JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P.No.1328 of 2019
Ijaz Ahmed Quraishi
Versus
The Secretary, Ministry of Postal Services and others

Date of Hearing:	**05.05.2020 &18.05.2020**
Petitioner by:	**Mr. Ghulam Mustafa Qureshi, Advocate,**
Respondents by:	**Mr. Muhammad Nadeem Khan Khakwani, learned Assistant Attorney-General, Mr. Nadeem Arshad, S.O. Establishment Division and Mr. Muhammad Yasin, Assistant Superintendent, Ministry of Postal Services.**

MIANGUL HASSAN AURANGZEB, J:- Through the instant writ petition, the petitioner, Ijaz Ahmad Qureshi, impugns the order dated 29.01.2019 issued by office of the Director General, Pakistan Post (respondent No.4) whereby his representation seeking the upgradation of the post of Librarian (BPS-07) to Library Assistant (BPS-09) at the Postal Training Center, Lahore, was turned down.

2. Learned counsel for the petitioner submitted that on 29.08.1981, the petitioner was appointed as a Librarian (BPS-07); that subsequently the President of Pakistan approved the re-designation/upgradation of Librarians working in Federal Government Organizations; that the post of Librarian (BPS-07) was re-designated and upgraded as Library Assistant (BPS-09); that the benefit of re-designation and upgradation pursuant to the decision set out in the Education Division's O.M. dated 26.12.1985 was not given to the petitioner; that the petitioner's representation dated 20.02.2017 was turned down by the office of the Director General, Pakistan Post, Islamabad, vide impugned letter dated 29.01.2019; and that in the instant writ petition, the petitioner is seeking the same relief as was given by this Court to the petitioner in writ petition No.59/2012 vide judgment dated 13.04.2012. Learned counsel for the petitioner prayed for the writ petition to be allowed in terms of the relief sought therein.

3. On the other hand, learned Assistant Attorney-General submitted that the petitioner could not be given the benefit of upgradation since he had been appointed as a Librarian (BPS-07)

under the Rules for Recruitment to the post of Librarian (BPS-07) in the Postal Training Center under the Pakistan Post Office; that the said Rules were set out in Appendix-34 to Volume-IV of the Pakistan Post Office Manual; that since the petitioner was not appointed as a Library Assistant (BPS-09), the benefit of upgradation could not be given to him; that a Committee constituted by the Pakistan Post had denied relief to a similarly placed Librarian; and that the post of Librarian (BPS-07) in the Postal Training Center, Lahore is an isolated/solitary post and the incumbents of the said post have no prospect for promotion. Learned Assistant Attorney-General prayed for the writ petition to be dismissed.

4. I have heard the contentions of the learned counsel for the petitioner as well as the learned Assistant Attorney-General and have perused the record with their able assistance.

5. The record shows that on 29.08.1981, the petitioner was appointed against the post of Librarian (BPS-07) in the office of the Post Master General, Central Circle, Lahore. Admittedly, the petitioner's educational qualification is matriculation in second grade. It is an admitted position that the said appointment was made in accordance with the Rules for Recruitment to the post of Librarian (BPS-07) in the Postal Training Center under the Pakistan Post Office, which were set out in Appendix-34 to Volume-IV of the Pakistan Post Office Manual.

6. On 26.12.1985, the President of Pakistan approved the proposal in the Education Division's summary dated 02.01.1984 for *inter alia* the upgradation of the post of Library Assistant to BPS-09 provided the incumbent's educational qualification was matriculation with certificate in Library Science from institutions recognized and notified by the Ministry of Education. This policy decision was taken in order to standardize and rationalize the pay scales, qualifications and experience for Librarians working in the Federal Government Organizations. The said policy decision was contained in the Education Division's O.M. dated 26.12.1985 which is set out in Appedix-35 to Volume-IV of the Pakistan Post Office Manual.

7. The Education Division's said O.M. dated 26.12.1985 shows that all Ministries/Divisions/Departments were advised to initiate

action to re-designate/upgrade the existing professional/technical posts of Librarians and to amend their relevant recruitment rules so as to bring them in conformity with the provisions of the approved summary. Furthermore, the Ministries/Divisions/Departments were requested that while sanctioning upgradation of the existing posts, it should be clearly provided in sanction letter that upgradation of the posts would take effect from the date, the post is actually filled by a person in the higher grade. The mere fact that the said policy decision contained in the Education Division's letter dated 26.12.1985 had been made an Appendix to Volume-IV of the Pakistan Post Office Manual means that the benefit of upgradation had to be given to the deserving Librarians.

