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**IN THE SUPREME COURT OF PAKISTAN**  
**(Appellate Jurisdiction)**

**Present:**

**Mr. Justice Iftikhar Muhammad Chaudhry, C.J.**  
**Mr. Justice Khilji Arif Hussain**  
**Mr. Justice Khalil-ur-Rehman Ramday.**

**Civil Petition No.157-K/2010**

(On petition from the Judgment dated 02.03.2010 of the Federal Service Tribunal Islamabad, passed in Service Appeal No.26(K)CS/2006.

Mst. Nasreen Parvaiz

.... Petitioner

**VERSUS**

Chief Election Commission  
Of Pakistan & 2 others

.... Respondents

Petitioner:

In Person.

On Court Notice:

Mr. Umer Hayat Sandho, DAG.

Date of Hearing:

07.04.2010

**JUDGMENT**

**KHILJI ARIF HUSSAIN J.-** Aggrieved by the Judgment dated 2<sup>nd</sup> March, 2010 in Appeal No.26(K)CS/2006, passed by the Federal Services Tribunal Islamabad (Karachi Bench). The petitioners seeks leave to appeal.

2. Brief facts to decide issue in the matter are that the petitioner was appointed as Director (BS-19) on 11<sup>th</sup> October, 1993. In view of the satisfactory performance of the petitioner, she was recommended by the Election Commission of Pakistan for NIPA's advance course since she was in the promotion range and fit for promotion in the next cadre BPS-20. It appears that some time in the year 2001, the respondent stopped payment of salary to the petitioner which order was impugned before the

Federal Services Tribunal with request that the respondents may be directed to consider the case of the petitioner for promotion by having constituted proper Departmental Promotion Committee in the next pay scale BPS-20. Federal Tribunal directed the respondents to release the payment of salaries of 16 months and to continue monthly salary till the appeal is finally decided. The respondents filed petition before this Court being CPIO No.581/2003. The said petition was dismissed by this Court vide Order dated 4<sup>th</sup> December, 2008 by directing that the petitioner be reinstated forthwith with all back benefits.

3. The petitioner was promoted on probation in BPS-20 on 15<sup>th</sup> September, 2003 for one year. The probationary period of the petitioner in BPS-20 was extended for another one year w.e.f. 19<sup>th</sup> October, 2004. The respondent vide a Notification dated 12<sup>th</sup> December, 2005 reverted the petitioner to her original post in BPS-19 as performance during the probationary period was found unsatisfactorily. The petitioner aggrieved by the order filed appeal before the Services Tribunal which was dismissed vide impugned judgment.

4. Heard the petitioner in person and Mr. Umer Hayat Sandho, learned DAG for the respondents.

5. The petitioner vehemently argued that she has been victimized by the respondents when she refused to obey the illegal order passed by the respondents to receive the Member of the Election Tribunal at Airport. Petitioner further argued that she was promoted being the senior most in the Cadre in BPS-20 on 19<sup>th</sup> October, 2003 for one year probationary period, which

period was extended for another one year and order of reverting the petitioner after completing of two years of the probationary period is illegal and unlawful.

6. On the other hand learned DAG for the respondents argued that the petitioner's performance was not found satisfactorily during the probationary period and respondent was rightly reverted her to BPS-19. 132

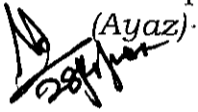
7. We have taken into consideration arguments advanced by the petitioner as well as learned DAG and with their assistance perused the record. From the perusal of record, it appears that the petitioner being the senior most in her cadre after undergone NIPA training course promoted in BPS-20 on probation for one year vide order dated 15<sup>th</sup> October, 2003, which period was further extended for one year. There is no cavil to the proposition that during the probationary period a civil servant can be reverted to its original post, however, in the instant case admittedly the petitioner was not reverted during the probationary period of two years but she was reverted to BPS-19 after she completed two years probationary period vide a Notification dated 12<sup>th</sup> December, 2005. The extension of probationary period, after two years vide Notification dated 14.11.2005 is not in accordance with law.

