ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No. 1479 of 2022

Tahir Anwar
Vs
FOP, etc.

Serial No. of order/ proceedings	Date of order/ proceedings	Order with signatures of judge, and that of parties of counsel, where necessary.
	27.04.2022	Mr. Wasiq Hussain Malik, Advocate.

Through the instant writ petition, petitioner has prayed for the following relief:-

> **"It is therefore respectfully prayed that the respondents be directed to complete and finalized the pending process of extension in service of petitioner through duly notified performance evaluation committee as per law in fair manner with earliest possibility and impugned office order dated 13.04.2022 and process of hiring through vacancy announcement for the National Project Coordinator in National Program for Improvement of Water Courses in Pakistan Phase II May graciously be set aside being without authority, illegal malafide, arbitrary, unjustified, against the law of land and also violative of the norms of equality and justice and petitioner may kindly be allowed to continue the office till finalization of extension process.**
> **If is further prayed that the impugned office order dated 13.04.2022 and process of hiring through Vacancy Announcement for the National Project Coordinator in National Program for Improvement of Water Courses in Pakistan Phase II may kindly be declared as illegal without lawful authority being discrimination and having no effect upon the rights of the petitioner and be graciously suspended till final decision of this writ petition and allow the petitioner to continue the office till finalization of extension process.**
> **Any other relief which this Hon'ble Court deem fit and just may also be granted."**

2- Precisely, the case set-up by the petitioner is that he was appointed as National Project Coordinator-NPS in PSP-11 equal to BS-21 vide Memorandum dated 15.01.2020 on

contract basis under the project titled "*National Program for Improvement of Water Courses of Pakistan, Phase-II*" in the Ministry of National Food Security and Research, initially for a period of two years, extendable further on yearly basis subject to satisfactory performance till the completion of the project as per Clause-3 of the said Memorandum. According to the petitioner, his performance had been outstanding throughout which was also recognized by the respondents but the process of performance evaluation through the Committee for extension of contract had been delayed with mala fide intentions and that in derogation to the rules, look-after/current charge of the post-in-question had been entrusted to respondent No.5 and further process of fresh recruitment has also been initiated. It is the stance of the petitioner that the entire proceedings are not only violative of terms and conditions of his contract/Memorandum dated 15.01.2020 but also against provisions of ECNEC approved PC-1 of the project and the instructions/O.Ms issued by the Government from time to time.

3- Learned counsel relied upon case of **"Dr. Ali Bat Khan v. Federation of Pakistan through Secretary, Establishment Division and others" (2019 PLC (C.S.) 1391)**.

4- Heard. At the inception, it is essential to mention that the services of the petitioner were governed by a contract which cannot be got enforced through a constitutional petition under Article 199 of the Constitution being not a vested right as laid down by the Hon'ble Apex Court in the case of **"Naureen Naz Butt v. Pakistan International Airlines"** (**2020 SCMR 1625**) in following terms:-

> **"Thus, the establish law is that a contract employee, whose period of contract employment expires by afflux of time, carry no vested right to remain in employment of the employer and the Courts cannot force the employer to reinstate or extend the contract of the employee."**

5- In this respect, reference may also be made to case law reported as **2013 SCMR 304, 2005 SMCR 642 and 1997 PLC CS 284.**

6- Another important aspect of the matter is that under clause 11 *'Termination of Contract'* of Contract of the petitioner/Memorandum dated 15.01.2020, it was stipulated that the appointment during the period of contract shall be liable to termination on 30 days' notice on either side or payment of basic pay in lieu thereof, without assigning any reason. In presence of such specific clause, even in case of termination of such contract, the remedy available is to claim damages even in case of wrong dismissal as laid down by the by the apex Court in the case of **"Federation of Pakistan through Secretary Law Justice and Parliamentary Affairs v. Muhammad Azam Chatha" (2013 SCMR 120**). Furthermore, as per the notification dated 15.01.2020 the services of the petitioner were hired for only 02 years, and the same stands expired on 15.01.2022.

7- In order to know reasons of non-extension of contract and recommendations of the Committee, petitioner had written a letter to respondent No.2 on 14.04.2022 and it is his stance that non-extension of his contract and the delay in evaluation of his performance by the Performance Evaluation Committee is tainted with malafide on the part of respondents. Suffice to say, mala fide is a question based upon facts and can only be decided after recording evidence as laid down by the Hon'ble apex Court in the case of **Tabassum Shahzad v. I.S.I. and others** (**2011 SCMR 1886**).

8- Even in the case of **"Dr. Ali Bat Khan**", referred to by the learned counsel for the petitioner, this Court observed in Paragraph-25 that "*there is no law which provides that a contract appointment made against a project post will be extended from time to time for as long as the project takes to*

complete." In addition, the petitioner could compete for appointment against post-in-question, process which has been initiated through the impugned advertisement.

9- The learned counsel remained unable to highlight any deviation from the law or rules on the subject in issuing Office Order dated 13.04.2022 and in the process of recruitment initiated through vacancy announcement. Even otherwise, it is settled principle that this Court cannot interfere in the policy matters being exclusively falling within the ambit of competent authority.

10- In view of above, instant writ petition fails and accordingly **dismissed in limine**.

(ARBAB MUHAMMAD TAHIR)
JUDGE

//*Kamran*//