

JUDGMENT SHEET

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

W.P.No.114 of 2012

Lt. General (Retd.) Naeem Khalid Lodhi

VERSUS

President of Pakistan through Cabinet Secretary
Pak Secretariat, Islamabad and four others.

Date of Hearing: 25.5.2012.

Date of Decision: 04.06.2012

Petitioner by: Mr. F.K. Butt and Ms. Shafaq Abid,
Advocates.

Respondents by: Mr. Tariq Mehmood Jahangiri,
Deputy Attorney-General.
Commander M. Hussain Shahbaz,
Director Legal, M/o Defence.
Mr. Assad Hussain (Section Officer)
Cabinet Division, Islamabad.
Mr. Amjad Saeed Awan, on behalf of
Establishment Division.

MUHAMMAD AZIM KHAN AFRIDI, J :- Lt. General (R)

Naeem Khalid Lodhi hereinafter referred to as the petitioner was appointed as Secretary, Defence Division, Government of Pakistan on a two years contract, on standard terms and conditions, effective from 28.11.2011 vide Establishment Division Notification No. 10/05/2011-E-I, dated 24.11.2011. Pursuant thereto, he took charge of said post on 28.11.2011. The said appointment of the petitioner was terminated by the Government of Pakistan, Cabinet Secretariat Establishment Division vide notification No.10/05/2011-E-I Islamabad, the 11th January, 2012, and Mrs. Nargis Sethi, a BPS-22 Officer of Secretariat Group, serving as Secretary

Cabinet Division, was assigned the work of Secretary Defence Division in addition to her own duties vide notification No.41/340/2009-E-I, Islamabad, the 11th January, 2012. The termination order of the petitioner flashed in national and international print and electronic media terming the same as dismissal of the petitioner for gross misconduct. Such termination, without issuance of any charge sheet/show cause notice and holding inquiry, was felt by the petitioner as unwarranted stigma and ascribed the same as gross malafide on the part of respondents.

2. The petitioner, in view of the afore-stated situation, was allegedly left with no option but to invoke the jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, hereinafter referred to as the Constitution, seeking redressal by pleading for restoration of his contract appointment.

3. Learned counsel for the petitioner has argued that the petitioner was appointed on contract basis against the post of Secretary Defence Division vide notification dated 24th November, 2011 referred to above, for a period of two years with effect from 28.11.2011. That the term of contract appointment was to expire on 27.11.2013. That impugned notification dated 11th January, 2012, referred to above, was apparently an order of termination simpliciter but the same was not so as the national and international press and

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electronic media reported the said termination orders of the petitioner as a result of "gross misconduct". Learned counsel for the petitioner in support of his arguments referred to the news appearing in Dawn Islamabad dated 12.1.2012, Express Tribune Islamabad dated 12.1.2012, CNN (Canada) dated January 11th 2012, AFP (U.S.) dated 11th January, 2012, Aljazeera (Qatar) dated 11th January, 2012, BBC News (U.K.) dated 11th January 2012, Christian Science Monitor (U.S.) dated January 11th 2012, Financial Times (U.K.) dated January 11th 2012, Gulf News (U.A.E.) dated January 12th, 2012, Hindustan Times (India) dated 11th January, 2012, Indian Express (India) dated January 11th, 2012, NDTV (India) dated January 11th 2012, New York Times (U.S.) dated January 11th 2012, New York Times (U.S.) / Reuters, (France) dated 11th January, 2012, Rediff (India) dated January 11th 2012, Telegraph (U.K.) dated 11th January, 2012, The Australian (Australia) dated 12th January, 2012, Voice of America (U.S.) dated January 11th 2012, Wall Street Journal (U.S.) dated January 11th 2012, Washington Post (U.S.) dated 11th January, 2012 and Zee News (India) dated 11th January, 2012. Learned counsel for the petitioner also referred to press release of ISPR dated January 11th 2012, wherein allegation of the Prime Minister of Pakistan against COAS and DG ISI were rebutted. He further argued that the afore-stated material clearly establishes the fact that termination order of the petitioner was with stigma of gross

