ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No. 376 of 2014

Ghulam Muhammad Mehdi

Versus

Federation of Pakistan, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	29.06.2022	Mr. Jam Khursheed Ahmed, Advocate for petitioner. Mr. Misbah Gulnar Sharif, Advocate for respondent. Syed Nazar Hussain Shah, AAG.

Precisely, the case setup by the petitioner is that he joined the respondent/CDA in the year 2008 as Inspector and at the relevant time he had three years' active practice as an Advocate at his credit; that the CDA Board vide its decision dated 12.07.2012 approved award of "Law Graduate Qualification **Allowance**", at the rate of Rs.15000/- per month with effect from 12.07.20212 and pursuant thereto, office order dated 02.04.2013 was issued; that the petitioner being eligible and qualified applied for the provision of the Allowance in the light of Board decision dated 12.07.2012 and office order dated 02.04.2013 but his request was turned down on the ground that the allowance is only meant for officers of BS-17 and above.

2. The petitioner further maintained that after refusal of his request, he along with other colleagues submitted an application through proper channel which, after due process, was approved by the Chairman CDA vide office order dated 06.06.2013 whereby he along with his colleague namely Zaheer was allowed benefit of the allowance w.e.f. 12.07.2012.

3. The petitioner further asserted that thereafter bill for the payment of the allowance along with arrears amounting to Rs.102097/- was submitted to the respondent No.3 (Director Accounts CDA) who only issued allowance of Rs.15000/- for the month of July, 2013 by considering it a fresh bill and the monthly allowance was then added in his monthly salary and pay slip as well. According to the petitioner, he requested the respondents many times for the payment of arrears as claimed but not only his request was turned down, the monthly allowance, being disbursed had also been stopped and discontinued which constrained him to file the instant writ petition.

4. The learned counsel for the petitioner while reiterating the grounds taken in the memo of the petition argued that the benefit in terms of allowance, once approved/granted and had taken effect cannot be taken away particularly when the petitioner fulfills the prescribed eligibility criteria and was also held eligible as reveals through the office order dated 06.06.2013. According to the learned counsel, the petitioner had been paid the monthly allowance but it was subsequently discontinued in arbitrary manner and that the distinction/justification being pressed is uncalled for and arbitrary as at the time of holding the petitioner eligible along with his counterparts, all the aspects were taken into consideration.

5. On the other hand, learned counsel for respondent/CDA repelled the above submissions by contending that the stance taken by the petitioner is misconceived as the allowance is only meant for permanent employees of the Law Wing while the posting of the petitioner in the said department had been on attachment basis and on verification, the disbursement of the allowance was stopped. The learned counsel further argued that services of the petitioner are governed by the CDA Employees Service

Regulations, 1992 (Regulations 1992) wherein remedy of appeal/representation is provided but the petitioner had not availed the same and that the instant writ petition is not maintainable.

6. Heard, record perused.

7. It is an admitted position that services of the petitioner are governed by the Regulations 1992 which retains non-statutory character and, thus, bars a petition in terms of Article 199 of the Constitution relating to terms and conditions of service as held by this Court in the case of **Rafaqat Ali versus FOP etc. (WP 341-2014**) by following the wisdom laid down by the Hon'ble apex Court in the case of **M.H.Mirza (1994 SCMR 1024**). The judgment in the case of **M.H.Mirza** had consistently been followed by this Court like in cases WP 3318/2021, WP 2722/2020 and WP 3377/2021. It is, therefore, accordingly held that the instant writ petition emanating from a dispute relating to terms and conditions of service, governed by the Regulations 1992 is not maintainable.

8. Another important aspect of the matter is that alternate efficacious remedy in the form of appeal/representation is available to the petitioner as recognized by the respondent/CDA in parawise comments under reply (III) of GROUNDS in terms that remedy of appeal/representation is provided to the petitioner which has not been availed by him as per Regulation 20.03 of the Regulations 1992. Therefore, in presence of alternate efficacious remedy, direct recourse in terms of Article 199 of the Constitution is not available to the petitioner.

9. In view of above, as it is held that the instant writ petition is not maintainable and that the petitioner retains alternate efficacious remedy of appeal/representation in terms of Regulation 20.03 of the Regulations 1992, there left no need

to dilate upon merits of the case as it may result in causing prejudice to the case of either side. Resultantly, instant writ petition is accordingly **dismissed**.

(ARBAB MUHAMMAD TAHIR)
JUDGE

Announced in open Court on ____07.2022

JUDGE

//*Kamran*//