ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No.4246 of 2017
Abdul Waheed
Versus.
Federation of Pakistan through Secretary Ministry of National Food Security and Research and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	20.12.2017	M/s Syed Mohammad Bilal Ahmed and Riffat Hussain Malik, Advocate for the petitioners.

Through this common order, I propose to decide writ petitions No.4246/2017, 4250/2017 and 4274/2017 since they entail common questions of law.

2. Through writ petition No.4246/2017, the petitioner, Abdul Waheed, impugns show cause notice dated 20.11.2017, issued by the Pakistan Agricultural Research Council ("P.A.R.C.") calling upon the petitioner to show cause as to why disciplinary action should not be taken against him under the applicable rules, and why major penalty of dismissal from service should not be imposed on him.

3. Through writ petition No.4250/2017, the petitioner, Abdul Waheed, seeks a direction to *inter-alia* P.A.R.C. to grant qualification allowance to him.

4. Through writ petition No.4274/2017, the petitioners, Tauqeer Ahmed Khan Niazi, and Arif Khan, pray for a direction to be issued to P.A.R.C. to issue them service books after their completion. Furthermore, the said petitioners seek a restraint against P.A.R.C. from taking any adverse action against them.

5. At the very outset, the learned counsel for the petitioners were asked to satisfy this Court as to the maintainability of these petitions. Learned counsel for the petitioners submitted that the Board of Governors of the P.A.R.C. had made the Pakistan

Agricultural Research Council Employees (Service) Regulations, 1984 in exercise of the powers conferred by section 26 of the Pakistan Agricultural Research Council Ordinance, 1981; and that since the said Regulations were made with the sanction of the Federal Government, they were statutory in nature.

6. Before going into the merits of the case, I deem it appropriate to first determine whether the said writ petitions are maintainable. It is an admitted position that the grievance raised by the petitioners in their respective writ petitions pertain to the terms and conditions of their service in P.A.R.C.

7. Vide judgment dated 16.06.2010, passed by the Hon'ble Supreme Court in Civil Petitions No. 584 to 590/2008, titled, "Riaz Hussain and others Vs. Pakistan Agricultural Research Council", it was *inter-alia* held as follows:-

> *"It is admitted legal position that rules and regulations are always subservient to the Act/Ordinance which is the parent law.*
> *Under Section 26 of the Ordinance, Council can make regulations with previous sanction of the Federal Government whereas under section 25 of the Ordinance rules making power is given to the Federal Government and not the Council.*
> *In view of the above factual and legal position, where service regulations are made by the Council and not by the Federal Government such regulation cannot be held to be statutory rules. More so section 16 of the Ordinance (ibid) very clearly has determined the status of the employees of the Corporation (Council) i.e. they are not civil servants.*
> *By operation of section 16(1) of the Regulation, the employees of the Council even if before their induction in the Council were civil servant but by operation of law their such status disappears.*
> *Since there are not statutory rules regulating services of the employees of the Council under section 25 of the Ordinance (ibid) they cannot claim to be employees of such Corporation, the services of whose employees are governed by statutory rules".*

8. As the service rules of the Pakistan Agricultural Research Council are non-statutory, these petitions are liable to be dismissed as not maintainable.

9. In this view of the matter, the said writ petitions are dismissed *in limine*. The petitioners are at liberty to approach the appropriate forum for the redressal of their grievances.

(MIANGUL HASSAN AURANGZEB)
JUDGE

Ahtesham*

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