the employees. It also gives discretion to the authorities to appoint and promote proper and suitable persons who may satisfy requisite qualifications as tested by the relevant Boards. It is also held that any service which is properly constituted, graded and governed by the Rules and Regulations, any breach thereof will be against law. If the rule/ regulation prescribe conditions for any appointment then unless otherwise provided by it, appointment in breach thereof cannot be termed as a regular. It was observed that no reason was also given for rejecting of his earlier recommendation of the board. The recommendations of the board made on 18th October, 1987 were not approved. Under the regulation the Board is constituted whether it is a Promotion Board / Selection Board, their recommendation should carry weight as they make evaluation of candidates from every angle. It is true that the report submitted by the Board is a recommendation which is to be approved by the competent authority in its discretion. Such discretion should not be arbitrary, unreasonable or without any reason. It is also held that no employee had a vested right in promotion and was noted as correct with the addition that where rules and regulation and policy have been framed for regulation appointment and promotions, any breach or deviation for malafide reasons are due to arbitrary act of competent authority, the aggrieved person would be entitled to challenge it.

1994 SCMR 2232 *Anisa Rehman vs. PIAC.*

In this case the Employee of PG-VII was reverted without any show cause notice to PG-VI, such reversion challenged in C.P.- dismissed for want of Statutory Rules by High Court. Supreme Court held that PIA does not have any Statutory Service Rules. It is held that if there

is violation of any statutory rule or law a constitution petition is competent against a corporation /corporative body etc. Since admittedly at the time of reversion no show cause notice was issued, nor she was heard before passing of the impugned orders, hence, there has been violation of the principles of natural justice. The above violation can be equated with the violation of a provision of law warranting exercise of constitutional jurisdiction by the High Court. The fact that corporation does not have statutory service rules will not negate the application of above maxim audi alterm partem. Moreover, the fact of application of rule of master and servant is that an employee of a corporation in the absence of violation of law or any statutory rule cannot press into service of constitutional jurisdiction for seeking relief of reinstatement in service.

2013 SCMR 1707 *Pakistan Defence Officers Housing Authority vs. Lt. Col. Syed Jawed Ahmed.*

This judgment has also reiterated that the statutory bodies performing some of the functions which are functions of Federation / State and through the exercise of public power these bodies create public employments. These bodies are therefore “persons” within the meaning of Article 195 of the Constitution.

Lastly, Learned Counsel submitted that in the light of aforementioned law, the impugned order dated 11.03.2008 where under respondent No.3 is re-designated as Script Producer PG-V may be set-aside and petitioner be considered afresh for re-designation as Script Producer.

6. On the other hand, except respondent No.4 who chose to remain absent at the time of arguments, the learned counsel for respondents No.2 & 3 resisted petition by defending the appointment of respondent No.3 and through their written submissions stated as under:

Respondent No.2, in its submissions, has stated that the petitioner neither had any locus standi nor any cause of action accrued nor any right to file the present petition against Pakistan Television Corporation. It is also submitted that the Pakistan Television Corporation does not have its statutory rules, therefore, the relationship between the corporation and its employee is that of a “Master and Servant” as such the petitioner can not challenge the order of the respondent (PTV) under Article 199 of Constitution of Pakistan. In this regard following case law are cited:-

2015 SCMR 1545: *PIA Corporation v. Syed Suleman Alam Rizvi & others.*

In this case Hon'ble Supreme Court held that the Constitutional petition was not maintainable in the matters pertaining to the terms and conditions of service of employees of a corporation, where such terms and conditions were not governed by statutory rules.

PLD 2010 SC 676: *Pakistan International Airlines and others v. Tanveer-ur-Rehman & others.*

In this case the Hon'ble Supreme Court after discussion of various aspects regarding status of PIA has held that although the appellant-Corporation is performing functions in connection with the affairs of the Federation but since the services of the respondent-employees are governed by the contract executed between both the parties, as is evident from the facts narrated hereinabove, and not by the statutory rules framed under section 30 of the Act, 1956, with the prior approval of the Federal Government, therefore, they will be governed by the principle of Master and Servant.

2013 SCMR 1383: *Abdul Wahab & others vs. HBL and others.*

In this case it is held that where a service grievance was agitated by a person/employee who was not governed by statutory rules of service, before the High Court, in terms of Article 199 of the Constitution, such petition shall not be maintainable.

2014 SCMR 982: *Syed Nazir Gilani v. Pakistan Red Crescent Society & other.*

In this case the Hon'ble Supreme Court while dismissing Review Petition has held that the service rules framed by Pakistan Red Crescent Society were non-statutory and on such count constitutional petition filed by its employee before the High Court challenging petitioner's removal from service was not maintainable.

