JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

WRIT PETITION NO. 948 OF 2025

BAHRUL AMIN

Versus

FEDERATION OF PAKISTAN THROUGH SECRETARY LAW,
AND OTHERS.

Petitioner by : Barrister M. Usama Rauf.

Respondents by : Raja Zamir ud din Ahmed, AAG.
Mr. M. Arshad, Assistant Director, FPSC.
Malik Muhammad Khalid, Advocate for NADRA.

Date of Hearing : 08.09.2025"**A**. Declare that the CSS Competitive Examination Rules, 2019 *ultra vires*

MUHAMMAD AZAM KHAN, J. Through the instant Constitutional Petition, the Petitioner has made the following prayer:-

the Constitution and the law.

B. Declare Rule 7 of the CSS Competitive Examination Rules, 2019 violative of the Constitution and the law.

C. Declare that the Chairman cannot make Rules to regulate the statutory functions of the Commission on his own volition and that it is the Commission's function to regulate/oversee competitive examinations.

D. Direct that the Rules for the Competitive Examinations for CSS be framed after meaningful/constructive say/role/advice of the Commission."

2. As stemmed from the above prayer, the Petitioner seeks a declaration to the effect that the CSS Competitive Examination Rules, 2019 are *ultra vires* the Constitution and that the Chairman of the FPSC, in his individual capacity, has no authority to frame Rules regulating the statutory functions of the Commission.

3. In order to appreciate the contention of the Petitioner, a report was sought from the Federal Public Service Commission (FPSC).

4. Learned Assistant Attorney General, on instructions from the Commission, at the very outset, questioned the maintainability of the petition on the grounds that the Rules under challenge had been duly approved by the Federal Government; and the petition, as framed and worded, suffers from non-joinder and mis-joinder of necessary parties.

5. The FPSC is an independent statutory body deriving its validity from Article 242 of the Constitution. For ease of reference, Article 242 is reproduced below: -

> *"**242. Public Service Commission. (1)** [Majlis-e-Shoora (Parliament)] in relation to the affairs of the Federation, and the Provincial Assembly of a Province in relation to the affairs of a Province may, by law, provide for the establishment and constitution of a Public Service Commission.*
>
> *[(1A) The Chairman of the Public Service Commission constituted in relation to the affairs of the Federation shall be appointed by the President [on the advice of the Prime Minister]*
>
> *[(1B) The Chairman of the Public Service Commission constituted in relation to affairs of a Province shall be appointed by the Governor on advice of the Chief Minister.]*
>
> ***(2)** A Public Service Commission shall perform such functions as may be prescribed by law."*

6. Pursuant to Article 242, the FPSC Ordinance, 1977, was promulgated. Section 3 thereof defines the composition of the Commission, while Section 7 enumerates its functions. These provisions, *inter alia*, authorize the Commission to conduct examinations, advise the President on recruitment policies, and hold promotional examinations as may be specified by the Federal Government. Both Sections are reproduced below:

> ***"3. Composition of the Commission: -***
>
> ***(1)*** *There shall be a Federal Public Service Commission.*
>
> ***(2)*** *The President shall by regulations determine –*
>
> *(a) the number of members of the Commission and their conditions of service; and*

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(b) the number of members of the staff of the Commission and their conditions of service:

Provided that, the salary, allowances and privileges of a member of the Commission shall not be varied to his disadvantage during his term of office.

(3) *The Chairman and other members of the Commission shall be appointed by the President.*

(4) *The Commission shall have –*

(a) not less than one half of the members who shall be persons having held office in the service of Pakistan in basic pay scale 21 or above post:

Provided that no serving Government servant shall be appointed a member.

(b) at least one member each from –

(i) retired judges of the superior judiciary;

(ii) retired officers not below the rank of Major-General or equivalent of the Armed Forces; and

(iii) women and the private sector possessing such qualifications and experience as the Federal Government may by rules prescribe.

(5) *No proceedings or act of the Commission shall be invalid merely on the ground of the existence of a vacancy in, or a defect in the constitution of, the Commission."*

"7. Functions of the Commission. -

(1) The functions of the Commission shall be –

(a) *to conduct tests and examinations for recruitment of persons to All-Pakistan Services, the civil services of the Federation and civil posts in connection with the affairs of the Federation in basic pay scales 16 and above or equivalent;*

(1a) The recruitment to the post in basic pay scale 11 to 15 made by any authority or person on or after 28th May 2003, other than through the Commission, shall, notwithstanding any provision of this Ordinance or any other law, rule, notification or any order, decision of judgment of any court or forum, be deemed to be, and always to have been, validly made, taken or done and shall not be called in question in any court or forum or any ground whatsoever.

(b) to advise the President –

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> *(i) on matters relating to qualifications for and method of recruitment to, services and posts referred to in clause (a);*
>
> *(ii) on the principles to be followed in making initial appointments to the services and posts referred to in clause (a) and in making appointments by promotion to posts in BS 18 and above and transfer from one service or occupational group to another; and*
>
> *(iii) on any other matter which the President may refer to the commission; and*
>
> ***(c)** to hold examinations for promotion for such posts as the Federal Government may, from time to time, by notification in the official Gazette, specify.*
>
> ***Explanation.** – In this section, "recruitment" means initial appointment other than by promotion or transfer."*

In the light of the above provisions, the FPSC framed the CSS Competitive Examination Rules, 2019.

7. The report furnished by the Commission further reveals that the vires and validity of the CSS Competitive Examination Rules, 2019 have already been subjected to judicial scrutiny before the august Supreme Court, as well as before the Lahore High Court and this Court. On each occasion, the Rules were upheld as having been lawfully framed and duly approved by the Federal Government. This Court itself, while adjudicating a similar question in F.A.O. No. 31 of 2017, had unequivocally held that the Impugned Rules do not suffer from any illegality or constitutional infirmity. In the presence of such authoritative pronouncements, the matter cannot be re-agitated merely by altering the form of the relief sought.

8. The doctrine of *res judicata*, which is firmly embedded in our jurisprudence, operates as a complete bar to the re-litigation of issues already settled by competent Courts. Entertaining the present petition would amount not only to disregarding binding precedent but also to unsettling a matter conclusively determined up to the level of the Apex Court.

9. In light of the foregoing analysis, this Court is constrained to hold that the grievance raised by the Petitioner is misconceived and devoid of substance. The challenge to the CSS Competitive Examination Rules, 2019 does not withstand

constitutional or legal scrutiny, particularly when the august Supreme Court has already affirmed their validity. This Court cannot sit in appeal over what has been conclusively adjudicated by superior forums. Consequently, the instant petition is barred by the principle of *res judicata* and fails on merits as well. Accordingly, the petition in hand is **dismissed**.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the open court on _____.

JUDGE

Approved for Reporting
Blue Slip added.

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