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ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Constt: Petl: No. D- 1232 of 2015.

Date	Order with signature of Hon'ble Judge
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For orders on maintainability.

05.3.2018.

Mr. Ghulam Dastaghir Shahani, advocate for the petitioner.

Mr. Abdul Hamid Bhurgri, A.A.G a/w Mr.Naimatullah Bhurgri, State Counsel.

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This petition is fixed for orders on the point of maintainability.

Learned counsel for the petitioner has argued that this petition is maintainable because it is a right of the petitioner to be paid salaries against the services he is rendering with the respondents. In support of his contention, he has relied upon the cases reported in 2011 SCMR 1320, PLD 1989 S.C 26, PLD 2003 S.C 724 and 2012 PLC (S.C) 124.

On the other hand, learned A.A.G has submitted that the jurisdiction of this Court is barred under Article 212 of the Constitution of Islamic Republic of Pakistan as the issue of release of salaries of a civil servant pertains to the terms and conditions of service and is amenable to the Service Tribunal.

We have considered submissions and taken guidance from the case law cited at the bar.

A perusal of the petition reflects that petitioner has claimed to be a civil servant working as Junior Clerk in Education Department in District Kashmore since 2007. His case is that since April, 2012 his identity has been closed resultantly his salary has been stopped. He in the said backdrop has prayed for reopening of his I.D No.10728484 and release of his salaries.

In our view, the issue of release of salaries of a civil servant pertains to terms and conditions of his/her service and therefore, the jurisdiction of this Court is explicitly barred under Article 212 of the



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Constitution of Islamic Republic of Pakistan, 1973. Reliance in this regard could be placed on the cases of PUNJAB TEXTBOOK BOARD, LAHORE and others V. MUHAMMAD AKHTAR SHERANI and others (PLD 2001 Supreme Court 1032) and GOVERNMENT OF SINDH THROUGH SECRETARY EDUCATION & LITEECY DEPARTMENT & OTHERS V. NIZAKAT ALI & OTHERS (2011 SCMR 592). In both the said cited cases, involving a question of non-payment of salaries to the civil servants, the Hon'ble Supreme Court of Pakistan has held that the petition relating to the non-payment of salaries pertaining to the terms and conditions of a civil servant is barred under Article 212 *ibid*. In case of GOVERNMENT OF SINDH THROUGH SECRETARY EDUCATION & LITEECY DEPARTMENT & OTHERS V. NIZAKAT ALI & OTHERS (*supra*), the Hon'ble Supreme Court of Pakistan has observed that:-

"2.As far as, objection raised by learned Additional Advocate General Sindh with regard to jurisdiction of the High Court to decide the case under Article 199 of the Constitution pertaining to the terms and conditions is concerned, it seems to be valid prima facie, but in the instant case order has been implemented and it would create hardship for the Respondents if any adverse order against them is passed. However, it is observed that in future the High Court may determine before entertaining such writ petitions as to whether the jurisdiction to decide such cases is barred under Article 212 of the Constitution, particularly when the matter pertains to terms and conditions of the employees."

Following the dictum laid down by the Honourable apex Court as above, we are of the considered opinion that this petition is not maintainable, which is accordingly dismissed in limine alongwith all other listed applications.