It is also submitted that the petitioner's application for his re-designation for the post of Script Producer (Group V) was declined due to the fact that there was no vacant post of Script Producer (Group-V) since respondent No.3 was already designated at that post vide Order dated 11.03.2008.

It is also stated that the petitioner never contested and/or participated for the alleged post since his first application for the post of script producer was received by the PTV management on 15.3.2008 after the appointment of Mr. Sikandar Ali, as such his application was considered but not acceded to by the competent authority being afterthought, therefore, the right of the petitioner was

not created to challenge the promotion of respondent No.3, who was M.A. LL.B and was acquired all criteria to be re-designated in Group-V. T. It is further submitted that according to Clause-5 of the Circular it was option of the Selection Board to conduct interview of the eligible candidates as the word “May” has been mentioned. Besides, the petitioner never been the contestant of the post, therefore, he is not entitled for any relief, moreover according to the circular it was not mandatory clause that the contestant should have been related to the subject post, it was an open contest.

It is also submitted that the petitioner has retired from his services, as such the present petition has become infructuous, therefore the petition may kindly be dismissed.

Respondent No.3 in its submissions has stated that present petition is not maintainable, as the Pakistan Television Corporation does not have statutory rules, hence, petitioner cannot invoke the jurisdiction of this Court under Article 199 of Constitution of Islamic Republic of Pakistan, 1973. In this regard, the respondent relied upon an unreported order of Hon’ble Supreme Court passed in Civil Petition No.1862/2009 wherein it is held as follows:

“It is by now well settled that the Organization which have no statutory rules, their employees cannot avail the remedy of filing a writ petition, as such, the impugned order being unexceptionable, warrants no interference. Consequently, this petition is dismissed and leave to appeal refused.”

7. We have heard learned counsel for the parties, perused their submissions in writing as well and with their assistance also perused the material available on record and the case law cited on the point. It was agreed upon by the learned counsel for the parties that present constitutional petition may be disposed of finally at the stage of Katcha Peshi.

8. Before going into any discussion, it would be appropriate to refer the Vacancy Circular which is reproduced as under:

“

PAKISTAN TELEVISION CORPORATION LIMITED
TELEVISION CENTRE KARACHI

Ref: No. KTV/ADMN/41-C/2967

Dated: 12th April, 2007

VACANCY CIRCULAR

Reproduced below PTV-Headquarters vacancy circular bearing No.HP/107/229/2816, dated April 07, 2007 for re-designation to the post of **Script Producer (Group-5)**.

02- Applications for those regular employees who possess the required qualification and wish to be considered for re-designation to the post of **Script Producer (Group-5)** should reach the undersigned in duplicate along with bio-data **not later than 20th April, 2007**, for onward submission to PTV-Headquarters office, Islamabad.

Sd/-
(MUHAMMAD MOBIN QADRI)
Admin & Personnel Manager

DISTRIBUTION:

- 01- All Heads of Department/Section.
- 02- Incharge Producer Sports, PTV- Karachi
- 03- Incharge News Unit, Hyderabad.
- 04- Notice boards.
- 05- Office copy.

CC: General Manager, PTV- Karachi
General Manager, PTV-National, Karachi

Ref: No.HP/107/229/2816

April 07, 2007

Subject: VACANCY CIRCULAR

Dear Sir,

Applications are invited from internal candidates for the post of Script Producer (Group-5) under re-designation policy approved by the Board of Directors on 23/24.12.1998. The education qualification required for the post is as under:-

“Masters degree in any subject at least in 2nd Division”

2. Applications of those employees, who possess the required qualification and wish to be considered for the above post, should reach the undersigned not later than 23.04.2007. Applications received after this date will not be entertained.

Yours faithfully,
Sd/-
(MUHAMMAD TARIQ CHEEMA)
Controller
Administration & Personnel

9. The case of the petitioner precisely is that though pursuant to the internal vacancy circular, he had applied for the post of Script Producer (Pay Group V) under the re-designated policy, however, respondent No.3, despite not having eligibility for the post, on the basis of nepotism and favoritism was appointed Script Producer vide order dated 11.03.2008, thus, the petitioner has been discriminated upon and resultantly impugned the said order in the present

proceedings. In this regard, para-9 of the petition, for the sake of convenience, is reproduced as under:-

“9. That according to Headquarters Vacancy Circular No. HP/107/2816, dated 07.04.2007, and internal vacancy circular No.KTV/ADMN/41-C/2967, dated 12th April 2007, the Petitioner applied for the said post of group V Script Producer under re-designated Policy, but unfortunately without calling any interview and violating condition of Administrative experience in production, one Mr. Sikandar Ali Rindh, working as light man in Group III, Camera Department having no nexus with the Script Section, without disclosing the true picture and facts to the then M.D.P.T.V. Mr. Sikandar Ali, was re-designated to the post of Script Producer, Group V with effect from 10.3.08 at TV Centre, Karachi, under redesignated Policy, for a period of six months on probation. (Photo stat copy of impugned order dt.11.3.08 is attached and marked as annexure “E”).

