JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No. 1027 of 2022

Muhammad Farid Aslam

Versus

Bahria University, etc.

Date of Hearing	:	11.05.2022.
Petitioner by	:	Arshad Ali, Advocate
Respondent by	:	Muhammad Shafiq-ur-Rehman Dab, Advocate

ARBAB MUHAMMAD TAHIR, J. Through the instant writ petition, petitioner impugns letter dated 06.02.2018, issued by the respondent No.2 *(Director Human Resource Management Bahria University, Islamabad*) whereby with the assent of the competent authority he was reinstated in service as "*Storeman*" with effect from 19.01.2018 without back benefits. For ease of reference, contents of impugned letter are reproduced hereunder:-

> *"The competent authority has accorded approval to reinstate Mr. Fareed Aslam, Storeman for service in Bahria University Islamabad Campus w.e.f. 19 January 2018 with pay package as he was drawing at the time of release. However, he is entitled for 1 x yearly increment of July 2017 and Adhoc Allowance of 2017 @ 10% of Basic Pay as Appellant Committee has allowed the continuity of his service without arrears.*
> *2. The yearly service extension in respect of the subject individual be renewed subject to satisfactory performance and medical fitness."*

2. Precisely, relevant facts are that the petitioner after retirement from the service of the Pakistan Navy joined the respondent No.1 (Bahria University) as Storeman-Clerk on 21.07.2008. Subsequently, after about 8 years he was removed

from service on 19.11.2016. The petitioner then preferred a representation against the order of his removal before the Competent Authority praying for reinstatement and finding no response, filed Writ Petition No. 3569/2016 before this Court wherein respondents were directed for early decision of the pending representation. Ultimately, petitioner was reinstated in service vide impugned letter dated 06.02.2018 but without back benefits, hence instant petition.

3. Learned counsel for the petitioner while reiterating stance contained in the petition further asserted that reinstatement itself is recognition of the fact that services of the petitioner would be construed in continuance therefore, it was incumbent to extend the monetary benefits for the intervening period as well as petitioner was held entitled to reinstatement and the expulsion was not due to his fault and that petitioner since superannuated and therefore, the benefits form part of his pension emoluments which is a vested right.

4. On the other hand, learned counsel for respondent-department besides objecting upon maintainability of the instant petition also defended the impugned letter on merits as well. In addition, question of laches and availability of alternate officious remedy had also been raised.

5. Heard, record examined.

6. Record reveals that petitioner joined the respondent department as “Storeman” on contract basis with effect from 21.07.2008. Subsequently, he was released from service on 29.07.2016 along with others. By that time, petitioner had 08-Years and 04-Months Service at his credit.

7. Record further reveals that petitioner along with his counterparts assailed their respective release orders in appeal upon which the respondent department constituted an “Appellate Committee” for decision of said appeals. The Appellate Committee after thorough examination and deliberations, dismissed all the appeals except that of the petitioner who was then reinstated in

service vide Letter dated 06.02.2018, being impugned through the instant writ petition.

8. It is quite evident that after reinstatement, petitioner in obedience to said order, joined the service and opted not to file a Review Petition available to him in terms of Section 33 of the Bahria University Ordinance, 2000, therefore, in such state of affairs, when statutory remedy of Review Petition was available but not was availed and the petitioner joined the service, this aspect itself shows his acquiesces to impugned action and thus his action, on the face of it, it hit by the principle of estoppel.

9. Another important aspect that emerged from record is that impugned letter was issued on 06.02.2018 while petitioner filed the instant writ petition on 13.03.2021 i.e. after about three years; therefore, there is inordinate delay in seeking discretionary relief in terms of Article 199 of the Constitution as the petition is hit by laches.

10. The intervening period inter se release and reinstatement is about 01-Year and 06-Months. The petitioner alleges that no benefits for the said period had been allowed to him despite the fact that he was reinstated in service and was not expelled on account of any misconduct or on any other severe allegation. This contention is completely misconceived as by the impugned letter he was not only reinstated but was also held entitled to yearly increment of 2017 in addition to adhoc allowance of the said year which is 10% of the basic pay. For the intervening period, yearly increment and adhoc allowance was disbursed to the petitioner, therefore, it cannot be said that no benefits pertaining to the intervening period were extended to the petitioner.

11. Lastly, service of the petitioner with respondent department was contractual in nature, their relationship was that of master and servant, rules of the respondent-department retain non statutory character and writ petition is also not maintainable by any of its employees on the matters relating to terms and conditions of services. Reliance is placed upon judgment of this Court dated 13.09.2021 passed in Writ Petition No. 1614 of 2018,

titled "***Khalid Masood and others v. Bahria University through its Registrar and others***".

12. In view of above, instant writ petition lacks merits, and is also not maintainable. Consequently, it is **dismissed**.

(ARBAB MUHAMMAD TAHIR)
JUDGE

//Kamran//