8. For the foregoing reasons, the petition is converted into appeal. Impugned Judgment dated 2<sup>nd</sup> March, 2010 is set-aside and Notification dated 12<sup>th</sup> December, 2005 reverting the petitioner to the post of BPS-19 is declared illegal and unlawful. The petitioner is directed to be reinstated as BPS-20 officer w.e.f.

12<sup>th</sup> December, 2005 alongwith all back service benefits including promotion, if eligible and her Junior in service, if have been promoted would be to next her.

These are the reasons of our short order passed in Court.

Karachi, the  
07<sup>th</sup> April, 2010  
(Ayaz)



Not Approved For Reporting.

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Filed on 27th March 2010 +30 B5  
by Mst. Nasreen Parvaiz  
Deputy Registrar  
27/3/10  
730 PM

**BEFORE SUPREME COURT OF PAKISTAN AT KARACHI**

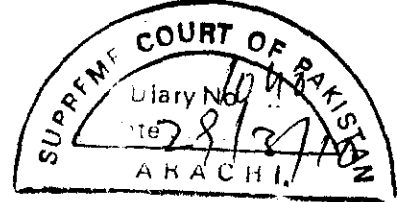
(Civil Appellate Jurisdiction)

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Civil Petition for Leave to Appeal No. 157- K of 2010

Mst. Nasreen Parvaiz  
D/o, Iqrar Hussain Parvaiz,  
Muslim, adult, Deputy Secretary,  
at Provincial Election Commissioner,  
Sindh, Karachi,.....Petitioner

Mob: 0333-2164334



**Versus**

1. Chief Election Commissioner  
of Pakistan, Election House,  
Constitution Avenue, G-5/2,  
Islamabad.
2. Present Secretary ECP  
Mr.K.M.Dilshad on Re-employment,
3. Mr, R.B. Jan Wahidi,  
Joint Secretary (Admn) & others
4. Federation of Pakistan,  
Through Secretary,  
Ministry of law, Justice and Parliamentary  
Affairs, Block-5, Pak Secretariate,  
Islamabad. .... Respondents

**PETITION FOR SPECIAL LEAVE TO APPEAL UNDER  
ARTICLE 212 (3) OF THE CONSTITUTION OF ISLAMIC  
REPUBLIC OF PAKISTAN, 1973**

**Humbly Sheweth:-**

This petition for leave to appeal is direct against judgment dated 2-3-2010, passed by the Federal Service Tribunal Islamabad, bench at Karachi in Service Appeal No.26(K)CS/2006, where under appeal of the appellant against her reversion from EPS-20 to BPS-19 has been dismissed.

*(Copy of impugned order/ Judgment dated 2.3.2010 in Service appeal No. 26(K) CS/2006 is filed and submitted herewith and marked as annexure "A"). Page 10*

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*(Copy of Memo of appeal No. (K)CS/2006 before the Federal Service Tribunal is submitted and marked as annexure "B"). Page 21*

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**QUESTION OF LAW:-**

The following questions of law of public importance are arising for determination in this petition?

1. Whether the probationary period for promotion from BPS-19 to BPS-20 is two years?
2. Whether the appellant successfully completed the period of extended probation satisfactorily?
3. Whether having completed the probationary period of 2 years, it can be further extended although not provide under the law?
4. Whether on completion of probationary period of 2 years, when no adverse order was passed by the competent authority, the appellant stood automatically conformed?
5. Whether Sec.6 & 11 of the Civil Service Act can be brought in to picture for dismissing the appeal on the appellant when it was neither for grant of promotion and nor fresh appointment?
6. Whether the appellant having been dismissed earlier from service on almost the same grounds the action of reverting her much after the completion of the probationary period among to double jeopardy?
7. Whether after successfully completion of the probationary period the competent authority can demote the appellant lawfully?