professional misconduct. That the said press statements and news of Electronic Media were not denied by the respondents and the same are to be taken into account. That according to the standard terms and conditions in respect of employment on contract basis, rules made and instructions issued by the Government or a prescribed authority for civil servant under Sections 15 and 16 of the Civil Servants Act, 1973, amended from time to time, would apply to contract employees. That the respondents have offered no comments on the media reports in their replies furnished in Court in response to the assertions leveled by the petitioner in his constitutional petition. That the said comments are neither dated nor verified as required under the law. That the termination order of the petitioner is liable to be set aside as the same was an order of termination of services of the petitioner with stigma and allegations of gross misconduct and was passed without following the prescribed procedure of conducting inquiry.

4. Learned counsel for the petitioner, during the course of arguments, has placed reliance on Article 10-A of Constitution according to which a person is entitled to a fair trial and due process with reference to determination of his civil rights and obligations or any criminal charge against him. He has also placed reliance on Sections 15 and 16 of Civil Servants Act, 1973 and clauses 12 and 14 at serial No.26 of ESTA Code according to which if a contract

employee is found liable to any disciplinary action and penalties then he is to be dealt with in accordance with the procedure prescribed for a civil servant, thus, if services of a contract employee are terminated with stigma then provisions of Sections 15 and 16 of the said act would be applicable.

5. In case of admissibility and judicial notice of print and media reports, reliance was also placed on case law reported in PLD 2009 Supreme Court 879, wherein the August Supreme Court of Pakistan in case of Sindh High Court Bar Association Vs. Federation of Pakistan observed that judicial notice of press reports could be taken by the Court.

(i) where direct evidence was not available;

(ii) where it was sought to be proved that a person had notice of the contents of the newspaper reports;

(iii) where it was sought to be shown that a person is an author or otherwise responsible for the statement or article published in a newspaper, which is to be used against him;

(iv) in cases of defamation and;

(v) if the issue/occurrence is rather old and eye witnesses are either wanting or less reliable.

6. Learned counsel for the petitioner has also placed reliance on case of Pakistan Lawyers Forum Vs. the Federation of Pakistan and another (PLD 2011 Lahore 382), wherein it was observed that newspaper reports about

events which are not rebutted are treated as reliable evidence.

7. View taken by the Lahore High Court in case of Pakistan Lawyers Forum Vs. Federation of Pakistan reported in PLD 2004 Lahore 130, was endorsed by the August Supreme Court of Pakistan in its worthy judgment referred to above (PLD 2009 Supreme Court 879).

8. In case of Watan Party and others Vs. Federation of Pakistan and others reported as PLD 2012 Supreme Court 292, the petition containing question of public importance with regard to enforcement of fundamental rights was maintained by the August Supreme Court of Pakistan.

9. While questioning the validity of the no reason clause embodied in the standard terms and conditions of contract employment, learned counsel for the petitioner has placed reliance on case of Mst. Samina Kanwal Vs. Director Punjab Forestry Research Institute, Faisalabad reported as PLD 2011 Lahore 563, wherein it was observed that no reason clause was facially discriminatory and liable to be used as such and was therefore violative of Article 25 of the Constitution. It was further observed that the clause inserted in the terms and conditions of contract appointment "without assigning any reason" was also offensive to human dignity and reason beside unconstitutional. Termination of the petitioner in the said case on the basis of the afore-stated no reason clause was set aside.

10. Learned counsel for the petitioner has also placed reliance on case of Faisal Sultan Vs. EDO Education and others reported as 2011 PLC (C.S.) 419, wherein it was observed that removal of an employee from a public sector employment without due process would offend Article 9 of the Constitution as right to life would include right to a lawful and a meaningful livelihood. It was further observed that issuance of notice with reasons to petitioners was a minimum requirement of due process of law under Articles 4, 9, 14 and 18 of the Constitution.

11. Reliance was also placed on case of Shahid Farooq Vs. Water and Power Development Authority reported as 2011 PLC (C.S.) 1034 (Peshawar High Court) wherein it was observed that a temporary employee or a person employed on contract basis, was entitled to a fair opportunity of hearing under the terms of Efficiency and Discipline Rules before condemning him on the allegations of misconduct.

