HCJD/C-121

JUDGMENT SHEET

ISLAMABAD HIGH COURT
ISLAMABAD

W.P. No.4022/2013

MUHAMMAD TALIB SHAHZAD

VERSUS

MINISTRY OF COMMERCE, ETC.

Petitioner by	:	**Mr. Sajjad Satti, Advocate for the petitioner.**
Respondents by	:	**Mr Mohsin Akhtar Kiyani, Advocate for respondent No.3.** **Mr Kshalid Mehmood, Director HR NTC.**
Date of Hearing	:	**10-11-2014.**

ATHAR MINALLAH J: Through the instant petition, the appointment of respondent No.3, as the Chief Legal Officer in National Tariff Commission (hereinafter referred to as the "Commission") has been challenged.

2. Briefly stated, facts of the case are that through an advertisement published in daily "Dawn" on 12-03-2009, applications were invited for the position of Chief Legal Officer. The qualification/experience required for the position were also stated in the advertisement. The respondent No.3 was appointed against the advertised position.

3. The learned counsel for the petitioner contends that it is an admitted fact that the respondent No.3 did not fulfil the required condition of seven years post-degree experience in International Trade issues. In this regard he has referred to the comments filed by the respondent No.2, admitting that

the condition of the 7 (seven) years post-degree experience in case of respondent No.3 was not fulfilled.

4. The learned counsel for respondent No.2, has tried to justify the appointment of respondent No.3 despite the fact that he did not fulfil the condition relating to the 7 years post-degree experience in International Trade. However, on the Courts query the learned counsel for respondent No.2 states that the process for selection of a Chief Legal Officer can be initiated afresh. He has stressed that the respondent No.3 has been rendering services to the satisfaction of the respondent No.2 and, therefore, he requests that till the appointment is made in consequence of initiating the process afresh, he may be allowed to continue.

5. In the light of the fair stance taken by the learned counsel for the respondent No.2 and, the admitted fact that the respondent No.3 did not fulfil the condition relating to the 7 years post-degree experience in International Trade at the time of his appointment, in response to the advertisement dated March 12, 2009, the present petitions are disposed of in the following terms.

i. The respondent No.2 is directed to initiate the process for selection of a suitable candidate for the position of Chief Legal Officer in a transparent manner as required by law.

ii. The respondent No.2 shall decide whether the respondent No.3 would be eligible to apply for the post of Chief Legal Officer.

iii. It will not be in public interest to disturb the functioning of the respondent No.2 and, therefore, the respondent No.3 may

continue to hold the position as Chief Legal Officer of respondent No.3 till the fresh appointment is made.

5. This Court expects that respondent No.2 shall proceed strictly in accordance with law, particularly observing the principles of transparency and complete the process of appointment, preferably within a period of three months.

6. Respondent No.2 shall submit a report to the Registrar of this Court regarding the appointment of a Chief Legal Officer after completing the process.

(ATHAR MINALLAH)
JUDGE

***Asif Mughal/**

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