## FACTS.

1. Briefly stated, the facts of filling this petition is that the petitioner was posted as Provincial Election Commissioner, Balochistan in BPS-20 uptill 17<sup>th</sup> of December 2005 at Quetta and she was reverted to BPS-19 as Deputy Secretary and transferred to Karachi in the office of Provincial Election Commissioner, Sindh by an impugned order dated 12<sup>th</sup> December 2005. After a series of illegal orders, show cause notices and explanation's finally compulsory retired on 23<sup>rd</sup> February 2006 by another impugned order of the Competent Authority i.e. Chief Election Commissioner of Pakistan, where he misused the Special Powers Ordinance 2000, which was set aside from FST in 2008, then challenged in Supreme Court by the respondents where again this Hon'ble court dismissed the petition of the respondent and reinstated the petitioner both the judgment submitted herewith marked as Annex C and D (Pages 29 and 33)

2. Heritage of the case are that the Petitioner was recruited in the Election Commission of Pakistan through direct appointment on merit by advertising the post of Director Public Relations in BPS-19 on October 11, 1993, on open merit competition consist on written test as well viva for which the Petitioner stood 1<sup>st</sup> position amongst more than 100 candidates.

3. That the Petitioner is the highest qualified employees of Election Commission of Pakistan by holding a Degree of Doctorate in Mass Communication.

4. That the Petitioner was absorbed as regular employee of Election Commission of Pakistan in April 11, 1994 due to her extraordinary professional performance and in view of her ACRs of 13 years service in Press Information Department, Govt. of Sindh.

### HISTORY OF THE CONDUCT AND EVIL ACTIVITIES OF THE JUNIOR OFFICERS OF ELLECTION COMMISSION OF PAKISTAN.

5. That the Petitioner felt professional jealousy and smelt a conspiracy from a group out of her colleagues of Election Commission of Pakistan. It might have happened that the seniority in Election Commission of Pakistan is combined and those junior people who were from the ranks and relatives of each other apprehended that their promotions might be blocked. In fact merit and qualification of the Petitioner had become a sore point for them particularly, for officers viz Mr. R. B. Jan Wahidi DEC, (BPS-18), Ch. Qamar uz Zaman (BPS-18), Mr. Akhter Hussain Sabir (BPS-17), who was brother in-law of Mr. R. B. Jan Wahidi, DEC, Mr. Mehboob Anwar, AEC (BPS-17) and on the top

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of that the Mr. Rehmat Ali Mojahid the Joint Secretary BUgget BPS-20 and look after the press information work as well, while Mr. K. M. Dilshad then Deputy Secretary (BPS-19) and Mr. R.B Jan Wahidi also worked under the Mr. Rahmat Ali Mojahid and handle the press relation work of the ECP. This group also, felt that their major tool for self projection was taken away from them. In reality this group was not competent enough to handle present day media and instead of projecting Election Commission of Pakistan they were instrumental in getting the image of the institution smeared that is why Election Commission of Pakistan required a separate portfolio to fulfill the entire media requirement and they advertised the post of director Public Relation (BPS-19)

6. That the conspiracy of this group did not work due to the very astute judge and man of principles. Hon'ble Chief Election Commissioner (Late) Justice (R) Naeemuddin as well as the Administrative Secretary Mr. Hummayoon Khan who was also professionally skilled officer. Both of these Government functionaries had excellent reputation in their respective fields.

7. The moment administrative Secretary, Mr. Hummayoon Khan retired in May 1994 and Mr. Hasan Bhutto who was also a political entrant in the Government Service and being a political beneficiary he fell in the trap of Mr. K. M. Dilshad, who was also a political entrant in Govt. Service. This group of Election Commission of Pakistan along with the then Secretary Mr. Hasan Bhutto succeeded in the realization of their objectives and after that Petitioner was constantly and regularly harassed by this clique of officers led by the previous Secretaries of Election Commission of Pakistan uptill the last one i.e. K.M Dilshad in pursuance of their ulterior motives. They time and again verbally exhorted and warned the Petitioner that intelligence agencies (Military or otherwise) directed them to keep Petitioner under pressure and cause psychological trauma so much so they misled a very senior military officer in Karachi to write a letter against the Petitioner and addressed to the Ministry of Interior in 1994. This had created very serious implications for the career of the Petitioner. However, on finding out the truth, the Military Officer withdrew his letter. Such maneuvering bring bad name to the august institution like Army and so on. This campaign of violation of rule and harassment continuously by going on for the last sixteen years by issuing illegal and impugned orders for which petitioner took always relief from FST and Supreme Court in the last sixteen years. But unfortunately the injustice and very unfair practice of the competent



authority is going on and petitioner being a senior most officer of this organization is still in the same scale in which she was appointed, while her most junior officers whom ACRs written by the Petitioner are in BPS-21 got extension in service and posted in home town but this poor political orphan posted away from her home town against clear order of the government regarding single woman public servant.