12. Learned counsel for the petitioner also pressed into service case of Engineer Shaukat Hussain Vs. Federation of Pakistan reported as 2011 PLC (C.S.) 174 (Lahore High Court) wherein it was observed that termination of service of a contract employee on the allegation of misconduct, without regular inquiry, was unlawful and of no legal effect.

13. In case of the Secretary Government of the Punjab Vs. Riaz-ul-Haq reported as 1997 SCMR 1552, relied on by the learned counsel for the petitioner, it was observed that

where a person is to be condemned for misconduct then he is entitled to a fair opportunity to clear his position which means that there should be a regular inquiry in terms of Efficiency and Discipline Rules before condemning him for the alleged misconduct even if he is a temporary employee or a person employed on contract basis.

14. In case of Dr. Muhammad Amin Vs. Azad Jammu and Kashmir Government reported as 2012 PLC (C.S.) 462 High Court (AJ&K), relied upon by the learned counsel for the petitioner, it was held that the constitutional petition in respect of contractual appointment was maintainable as it was more efficacious and speedy remedy as compared to a civil suit. It was further observed that the petitioner was to be heard before removal before expiry of contractual period.

15. Learned counsel for the petitioner has also placed reliance on case law reported in case of WAPDA through Chairman Vs. Zulfiqar Ali reported as 2002 PLC (C.S.) 128 Supreme Court of Pakistan, wherein it was observed that pre-mature retirement in exercise of jurisdiction in a colourful manner and with malafide intention would necessitate to extend right of hearing to the affected employee.

16. Reliance was also placed on case law reported in 2002 SCMR 1034 in case of Abdul Hafeez Abbasi Vs. M.D. PIA and others, wherein it was ruled that maxim of 'Audi Alteram

Partem' would apply in all judicial and non-judicial proceedings notwithstanding the fact that right of hearing had not been expressly provided by the statute governing the proceedings.

17. Learned counsel for the petitioner in support of maintaining the constitutional petition has relied on the case of Dr. Akhtar Hussain Khan and others reported as 2012 SCMR 455 Supreme Court of Pakistan, wherein it was observed that even the existence of an alternate remedy can not prevent the Court from exercising its power of judicial review if the said alternate remedy is neither efficacious nor expeditious. That if a statutory functionary acts malafide or in a partial, unjust and oppressive manner the High Court in exercise of its writ jurisdiction has power to grant relief to the aggrieved party.

18. Learned Deputy Attorney-General (DAG) representing the respondents has argued that the constitutional petition of the petitioner has become infructuous as Mrs. Nargis Sethi, as Acting Secretary Defence/ Chairperson Committee of Administration of Fauji Foundation, vide notification No.16253/Secy/2011, dated 29th March, 2012 has issued appointment orders of the petitioner as Managing Director Fauji Fertilizer Company Limited with effect from 26th March, 2012 on contract basis for a period of three years which appointment has been accepted by the petitioner. That the petitioner was a retired

employee and was appointed on contract basis for a period of two years which appointment was, until further orders, with effect from 28.11.2011. That though services of the petitioner were terminated without mandatory notice of one month, however, in lieu whereof, one month salary was offered to the petitioner which he had accepted and received. That the termination notification of the petitioner was a termination order without any stigma and that the respondents denied the press and electronic media reports. That acceptance of one month salary in lieu of notice, subsequent appointment of the petitioner and denial of respondents in respect of charges of any gross misconduct attributed to the respondents, the constitutional petition would not be maintainable. That a person terminated from service with stigma cannot be considered for re-appointment while the petitioner was considered and appointed as MD of FFC. That denial of press and electronic reports on the part of respondents would bring the case of the petitioner within the ambit of factual controversy and in such eventuality, constitutional petition would not be competent. That the petitioner, alleging his termination from service with stigma and seeking protection of Sections 15 and 16 of the Civil Servants Act, 1973, was then obliged to resort to the provisions of Appeal under Section 22 of the said Act read with Rules 4 and 5 of Civil Servant Appeal Rules, 1977. That the news items were speculative in nature,

as according to the said news items, the termination order of the petitioner was aimed at removal of D.G. ISI and Chief of Army Staff. That the D.G. ISI has completed his tenure of service and COAS is holding the office and performing his functions and rendering services to the country. That the case law cited by the learned counsel for the petitioner at bar was irrelevant to the case of petitioner. That the contract appointment is not questionable in constitutional jurisdiction of this Court.

