

**ORDER SHEET**

**ISLAMABAD HIGH COURT**  
**ISLAMABAD**

**I.C.A. No. 345 of 2017.**

***Iqbal Alam.***

***Versus***

***The Secretary Aviation / Chairman Civil Aviation Board, PIA Building,  
Islamabad, etc.***

S.No. of order / Proceeding	Date of order/ proceeding	Order with signature of Judge, and that of parties or counsel, where necessary.
--------------------------------------	---------------------------------	--

**01. 13.11.2017. Malik Qamar Afzal and Mr Saad Mayyar Khan,  
advocates for the appellant.**

This Intra Court Appeal is directed against order, dated 13.10.2017, passed by the learned Single Judge in Chambers in W.P. No. 3692 of 2015.

2. The facts, in brief, are that the appellant was an employee of the Civil Aviation Authority (hereinafter referred to as the "Authority"). He was proceeded against and awarded major penalty of removal from service vide order, dated 03.02.2015. The proceedings against the appellant were initiated and completed at Multan. Moreover, no order was passed by an authority within the territorial jurisdiction of this Court nor a writ was sought against such a person. The learned Single Judge in Chambers has dismissed the constitutional petition of the appellant on two grounds. Firstly, that the regulations / rules governing the terms and conditions of services of the employees of the

Authority are non-statutory and secondly, that the dominant cause had arisen outside the territorial jurisdiction of this Court.

3. The learned counsel for the appellant has been heard at length. He has mainly argued on the basis of a consent order, dated 27.03.2015, passed by this Court in W.P. No. 550 of 2015. It is noted that the said order was per-incuriam as it was passed without considering the law laid down by the august Supreme Court in the cases titled "*Muhammad Aslam Khan versus FOP and others*" [2013 SCMR 747], "*Muhammad Nawaz versus Civil Aviation Authority*" [2011 SCMR 523], "*Khan versus Pakistan Civil Aviation Authority and another*" [2011 PLC (C.S) 889] and "*Zafar Iqbal versus Pakistan Civil Aviation Authority through Director Administration and another*" [2011 PLC (C.S) 348]. In the said judgments the august Supreme Court has declared the service regulations of the Authority as non-statutory.

4. At the very outset, the learned counsel appearing on behalf of the appellant was asked to satisfy us regarding maintainability of the constitutional petition which was filed under Article 199 of the Constitution, particularly when the august Supreme Court has consistently held and declared that the service regulations of the Authority are non-statutory. The learned counsel for the appellant while conceding that the question regarding the status of the service regulations is settled, has argued that the grievance of the appellant relates to violation of statutory provisions.

5. The august Supreme Court in the recent judgment titled "Shafique Ahmad Khan, etc versus NESCOM etc", passed in Civil Appeals No. 654 to 660, 330, 735, 1243 to 1259 of 2010, has reaffirmed the earlier judgment passed in the case titled "Muhammad Nawaz versus Civil Aviation Authority and others" [2011 SCMR 523]. In the latter case the august Supreme Court has declared the service regulations of the Authority as non-statutory. The august Supreme Court having declared the service regulations as non-statutory renders the relationship between an employee and the Authority as that of master and servant. It is settled law that where the relationship is that of master and servant a petition under Article 199 of the Constitution is not competent.

6. Besides the service regulations of the Authority being non-statutory, the learned Single Judge in Chambers has rightly held that the constitutional petition was not maintainable for want of territorial jurisdiction.

7. For what has been discussed above, this Intra Court Appeal is without merit and is, therefore, accordingly ***dismissed in limine.***

**(Miangul Hassan Aurangzeb)**  
**Judge.**

**(Athar Minallah)**  
**Judge.**

*Asad K/\**