8. That a long chain of harassment and injustice done with the Petitioner, although irrelevant to submit before this Honorable Court but Petitioner always got justice from this honorable court and now is very sick and tired of long mutual agents and evils she took lot of pain and mental torture in the hands of some unscrupulous people of Election Commission of Pakistan in the protection of some previous and present Hon'ble Chief Election Commissioners but still not lost the hope of getting justice and fair dispensation of my petition from this honorable Court (Relevant details and documents of evidence will be provided to this Court when required). But some details of chain of harassment show causes, impugned/ illegal orders on the basis of fabricated allegations designed and engineered by the above said groups could be seen at the Memo of Appeals at Annexures B (Page 21)

9. The Petitioner did not reacted according to the expectations of this group, with the result this group headed by the former administrative Secretary Mr. K. M. Dilshad got frustrated and successfully completed his hidden objective and well planned activity by sending another letter of explanation on 12<sup>th</sup> December 2005 by saying that "why the Petitioner had not personally see off the Member Election Commission of Pakistan and nor received him on his return to Quetta after attending the meeting of Election Commission of Pakistan at Karachi on 11<sup>th</sup> December 2005 and again with threatening remark that "as to why disciplinary action should not be taken against you", marked as Annexure E (Page 38)

10. That the Petitioner again spoke to Member Election Commission of Pakistan Mr. Justice Ahmed Khan Lashari and explained to him that Election Commission of Pakistan had issued a directive from of the Competent Authority on May 24, 2004 signed by the

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then Joint Secretary (Budget) and then Secretary Mr. K. M. Dilshad that **“Protocol Officer should only be deputed for the Honorable Members and Hon'ble Chief Election Commissioner in future”**. The Honorable Member again clarified that neither he had complained to the Hon'ble Chief Election Commissioner nor he had heart burning on this very petty issue. It is one point agenda designed by the Secretary, Election Commission of Pakistan as in Karachi, he tried to misguide the Competent Authority by saying that **“we will fix her very soon”**. I requested to the Honorable Member that the Petitioner would be grateful if he speaks to the Hon'ble Chief Election Commissioner and clarified the actual position of protocol duty and he promised to do so and just after this telephone conversation with Hon'ble Member the Petitioner left the office to attend a public meeting in Governor House, presiding by the then President of Pakistan and when she returned to her office at about 2:00 pm and prepared the answer of above said letter to fax to Election Commission of Pakistan Sectt, Islamabad as directed in the said letter, suddenly at about 2:25 pm Petitioner received a Reversion Order from BPS-20 to BPS-19. Marked as Annexure **F** (Page 40)

11. That the Petitioner filed an appeal to FST which was illegally and wrongly declared infructuous due to the second order or retirement, marked as Annexure **G** (Page 41)

12. That petitioner filed another petition to Supreme Court in CPLA 252-K-06 which was remanded back to FST to decide both the cases simultaneously on merit order marked as Annexure **H** (Page 44)

13. That FST reinstated the petitioner in BPS 19 and not maintain the appeal of reversion due to the jurisdiction of civil servant marked as Annexure **C** (Page 29)

14. That FST have ignored the very hard fact and legal point and not asked the respondents that if petitioner was not civil servant why she was reverted under Section II with Section 6 of the civil servant act 1973 that on the other hand the petitioner has been treated as civil servant and on the other hand the law has been interpreted by the FST that employees of the ECP are not civil servants, as such in both manners the petitioner has been punished for no fault on her part.