19. Learned DAG, during the course of arguments, has placed reliance on the case law reported as PLD 2011 Supreme Court 277, in Suo Motu Case No.24 of 2010 and Human Rights Cases, the August Supreme Court of Pakistan has observed that for establishing rule of law and constitutionalism it was necessary that the relevant provisions relating to service should be followed strictly in letter and spirit. It was further observed that to avoid violation of relevant provisions of law, tantamounting to blocking the promotion of serving officers and waiting for promotion, re-employment/contract appointment of retired officers was to be discontinued for the purpose of achieving good governance. The August Supreme Court of Pakistan, in the said case, issued directions to the Secretary, Establishment Division and Chief Secretaries of the Provinces to examine the cases of reemployment in terms of the provisions of law and to take necessary steps to ensure

that reemployments or employments on contract basis were not made in violation of the relevant law.

20. Reliance was also placed in Suo Moto Case No.24 of 2010 reported as 2011 SCMR 582, wherein the August Supreme Court of Pakistan has ruled that appointments on contract basis are not allowed to be continued in terms of Section 14 of the Civil Servants, Act, 1973 and the policy unless the conditions specified therein are satisfied.

21. Reliance was also placed on Human Right Cases No.50071-P etc reported as PLD 2011 Supreme Court 205, wherein the August Supreme Court of Pakistan deprecated appointment on contract and it was observed that it was in interest of Government to promote junior officers waiting for promotions and that they should be encouraged instead of employing persons on contract basis unless their services were indispensable.

22. Reliance was also placed on case of Government of Balochistan and others Vs. Dr. Zahida Kakar and others reported as 2005 SCMR 642, wherein it was observed that contract appointment prima facie does not create any vested right.

23. Learned DAG has also placed reliance on case of Mashal Khan Vs. Government of NWFP and others reported as 1997 PLC (C.S.) 1155, wherein it was observed that a contract employee cannot file a writ petition to seek redress in respect of a grievance relating to the terms and

conditions of his service. Reference in the said case also made to case law reported in PLD 1962 Supreme Court 108, 1984 CLC 2168 and 1987 MLD 153, wherein it was ruled that contractual rights are not enforceable by recourse to writ jurisdiction and when such services are terminated in accordance with the terms of contract.

24. Learned DAG while resisting the reinstatement of contract service of the petitioner placed reliance on case of ABN-AMBRO Bank Vs. Wasim Dar reported as 2004 PLC 69 (Lahore High Court), wherein it was observed that neither unwilling master can be forced to keep servant into his service nor unwilling servant can be forced to serve his master. It was further observed that Court cannot annul termination of service, even if the same be in violation of contract and that remedy of servant in case of wrongful termination of his service would be to claim damages from master. It was also observed that where contract contains provisions for termination of service of servant then employer is not required to assign any reason therefor and that pre- mature termination without mentioning reason or in absence of reason would not give cause of action to the servant to claim damages from employers except to claim salary in lieu of notice period.

25. Reliance was also placed on the case of Zaka Ullah Bajwa reported as 2004 PLC (C.S.) 332 (Lahore), wherein it was observed that contractual appointment, in terms of the

contract, could be dispensed with on one month's notice or payment of one month's salary in lieu thereof.

26. In case of Syed Manzoor Hussain Vs. Tehsil Nazim and others reported as PLD 2010 Lahore 101, relied on by learned DAG, it was observed that direct recourse to constitutional jurisdiction of High Court could not be encouraged in presence of alternate remedy.

