

Form No: HCJD/C-121
ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No.2746 of 2019

Ch. Abid Hussain.

Vs.

Secretary Interior, Ministry of Interior, Islamabad and 03 others.

| S. No. of order/ proceedings | Date of order/ proceedings | Order with signature of Judge and that of parties or counsel where necessary. |
|-------------------------------------|-----------------------------------|--|
| | 26.07.2019. | Raja Rizwan Abbasi, Advocate for the petitioner. |

Through the instant petition, the petitioner has assailed the judicial inquiry initiated by respondent No.3 against the petitioner.

2. Learned counsel for the petitioner contended that after the tragic incident of Farishta Bibi (minor), the matter was brought to the controversy on account of the fact that the police officials did not promptly lodge the F.I.R. It was contended that subsequently the F.I.R was lodged (F.I.R No.99, dated 19.05.2019, under Sections 364-A/201/302 PPC, Police Station Shahzad Town, Islamabad). It was contended that in order to discern the negligence in performance of the duty of the police officials, respondent No.3 ordered an inquiry by respondent No.2, in which after calling everyone responsibility was also vested on the petitioner and it was

observed that the departmental proceedings be initiated against him. Learned counsel contended that the departmental proceedings are underway and show cause notice on the basis of the inquiry and observations have been issued to the petitioner. It was further submitted that the judicial inquiry was ordered without lawful authority.

3. Arguments advanced by learned counsel for the petitioner have been heard and the documents placed on record examined with his able assistance.

4. It is relevant to observe at the very outset that when the judicial inquiry was ordered and was being conducted, the petitioner did not challenge the same, however, it was only when the departmental proceedings were initiated against him, he decided to challenge the inquiry. The petitioner is a civil servant and the disciplinary proceedings pending against him fall within the ambit of terms and conditions of service. It is trite law that a petition under Article 199 of the Constitution is not maintainable against the disciplinary proceedings or matters relating to terms and conditions of service of a civil servant. It is also a settled principle that what cannot be done directly also cannot be done indirectly.

The petitioner, in order to stall the disciplinary proceedings, has decided to challenge the judicial inquiry at a belated stage, which is not tenable.

5. The show cause notice has been issued in the disciplinary proceedings against the petitioner, wherein he can agitate all factual and legal aspects of the matter. However, due to the above position of law and facts, the instant petition is not maintainable and is accordingly **dismissed in limine**.

(AAMER FAROOQ)
JUDGE

M. Zaheer Janjua