10. The questions which require determination in the present case are that (i) whether the present petition, filed by the petitioner being employee of PTV seeking his promotion to a higher grade, by virtue of the fact that the PTV does not have statutory service rules, is maintainable And (ii) if so whether the petitioner is entitled to the relief claimed therein.

11. As regards the first question, it may be noted that after the judgment of the Hon’ble Supreme Court in the case of *Pakistan Defence Officer’s Housing Authority & others vs. Col. Syed Jawaid Ahmed*(2013 SCMR 1707), now it has been settled that where conditions of service of employees of a statutory body are not regulated by Rules/Regulations framed under the Statute but only Rules or Instructions issued for its internal use, any violation thereof cannot normally be enforced through writ jurisdiction and they would be governed by the principle of 'Master and Servant'.

12. The Pakistan Television Corporation Limited (PTVC) is not a statutory corporation but incorporated as a Public Limited Company registered under Companies Act 1913, and it has own service rule namely Pakistan Television Corporation Limited Service Rules 1978, published in the Gazette of Pakistan (Extraordinary) on May 25, 1978, it has consistently being followed as a policy since 1977-78.

13. From the perusal of the record, it appears that in the Vacancy Circular dated 07.04.2007, a clear direction was given to the regular employees of PTV, who had possessed the required qualification and wished to be considered for re-designation to the post of **Script Producer (Group-5)**, their application was required to be filed in duplicate along with bio-data **not later than 20th April, 2007**, for onward submission to PTV-Headquarters office, Islamabad. There is nothing on record, which could show that petitioner had applied for the post of Script Producer under re-designation policy before the cut of date mentioned in the said vacancy circular i.e. 20.04.2007. The record further shows that the petitioner had applied for the post of Script Producer, first time on 15.03.2008 after respondent No.3, Sikandar Ali had been re-designated to the post of Script Producer (Group-5) under re-designation policy vide Office Order bearing Ref.No.HP-107/152-B/1773 dated March 11, 2008. The record also shows that the application of the petitioner was refused by PTVC through its letter bearing No. HP/P.F/P-2/2028 dated 09.08. 2008. Relevant portion of the said letter is reproduced as under:

“This has reference to the application dated 16.0-6.2008 of Mr. Muhammad Ramzan Mastoi, Copyist (Group-3) Holding (Group-5) of your centre requesting for redesignation to the post of Script Producer (Group-5).

2- This is to inform that as per policy re-designation can be done either by circulating the vacant induction level post among internal candidates or any other method MD so desires. Presently, we have no vacant post of Script Producer (G-5) all over PTV. Therefore, it is not possible to consider his request at this stage.”

Underlining is to add emphasis

14. The learned counsel for petitioner in support of his contention regarding the maintainability of petition also referred to an unreported order dated 21.08.2016 passed by apex Court in Civil Appeal Nos.185-K and 186-K of 2015 in which Para-8 is relevant which is reproduced as under :-

“8. We, therefore, are of the considered view that issue in hand is fully covered by para-50 of the judgment referred to hereinabove, which provides that an aggrieved person can invoke the constitutional jurisdiction of the High Court against a public authority if he satisfies that the act of the authority is violative of the service Regulations even if they are non-statutory.”

In the case in hand the petitioner has not approached for violation of any service rules but the entire focus is on re-designation policy and redesignation of respondent No.3 from the post of lightman to script writer who claims to be M.A. LLB at the same time there is no dispute that the petitioner applied for redesignation in terms of redesignation policy after the cutoff date hence his application was not considered by the competent authority. It is also not purely a writ of quo warranto but substantial relief has been claimed by the petitioner for his own. It is also a matter of record that the petitioner has been retired during the pendency of this petition. We have also found nothing illegal in the act of redesignation of respondent No.3. Accordingly this petition is dismissed with no order as to cost.

Karachi;
Dated:

JUDGE

JUDGE