27. In cases of Saeed Ahmad Khan and others reported as PLD 1974 Supreme Court 151, relied on by the learned DAG for the respondents, it was observed by the August Supreme Court of Pakistan that burden to prove malafides lies on person alleging it.

28. In case of BP Pakistan Exploration and Production Inc. Karachi Vs. Additional Commissioner & others reported as 2011 PTD 647 and Khalid Mehmood Vs. Collector of Customs reported as 1999 SCMR 1881, relied on by the learned DAG, it was observed that where alternate remedy is available, constitutional jurisdiction could not be invoked as the same was not meant to render alternate remedy redundant.

29. Learned DAG has also relied on case of Bashir Ahmed Vs. Messers Roots School Network through Administrator and others reported as 2011 SCMR 290, wherein it was observed that High Court will not make factual determination or interfere in orders passed by competent Courts vested with statutory powers in the exercise of their

functions, unless jurisdictional error or other legal infirmity such as arbitrariness etc in the order assailed before the High Court was forthcoming.

30. In case of Federation of Pakistan and others Vs. Mian Muhammad Nawaz Sharif and others reported as PLD 2009 Supreme Court 644, relied upon by the learned DAG, wherein it was observed that the Supreme Court could not enter into any factual controversy in proceedings arising out of a petition under Article 199 of the Constitution.

31. In case of Muhammad Mahmood Bawani Vs. Deputy Collector Building Zone-B and others reported as 2007 SCMR 1209, relied upon by the learned DAG, it was observed by the August Supreme Court of Pakistan that constitutional petition involving factual controversies would not be maintainable and that such petition is only meant for resolving and interpreting pure questions of law.

32. Learned DAG has also pressed into service case law formulated in Major (Retd.) Abdul Salam's case reported as 2004 PLC (C.S.) 864 wherein contractual appointment of the petitioner was held not enforceable through constitutional petition.

33. Reliance was also placed on case of Kh. Manzoor Qadir Vs. Azad Government the State of Jammu and Kashmir and others reported as 2011 PLC (C.S.) 90, wherein it was observed that if an employer no more requires service of a contract employee, he could terminate such services on one

month's notice and when such condition was specifically mentioned in the appointment order and the employee had not objected to the imposition of that conditions and had accepted the same then in such circumstances such an employee could not bring his grievance within the scope of extra ordinary writ jurisdiction.

34. Reliance was also placed on judgment rendered by this Court W.P.No.2350 of 2011 (IHC), wherein it was observed that well settled principle of law is that contract appointments could not be enforced through constitutional jurisdiction of the High Court.

35. Reliance was also placed on judgment of this Court passed in I.C.A. No. 85 of 2011, wherein it was observed that question, as to whether version of appellants was correct or the one put forward by respondents, would be a controversy requiring evidence and such factual controversy could not be resolved in writ jurisdiction.

36. I have heard arguments of learned counsel for the parties and perused the record and case law referred to and relied upon by the learned counsel for the parties during the course of arguments.

37. Undisputed facts of the case of the petitioner are that the petitioner, a retired Lt. General, was appointed on contract basis as Secretary Defence Division on standard terms and conditions, for a period of two years with effect from 28.11.2011 and until further orders vide notification

dated Islamabad 24th November, 2011. The contents of the afore-stated notification are reproduced below for facilitation and ready reference:-

Islamabad, the 24th November, 2011

NOTIFICATION

Lt. General (Retd.) Naeem Khalid Lodhi HI (M) is appointed on contract as Secretary, Defence Division, on standard terms and conditions for a period of two years, with effect from 28.11.2011 and until further orders.

-sd-

(Khial Zad Gul)
Deputy Secretary to the
Government of Pakistan

(underline by me for emphasis)

38. The petitioner, on the strength of the said notification of appointment on contract basis, assumed the charge of the said post on 28th November, 2011. Relevant portion of the said notification is also reproduced herein for facilitation and ready reference:-

Government of Pakistan
Ministry of Defence
Rawalpindi, the 29th Nov., 2011

NOTIFICATION

In pursuance of Establishment Division's Notification No.10/05/2011-E-I, dated 24.11.2011, Lt. Gen. (R) Naeem Khalid Lodhi has assumed the charge of the post of Secretary, Ministry of Defence on 28th Nov., 2011. This appointment is made on contract period of two years w.e.f. 28.11.2011 and until further orders on standard terms and conditions.