8. When the said policy decision was taken and made as an Appendix to the Pakistan Post Office Manual, the petitioner was serving as a Librarian (BPS-07). It is an admitted position that the post of Librarian (BPS-07) occupied by the petitioner was not upgraded by the Pakistan Post to the post of Library Assistant (BPS-09). Since the petitioner is a matriculate and was serving as a Librarian (BPS-07) when the said policy decision was taken and made a part of the Pakistan Post Office Manual, the petitioner had a legal right to be considered for appointment against the re-designated post of Library Assistant (BPS-09).

9. In essence, the petitioner in the instant case is not seeking the upgradation of the post which was occupied by him to the post of Library Assistant (BPS-09), but his appointment as a Library Assistant (BPS-09) on the basis of the policy decision for the upgradation of his post.

10. Although the petitioner has retired from service upon attaining the age of superannuation, he had submitted a representation for the upgradation of his post prior to his retirement. Furthermore, the petitioner is seeking the same very benefit as was given to a similarly placed employee of Pakistan Post vide judgment dated 13.04.2012 passed by this Court in writ petition No.59/2012. It is well settled that *"equal protection of law"* and *"equality before law"* means that all persons similarly placed should be treated alike. A party who does not litigate ought to be given the same relief/benefit

as a similar party who had litigated. Reference in this regard may be made to the following case law:-

(i) In the case of WAPDA Vs. Abdul Ghaffar (2018 SCMR 380), the Hon'ble Supreme Court held the respondents in the said case to be entitled to the same relief as had been granted to a number of similarly placed respondents by the Hon'ble Supreme Court a few years earlier.

(ii) In the case of Federation of Pakistan Vs. Ghulam Mustafa (2012 SCMR 1914), it was observed *inter alia* that the pensioners before the Court had to be treated at par with the pensioners in whose favour decisions had been given by the Hon'ble Supreme Court.

(iii) In the case of Hameed Akhtar Niazi Vs. Secretary, Establishment Division (1996 SCMR 1185), the following observations were made by the Hon'ble Supreme Court:-

> *"We may observe that if the Tribunal or this Court decides a point of law relating to the terms of service of a civil servant which covers not only the case of the Civil Servants who litigated, but also of other civil servants, who may have not taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the above judgment be extended to other civil servants, who may not be parties to the above litigation instead of compelling them to approach the Tribunal or any other legal forum."*

11. Law to the said effect has also been laid down in the cases of Tara Chand Vs. Karachi Water and Sewerage Board (2005 SCMR 499), Abdul Hameed Nasir Vs. National Bank of Pakistan (2003 SCMR 1030), and Government of Punjab Vs. Samina Parveen (2009 SCMR 1).

12. After having gone through the impugned order dated 29.01.2019 whereby the petitioner's representation for the upgradation of his post was turned down, I am of the view that the reasons given in the said letter for turning down the said representation are untenable. Indeed the petitioner had been appointed as a Librarian (BPS-07) under the rules for the recruitment to the post of Librarian (BPS-07) in Postal Training Centers under the Pakistan Post set out in Appendix-34 to Volume-IV of the Pakistan Post Office Manual. The mere fact that he had been

appointed under the said rules would not exclude him from the benefit of re-designation/upgradation of post under a policy decision set out in Education Division O.M. dated 26.12.1985. In this view of the matter, the petitioner ought to have been given the same benefit of re-designation and upgradation of his post under the policy decision contained in the Education Division's said O.M. dated 26.12.1985 as was given by this Court to the petitioner in writ petition No.59/2012. In the impugned order dated 29.01.2019, it has not been mentioned as to why the benefit of the judgment dated 13.04.2012 passed by this Court in writ petition No.59/2012 could not be given to the petitioner in the instant case.

13. In view of the above, the instant petition is allowed; the impugned order dated 29.01.2019 is set-aside; the petitioner's representation dated 20.02.2017 shall be considered as pending; and it is declared that the petitioner is entitled to be considered for the re-designation and upgradation of his post to the post of Library Assistant (BPS-09) in accordance with the policy decision contained in Appendix-35 to Volume-IV of the Pakistan Post Office Manual.

(MIANGUL HASSAN AURANGZEB)
JUDGE

ANNOUNCED IN AN OPEN COURT ON _____/2020

(JUDGE)

*Sultan**

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