15. That petitioner again filed an appeal to this honorable court but due to time bar it was not attended but in petition of respondent i.e. ECP against FST order of reinstatement in CPLA 748 when Supreme Court clarified the jurisdiction and status of ECP employees and on the basis of that order marked as Annexure-D (Page 33) Petitioner filed an appeal to this honorable court in CPLA 103-K-2009, which was remanded back to FST for decision on merit memo of appeal and Judgment of CPLA 103-K marked as Annexure I (Page 46), J (Page 63)

16. That inspite of knowingly above facts regarding one political group of the present Government of PPP in ECP who influenced the FST through Dogar in 2006, and now again this influence carried in the same manners and resulted the impugned order of FST against which Petitioner is filing this petition just to get justice and fair dispensation of her case from this honorable Court so that she could decide either to apply voluntarily premature retirement due to save her life from further psycho trauma, nervous breakdown or any mental or physical paralyzes attack because of the above said political group in Election Commission Of Pakistan as well as in FST and on the top that some lower cadre employs from the same political group of one intelligence agency have joined hands in the last sixteen years to keep the petitioner under pressure, mental torcher and humiliation of worst kind for which petitioner enough proofs to submit before this honorable Bench of the Court and would request to be heard in the chamber and decide the merit of the petitioner for justice and fair dispensation of the case with the consultation of the higher authorities of the above said intelligence agency according with law if the petitioner will be found guilty of any miss conduct she deserved to be harshly punished according to the law, she is prepared for all the Consequences decided by this Hon'ble Court.

17. That the appeal of the Petitioner has been dismissed with in ordinate delay illegally, malafide without lawful authorities and on the basis of misapplication of law enlarging the atrocities already suffered by the petitioner, hence this petition for leave to appeal inter-alia amongst other on the following grounds

**GROUNDS:-**

1. That this Hon' able Court would be pleased to appreciate that the order of demotion from BPS-19 dated 12-12-2005 and the judgment dated 2-3-2010 of the Federal Service Tribunal are void illegally and in violation of the principles lay down by this Hon' able Court regulating the jurisdiction of Service Tribunal.
2. That this Hon' able Court would be pleased to appreciate that the impugned judgment is also contrary to her is the fact in case on record.
3. That this Hon' able Court would be pleased to appreciate that the period of probation provided under the law in 2 years and the finding of the Federal Service Tribunal that this period probation can be extended under special circumstances is without any lawful justification and in his gross violation to the mandatory provision of law.
4. That this Hon' able Court would be pleased to appreciate that the Federal Service Tribunal has miserably failed to appreciate that on completion of competent authority, stood conformed in BPS-20 and no exception can be taken to this effect.
5. That this Hon' able Court would be pleased to appreciate that the Federal Service Tribunal wrongly applied Sec.6 and 11 of the Civil Service Act while demoting the appellant which provision of law has no nexus with the provision for the purpose of probationary period for promotion for one grade to another grade and that appeal before the Federal Service Tribunal was maintainable and the appellant has been malafide on suited for on justifiable reason.
6. That this Hon' able Court would be pleased to appreciate that the appellant has been unnecessary dragged in to litigation be the department and the sufferings of the appellant have been maximized due to biased member of the Tribunal who are also ignorant of law as infect there is no case made out for demotion of the petition and nor there is any justification with the Federal Service Tribunal to have dismissed her appeal.
7. That the petitioners suffer heavy irreparable loss if the prayer made in this petition is not granted/ allowed.
8. That there are further grounds also which may very kindly be allowed to be raised at the time of the hearing of the appeal.

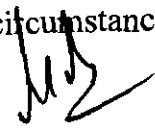
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**PRAYER:-**

It is most respectfully prayed that this Hon' able Court may very graciously be pleased to grant leave appeal in this matter and allowed the appeal of the in terms of its prayer by setting-aside order of demotion of the petitioner dated 12-12-2005, and setting-aside judgment dated 2-3-2010.

To grant any other equitable relief/s deemed proper under the circumstances of this petition.



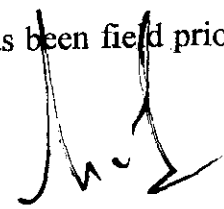
MST. NASREEN PERVEZ

Petitioner

Karachi.

Dated:- -03-2010

It is certified that this is first petition and no other petition has been filed prior to this petition regarding this matter.



MST. NASREEN PERVEZ

Petitioner

Karachi.

Dated:- -03-2010