(Ashiq Hussain Awan)
Section Officer

39. The contract appointment of the petitioner was terminated with immediate effect vide notification dated Islamabad the 11th January, 2012 relevant part thereof is also reproduced herein for facilitation and ready reference.

Islamabad, the 11th January, 2012

NOTIFICATION

The contract appointment of Lt. General (Retd.) Naeem Khalid Lodhi HI (M), as Secretary, Defence Division is terminated with immediate effect.

-sd-
(Khial Zad Gul)
Deputy Secretary to the
Government of Pakistan

40. The petitioner has not denied receipt of one month pay and fresh appointment vide notification 29th March, 2012. Relevant part of the said notification is also reproduced below for reference and facilitation:-

GOVERNMENT OF PAKISTAN MINISTRY OF DEFENCE (DEFENCE DIVISION)

Subject: Appointment as Managing Director, Fauji Fertilizer Company Limited

1. Secretary Defence and Chairperson Committee of Administration Fauji Foundation, by virtue of the powers vested in her is pleased to appoint PA-16253 Lt. General Naeem Khalid Lodhi, HI (M), (Retd.) as Managing Director Fauji Fertilizer Company Limited w.e.f. 26 March 2012 on contract basis for a period of three years.

2. The pay and allowances and prerequisites etc will be as per existing policy.

3. The above orders will be placed before the Committee of Administration Fauji Foundation for ratification in its next meeting.

(-sd-)

Nargis Sethi
Secretary Defence/Chairperson
Committee of Administration
Fauji Foundation

41. The petitioner was appointed as Secretary Defence on contract basis on standard terms and conditions. Standard terms and conditions for appointment on contract basis have been provided under serial No.26 of the ESTA Code wherein period of contract appointment is specified “not exceeding two years” (underline for emphasis) from the date of assumption of charge. Termination of contract appointment, during the period of contract, is settled down subject to 30 days notice on either side “or payment of basic pay in lieu thereof, without assigning any reason” (underline for emphasis). The petitioner has received one month salary in lieu of the required notice and, the petitioner, while assuming the charge of the post, has accepted the terms of contract appointment including termination of his services without assigning any reasons as such the petitioner, employed on contract basis, facing termination order without assigning any reason but in accordance with the agreed terms and conditions, cannot invoke the extra ordinary constitutional jurisdiction of this Court for overturning or upsetting the settled terms and conditions of his contract employment.

42. Perusal of notification of contract appointment of the petitioner reproduced at page 17 of the judgment would suggest that the contract appointment of the petitioner was, though, spread over a period of two years with effect from

28.11.2011, however, the same was also restricted and limited to until further orders. Thus it can be safely inferred that standard terms and conditions referred to above, do not validate or permit contract appointment exceeding two years and the said terms and conditions validate and permit termination of such contract appointment without assigning any reason. On the touchstone of the said standard terms and conditions, it cannot be ruled that the contract appointment of the petitioner made for a period of two years and until further orders on standard terms and conditions, was not liable to termination on payment of one month salary in lieu of 30 days notice.

43. It is not disputed that the petitioner, after his termination order referred to above, has received one month pay and has also joined assignment of Managing Director Fauji Fertilizer Company Limited on contract basis with effect from 26th March, 2012, for a period of three years. In such eventuality, the petitioner cannot be legally justified to seek restoration of his contractual appointment against the post of Secretary Defence terminated vide impugned order referred to above.

44. It is a well settled principle that the constitutional courts, while exercising its power of judicial review, can take into account press and media reports but in the case in hand the said print and media reports are denied by the respondents as, according to learned DAG, the respondents

had never accepted the said media reports to be true till date and that such statements were never issued by the respondents to any press or media persons.

