

**ORDER SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

W.P.No.588 of 2018

Nasir Hussain Shah

**Versus**

HBL Head Office I.I. Chundrighar Road Karachi and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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12.02.2020      Syed Fakhar Haider Kazmi, Advocate along with petitioner in-person,  
Mr. Tariq Mahmood, Advocate for the respondents.

Through the instant writ petition, the petitioner, Nasir Hussain Shah, impugns the letter dated 21.12.2017 issued by respondent No.2, whereby he was retired from the service of Habib Bank Limited (“H.B.L.”) in accordance with Rule 21(a)(i) of the H.B.L. Staff Service Rules, 1981 (“the 1981 Rules”).

2. Learned counsel for the petitioner submitted that the petitioner was appointed as Officer Grade-III in respondent No.1/bank on 17.06.1984; that the petitioner performed his duties to the best of his ability; that all of a sudden, vide the impugned letter dated 21.12.2017, the petitioner was retired from service; that the petitioner is entitled to be in service of respondent No.1/bank until the age of superannuation; that at no material stage, was any inquiry conducted against the petitioner; that neither was any show cause notice issued to the petitioner nor was any opportunity of a hearing afforded to him before the passing of the impugned order dated 21.12.2017; that the petitioner’s service with respondent No.1/bank was almost thirty three years; and that the

petitioner ought to have been given the benefit of Rule 21(a)(ii) of the 1981 Rules. Learned counsel for the petitioner prayed for the writ petition to be allowed in terms of the relief sought therein. In making his submissions, learned counsel for the petitioner placed reliance on the judgment in the case of Pakistan Defence Officers Housing Authority Vs. Mrs. Itrat Sajjad Khan (2017 SCMR 2010).

3. On the other hand, learned counsel for the contesting respondents raised an objection to the maintainability of the instant petition on the ground that since the 1981 Rules had been declared by the Hon'ble Supreme Court as well as this Court to be non-statutory, the petitioner's grievance which pertains to a matter relating to the terms and conditions of his service, cannot be adjudicated upon in the Constitutional jurisdiction of this Court. He further submitted that the impugned letter dated 21.12.2017 has been issued at a place beyond the territorial jurisdiction of this Court. Learned counsel for the contesting respondents has prayed for the writ petition to be dismissed as not maintainable.

4. I have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance.

5. I deem it appropriate in the first instance to decide the objection taken by the learned counsel for the contesting respondents on maintainability of the instant petition.

6. Indeed, the petitioner in the instant petition has agitated a matter pertaining to the terms and conditions of his service. The petitioner also seeks the enforcement of the 1981 Rules.

7. The Hon'ble Supreme Court in the case of Abdul Wahab Vs. H.B.L. (2013 SCMR 1383) has in no uncertain terms held that the 1981 Rules are non-statutory in nature and thus, not a law. Additionally, in the case of Habib Bank Limited Vs. The State (SBLR 2013 SC 1), the Hon'ble Supreme Court held as follows:-

*“5. The terms and conditions of service of employees of HBL were governed by HBL (Staff) Service Rules, 1981, which was not a statutory rules of service and thus in terms of the case of Pakistan International Airline Corporation and others vs. Tanveer-ur-Rehman and others (PLD 2010 SC 76), the Respondent No.1 could not have filed and maintained a Constitution Petition in the High Court for enforcement of terms and conditions of his service for that his relationship with his employer was strictly governed by the rules of Master and Servant and the only remedy provided by law in this regard is only by way of a civil suit and not otherwise. Thus even if it is assumed that HBL was a government owned and controlled Bank on a date of suspension of service of the Respondent No.1, his service being not governed by statutory rules of service, he will not be entitled to maintain a constitution petition in the High Court for payment of his salary, dues for the period of his suspension as allowed by the impugned judgment.”*

8. It is well settled that a writ petition is maintainable where the respondent authority violates any provision of law or statutory rules. Employees, who are governed by statutory rules, can avail the remedy of filing a writ petition before the High Court. It is also well settled that the principle of ‘master and servant’ was applicable to the employees whose services were not governed by any statutory rules. Employees of a body, owned by the government, in the absence of violation of law or any statutory rule, could not press into service the Constitutional jurisdiction of the High Court in

order to seek relief with respect to their employment.

9. In view of the above, the instant petition is dismissed as not maintainable. The petitioner is at liberty to agitate his grievance before the competent forum, subject to law. There shall be no order as to costs.

**(MIANGUL HASSAN AURANGZEB)**  
**JUDGE**

Sultan\*

*Uploaded By : Engr. Umer Rasheed Dar*