

ORDER SHEET
IN THE FEDERAL SHARIAT COURT

SHARIAT MISC. APPLICATION NO. 7/1 of 2012

Maqbool Ahmad Qureshi

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Petitioner

VERSUS

1. Government of Pakistan through the Secretary, Law and Justice, Islamabad.
2. Government of Punjab through the Secretary, Law and Justice, Lahore.
3. Government of Sindh through the Secretary, Law and Justice, Karachi.
4. Government of Khyber Pakhtun Kha through the Secretary, Law and Justice, Peshawar.
5. Government of Balochistan through the Secretary, Law and Justice, Quetta.

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Respondents

PRAYER:-

Date of Order of Proceeding	Order of Chief Justice/Judge
1. 30.10.2012 Islamabad	<p>Maqbool Ahmad Qureshi, petitioner in person.</p> <p>Petitioner Maqbool Ahmad Qureshi, who presented his case in person, stated that Proviso (II) of Section 17 Civil Servant Act, 1973, Proviso (II) of Section 17 of Baluchistan Civil Servants Act, 1974, Proviso (II) of Section 17 of North West Frontier Province Civil Servants Act, 1973, Proviso (II) of Section 16 of Punjab Civil Servants Act, 1974 and Proviso (II) of Section 18 of Sindh Civil Servants Act, 1973 are repugnant to the Injunctions of Islam. In support of his plea, he referred to Ayah 188 of Surah Baqrah (2-188), the translation of which is given as under:-</p> <p style="text-align: center;"><i>And do not eat up your property among yourselves for vanities, nor use it as bait for the judges, with intent that ye may eat up wrongfully and knowingly a little of (other) people's property.</i></p>

He was of the view that the above-referred provisions of law are being misused as reinstatement takes lot of time and beneficiaries of such decisions are being favoured with arrears of pay without any justification as a burden on the exchequer.

It was pointed out to the petitioner that Proviso (II) of Section 17 Civil Servant Act, 1973, Proviso (II) of Section 17 of Baluchistan Civil Servants Act, 1974, Proviso (II) of Section 17 of North West Frontier Province Civil Servants Act, 1973, Proviso (II) of Section 16 of Punjab Civil Servants Act, 1974 and Proviso (II) of Section 18 of Sindh Civil Servants Act, 1973 do not provide for automatic grant of arrears of the intervening period between dismissal/removal/reduction in rank and restoration to the original position but the Authority vested under the law to make such an order, depending upon law, facts and circumstances, *may determine, inter alia*, questions relating to reinstatement, etc., including restoration to original position, in seniority, cadre, and post, treatment of intervening period as duty or on leave and its kind, e.g., extra ordinary leave/without pay.

This Proviso infact involves multiple laws and their provisions which are considered by the competent forum/court. Any how since the pertinent *Nass* of the Holy Quran or the Sunnah of the Holy Prophet (PBUH) has not been quoted in support of the assertion/plea, the Sh. Misc. Application No.7/I/2012 is dismissed in-limine.

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JUSTICE SHAHZADÓ SHAIKH

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JUSTICE DR.FIDA MUHAMMAD KHAN

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JUSTICE SHEIKH AHMAD FAROOQ

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FIT FOR REPORTING.

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JUSTICE SHAHZADÓ SHAIKH