45. Version of the petitioner, with reference to his termination with stigma, is based on press and media reports and the said version is denied by the respondents and, in such eventuality factual controversy would emerge which would require appreciation of evidence for the purpose of proof of facts alleged by one party and denied by the other. Factual controversy, requiring such settlement, would go out of the ambit of the constitutional jurisdiction of this Court as a person or party, through constitutional petition, would not be entitled to seek determination of factual controversy and where only relief can be sought and granted on the basis of established and undisputed factual claims and assertions.

46. According to the standard terms and conditions of contract appointment, conduct and discipline of a contract employee is regulated by the provisions of Sections 15 and 16 of the Civil Servants Act, 1973. Thus, in the light of provisions of Section 15 of the said Act, the conduct of a contract employee is to be regulated by rules made or instructions issued by Government or prescribed authority and in case a contract employee is found liable to any disciplinary action and penalties then he is to be dealt with in accordance with the procedure prescribed for a civil

servant under the said Act. Since the contract employment of the petitioner has not been terminated for disciplinary action as such the provisions of Sections 15 and 16 of the said Act would not be applicable to the case of the petitioner.

47. The August Supreme Court of Pakistan, in Human Right Cases, referred to above, has deprecated contract appointments and had issued directions to the concerned Governments to examine such cases and terminate appointments made violative of service laws. The case in hand is not however the one which was terminated in the light of the directions of the August Supreme Court of Pakistan. The concerned Governments are yet to take steps for introducing good governance in the service hierarchy by abstaining themselves from appointments violative of service laws or dispensing with such illegal appointments.

48. In the light of the above, I hold that the contract appointment of the petitioner was liable to termination on 30 days notice or one month salary in lieu thereof and without assigning any reason for such termination and that the impugned notification of termination dated 11th January, 2012 was in consonance with standard terms and conditions of the contract appointment of the petitioner and that due to factual controversy involved therein the same cannot be interfered with by this Court in its constitutional jurisdiction.

49. For the above mentioned reasons, I see no force in the

instant constitutional petition. I would therefore dismiss the same, leaving the parties to bear their own costs.

(MUHAMMAD AZIM KHAN AFRIDI)
JUDGE

ANNOUNCED IN OPEN COURT ON 04.06.2012.

(JUDGE)

APPROVED FOR REPORTING.

Qamar Khan

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD. **JUDICIAL DEPARTMENT.**

W.P.No.114 of 2012

Lt. General (Retd.) Naeem Khalid Lodhi

VS.

President of Pakistan through Cabinet Secretary
Pak Secretariat, Islamabad and four 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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04.6.2012

Mr. F.K. Butt and Ms. Shafaq Abid, Advocates for the petitioner.
Mr. Shabbir Abbasi, Standing Counsel for the respondents.

Before pronouncement of the judgment, learned counsel for the petitioner appeared before the Court and informed the Court that the parties are going to privately settle the dispute. That pronouncement of judgment may, therefore, be postponed subject to confirmation of the above facts by learned Standing Counsel appearing for respondents.

2. Learned Standing Counsel was asked to verify the afore-stated position who, after consulting the respondents, informed the Court that no such process was either initiated or under consideration of the respondents.

3. In view of the above and in the light of the detailed judgment of this Court, placed on record, the constitutional petition stands dismissed leaving the parties to bear their own costs.

(MUHAMMAD AZIM KHAN AFRIDI)
JUDGE

Qamar Khan

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P. No.114 of 2012

Lt. Gen. (Retd) Naeem Khalid Lodhi
Versus
President of Pakistan & four 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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24-5-2012	Mr. F.K. Butt Adv. for the petitioner. Mr. Tariq Mehmood Jehangiri, DAG alongwith Mr. Amjad Saeed, S.O.Estab. Div., Muhammad Hussain Shahbaz, Dir. Legal for Res. No.5.
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Arguments of the learned counsel for the
petitioner heard. Adjourned to 25-5-2012 for
arguments of learned DAG.

(MUHAMMAD AZIM KHAN AFRIDI)
JUDGE

Afzaal