JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT,
ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No.2176 of 2020

Wasim-ul-Haq

Versus

International Islamic University, Islamabad, etc.

Petitioner By	:	Hafiz Farman Ullah, Advocates.
Respondent By	:	Mr.Rehan-ud-Din Golra, Advocate
Date of Hearing	:	30.03.2022

ARBAB MUHAMMAD TAHIR, J:The instant writ petition has been filed with the following prayer:-

> *"To set aside office order dated 10.02.2020, memorandum dated 30.06.2020, office order dated 02.10.2013, order dated 29.08.2013 to the extent of promotion of respondent No.3 and direct the respondent No.1 to promote him from Junior Classifier/Cataloguer (BS-14) to Junior Classifier/ cataloguer BS-16 w.e.f. 22.12.2009 with all back benefits in the light of office order dated 31.07.2009 and to take action against the delinquents on account of their failure to submit the case of the petitioner before the Promotion Selection Committee."*

2- The petitioner on the strength of Office Order dated 31.07.2009 prays for a direction to the respondents to promote him from the date of his eligibility. The eligibility criteria as per said Office Order is to the effect that *"the Junior Classifier/Cataloguer (BPS-14) will be enjoying 50% promotion quota to the post of Assistant Librarian BS-16 with the re-designation as Classifier/Cataloguer (BPS-16) with the* ***condition that the person concerned must fulfill the prescribed requirement of BS-16 for direct recruitment***. "

3- The claim of having requisite threshold of MLIS Degree on 22.12.2009 has been replied by the respondents-department in terms that two senior most employees were

promoted against the sanctioned posts while the petitioner on availability of the sanctioned post was promoted on 06.02.2020 and, therefore, his claim of promotion from the date as prayed for cannot be acceded to for want of sanctioned post at the relevant time and for lacking minimum length of service at the relevant time.

4- In addition, it has also been asserted that the minimum length of service for promotion to the post of Classifier/Cataloguer (BPS-16) is 5 years' service in IIU. The petitioner was inducted in the service in 2008 and qualified MLIS in 2010, thus did not complete required length of service in 2010 i.e. 5 years as Junior Classifier/Cataloguer (BPS-14).

5- The claim of the petitioner and the response thereto put forth by the respondent-IIU give rise to factual controversy, not permissible while exercising constitutional jurisdiction in terms of Article 199 of the Constitution. The petitioner has already been considered and had also availed remedy of appeal/representation which was duly considered and answered in negative.

6- On the question of maintainability, it is noticed that earlier Writ Petition No.1674 of 2020 filed by the petitioner was dismissed as non-maintainable vide order dated 26.06.2020 wherein it has been held that:-

> *" The Division Bench of this Court, vide judgment dated 21.03.2019 passed in I.C.A No.67 of 2019, titled "Dr. Sana Ullah v. The International Islamic University" has already held that since the service rules of International Islamic University, Islamabad are non-statutory, a writ petition cannot be filed by the employee of the said University to agitate a matter relating to terms and conditions of service, therefore, this Court cannot issue a direction to the International Islamic University, Islamabad in exercise of its jurisdiction under Article 199 of the Constitution."*

7- Furthermore, this Court in the case of **"*Shahjahan Azhar v. International Islamic University & 3 others*" (WP No. 804 of 2014)** answered the objection on maintainability of writ petition against the respondent-university in affirmative by placing reliance upon the reported judgment of this Court

in the case of ***Dr. Shumaila Sajjad v Higher Education Commission and others*** **(2020 PLC (CS) 796-Islamabad)** and the view expressed by the learned Division Bench of this Court in **Intra Court Appeal No. 341 of 2021 '*Dilshad Versus International Islamic University through its Rector, Islamabad and 2 others.'***.

8- As the instant writ petition is not maintainable, it would not be just to lay any comments upon merits of the case,therefore, it is accordingly **dismissed**as not maintainable.

(ARBAB MUHAMMAD TAHIR*)*
JUDGE

*A.R., Ansari**

Announced in open court on ____.04.2022.

JUDGE.