

**JUDGEMENT SHEET**  
**IN THE PESHAWAR HIGH COURT,**  
**BANNU BENCH**  
*(Judicial Department)*

**W.P. No. 719-B/2021**

Munawar Lal  
versus

Election Commission of Pakistan through Secretary & 06 others.

**JUDGEMENT**

Date of hearing: **21.10.2021**

For Petitioner: M/S. Ahmad Farooq Khattak & Yasir Rauf,  
Advocate.

For official respondents: Mr. Qudratullah Khan Gandapur, AAG.

For Respondent No.5: Mr. Muhammad Usman Khan, Advocate.

Respondent No.6: Mr. Hamed Khan, Advocate.

Respondent No.7: Mr. Muhammad Shah Nawaz Khan  
Sikandari, Advocate.

**MUHAMMAD NAEEM ANWAR, J.-** Munawar Lal, the petitioner by invoking the writ jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 has assailed the validity and correctness of order of learned Appellate Authority/District Judge, Bannu dated 12.10.2021, whereby on acceptance of election appeal No.01/2021 filed by respondent No.7, order of Returning Officer dated 07.10.2021 was set-aside and he was allowed to contest the election of Cantonment Boards scheduled for 26<sup>th</sup> October 2021.

**02.** Facts laying in the back ground of the instant petition are that in election of Cantonment Boards scheduled for 26<sup>th</sup> October 2021, the petitioner and respondent No.7 have submitted their nomination papers for Special Interest Seats (reserved seats). The scrutiny of nomination papers of the election contestants was conducted on 07.10.2021 wherein the nomination papers of respondent No.7 were rejected on the ground that he is in service

of University of Science & Technology Bannu, thus, he is disqualified in term of Section 60(1)(g) of Cantonment Ordinance, 2002, being in service of a statutory body. Respondent No.7 being dissatisfied from the order of Returning Officer has filed an appeal before the appellate authority, which was allowed vide impugned order, hence, the instant petition.

**03.** Arguments heard; record perused.

**04.** It is reflected from record that Election Commission of Pakistan through its notification No. F. 21(1)/21 LGE(C) dated 1<sup>st</sup> October 2021 issued a schedule for election to fill the Special Interest Seats (reserved seats) in Cantonment Boards and called upon the directly elected members of cantonment boards to elect members against the attached list of such seats in Cantonment Boards as provided by the Military Land and Cantonments Department. The nomination paper of respondent No.7 was rejected by invoking the provisions of Section 60 (1) (g) of Cantonment Ordinance, 2002, which reads as under: -

**Qualifications for candidates and elected members.** (1) A person shall qualify to be elected to be chosen or to hold an elective office or membership of a local government, if he-

(g) is not in the service of the Federal Government, a Provincial Government or a local government or, any statutory body or a body which is controlled by any such Government or, in which any of such Government has a controlling share or interest, except the holders of elected public office and part time officials remunerated either by salary or fee; provided that in case of a person who has resigned or retired from such service, a period of not less than six months has elapsed since his retirement."

05. Learned counsel for petitioner vehemently contended that impugned order is not in consonance with the ibid provisions of law, as respondent No.7 was appointed as sweeper on fixed pay basis @ Rs.10,000/- per month, through notification dated 03.02.2015 in the University of Science & Technology Bannu and later on his services from fixed pay were converted to the contract basis, however, as per the bank statement for the month of September, 2021, he is drawing the monthly salary of Rs.23447/- which is neither the fixed pay nor that of contract employee. It was also contended that in W.P. No. 425-B/2020, respondent No.7 has sought the relief for his regularization of service from the date of his initial appointment along with all back benefits while mentioned therein that the syndicate of the University in its 22<sup>nd</sup> meeting through consolidated appointment order dated 28.11.2019 re-appointed the petitioner along with others, thus, prima-facie he is in the service of a statutory body, as such he was not entitled to contest the election. In order to determine the status of the service of respondent No.7, we have gone through from the earlier notification dated 03.02.2015, wherein petitioner figures at Serial No. 05 by which he was appointed as sweeper on fixed pay basis against monthly salary of Rs.10,000/-. It is also not denied that the service of respondent No.7 was converted into contractual employment from fixed pay employee on 02.07.2015. Similarly, we have also requisitioned the file of W.P. No. 425-B/2020 wherein petitioner is at Serial No. 13 in the array of petitioners seeking therein regularization of his service from the date of his

first appointment on the basis of notification dated 12.12.2019 through which his service was extended for another maximum period of 06 months. Record of writ petition reveals that there was total 61 employees whose services were extended for a maximum period of 06 months on 12.12.2019, as such the last day of their service falls on 11.06.2020, however, they (including the petitioner) have filed writ petition on 25.04.2020 which was fixed before this court on 29.04.2020, wherein an interim order was passed which reads as under: -

"Earlier in similar nature W.P. No.205-B/2020 and W.P. No.259-B/2020 interim order has been granted, therefore, following the judicial discipline, in the instant case too no adverse action shall be taken against the petitioners till next date of hearing"

Record transpires that interim order issued on 29.04.2020 still holds the field being extended from time to time.

06. Undoubtedly, respondent No.7 is in the employment of respondent No.6/ University of Science & Technology Bannu, wherein the status of his service is mentioned as of "contract". University of Science & Technology Bannu have its own statutes framed and approved in the year 2018 and in accordance with the service statutes of the ibid University, section 3 of the University of Science and Technology Bannu Service Statutes, 2018 reads as:

**3. Application.**

These statutes shall apply to all persons in the service of the University, except:

- (a) a person appointed on contract/engaged on fixed pay; and
- (b) the staff paid from contingencies or on work charge or part time basis or persons employed occasionally, whose appointments are governed by the letters of their appointments.

07. In view of Section 3 of service statutes of University of Science & Technology Bannu, the petitioner being the contract employee would not be dealt with the statutes of university of respondent No.6. In consonance with provisions of Section 60 (1) (g) of Cantonment Ordinance, 2002, the nature of service of the statutory body shall be subject to its statutes hence, respondent No.7 being contract employee is not an employee of statutory body in term of **Section 3 of the service statutes of University** of respondent No. 6, as the nature of his service is that of a contract employee being mentioned in the notification issued on 12.12.2019 by which his services were extended for maximum period of 06 months, however, he is in service on the basis of an interim order issued in **W.P. No. 425-B/2020** titled "*Amir Nawaz etc Vs Vice Chancellor, University of Science & Technology Bannu and others*" thus, the impugned order suffers from no infirmity or jurisdictional defect. His appeal was rightly allowed nothing illegality or irregularity has been shown to us to come to a different conclusion or take a contrary view to that of the appellate authority.

08. In this view of the matter, we do not feel persuaded to admit this petition to regular hearing and, as such, this being without any merit is hereby dismissed in *limine*.

**Announced.**

21.10.2021.

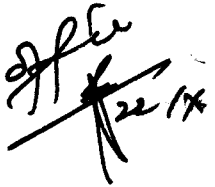
\*Imranullah PS\*



JUDGE



JUDGE



(D.B)  
Hon'ble Mr. Justice Sahibzada Asadullah &  
Hon'ble Mr. Justice Muhammad Naeem Anwar.

SCANNED

22 OCT 2021

  
Khalid Khan