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JUDGMENT SHEET

ISLAMABAD HIGH COURT, ISLAMABAD, JUDICIAL DEPARTMENT

I.C.A. No.320/2018
Nadir Abbas Badar
vs.
Pakistan Agricultural Research Council, etc.

Appellant by:	Mr. Muhammad Bashir Khan, Advocate.
Respondents by:	Mr. Saqlain Haider, A.A.G. Mr. Muhammad Zahid Akram, A.D. (Legal), PARC.
Date of Decision:	15.01.2019.

MOHSIN AKHTAR KAYANI, J: Through the instant intra court appeal, the appellant has called in question the judgment dated 29.06.2018, passed by the learned Single Judge in Chambers in W.P. No.2496/2018.

2. Brief facts referred in the captioned ICA are that appellant is permanently residing in Islamabad since his birth and had been appointed as Naib Qasid on contract basis in the Pakistan Agricultural Research Council/respondent on 15.05.2018, however soon after his appointment, the respondent department issued office order dated 19.06.2018, whereby appointment of the appellant has been cancelled, against which the appellant preferred

W.P. No.2496/2018, though the same was dismissed *in limine* by the learned Single Judge in Chambers vide impugned judgment dated 29.06.2018. Hence, the instant appeal.

3. Learned counsel for appellant, *inter alia*, contends that passing of the impugned office order dated 15.05.2018 is violation of the principle of *audi alteram partem*, which fact has not been appreciated by the learned Single Judge in Chambers; that the appellant has been appointed in the respondent department through competitive and transparent manner; that the appellant

was born in Islamabad and since his birth he has been living in Islamabad; that once an appointment letter is issued, then subsequently it cannot be withdrawn according to principle of *locus poenitentiae*, which aspect has not been appreciated by the learned Single Judge in Chambers, therefore, the impugned judgment dated 29.06.2018 may kindly be set-aside and office order dated 19.06.2018 issued by the respondent department may also be declared illegal and against the law.

4. Conversely, Asst. Director PARC contends that petitioner has not fulfilled the criteria mentioned in the advertisement for the post of Naib Qasid wherein it was specifically provided that the names of cities wherein total posts of Naib Qasid are 30, out of which 24 belongs to Islamabad, 1 DIG, 4 Karachi and 1 Peshawar with the term "quota muqami" and as such, when it revealed that appellant is a permanent resident of district Rawalpindi, his order of appointment was recalled.

5. Arguments heard, record perused.

6. The perusal of record reveals that the appellant had applied for the post of Naib Qasid in the Pakistan Agricultural Research Council which was advertised on 23.07.2017 and after competitive process, he was given appointment letter on 15.05.2018, but the same was withdrawn vide letter dated 19.06.2018 on account of non provision/non possessing a local domicile as required in the advertisement published on 23.07.2017.

7. Before going into the merits of the case, the appellant had been confronted regarding maintainability of his writ petition on non-statutory rules, and as a result whereof, his writ petition was dismissed.

8. Be that as it may, we have gone through advertisement dated 23.07.2017, which clearly specifies 24 seats for candidates holding Islamabad domicile as in the next column "کوٹہ مقامی" was referred. This evidently demonstrates

that only those persons are eligible who have domicile of Islamabad and are native of Islamabad, whereas the appellant conceded before the Court that he is permanent resident of Rawalpindi as per the domicile and his permanent address in the CNIC is "گاہی سیداں، ڈاکخانہ سروبہ، تحصیل و ضلع، راولپنڈی", but he studied in Islamabad. However, the learned Single Judge in Chambers has dismissed the writ petition of the appellant while relying upon the judgment of the apex Court passed in *C.Ps. No.584 to 590 of 2018 (Riaz Hussain vs. PARC)* dated 16.06.2010, in which the apex Court has declared that service rules of the employees of PARC are non statutory.

9. In view of above, we are in agreement with the judgment passed by the learned Single Judge in Chambers and the appellant has failed to justify any of his grounds on any legal principle, whereas no illegality has been observed by this Court in the impugned judgment, therefore, the instant intra court appeal is not maintainable and the same is hereby ***DISMISSED***.

(AAMER FAROOQ)
JUDGE

(MOHSIN AKHTAR KAYANI)
JUDGE

Khalid Z.

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