

Form No: HCJD/C-121.  
ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD  
JUDICIAL DEPARTMENT

W.P. No. 433 of 2017.

Muhammad Azam Javed.  
Vs  
Pakistan International Airlines Corporation.

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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01. 06-02-2017. Mr Abdul Hafeez Amjad, advocate for the petitioner.

The petitioner has invoked the jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, assailing order dated 05.10.2015, whereby he was dismissed from service.

2. The facts, in brief, are that the petitioner was an employee of the respondent i.e. the Pakistan International Airline Corporation (hereinafter referred to as the "**Corporation**"). A show cause notice dated 09.09.2015 was issued alleging misappropriation of diesel and misuse of an official vehicle. The petitioner filed a written reply to the show cause notice and after affording him an opportunity of personal hearing, he was dismissed from service vide impugned order, dated 05.10.2015. The petitioner filed a suit seeking declaration and recovery of Rs.30 million due to wrongful dismissal

from service and, admittedly the same is pending before a competent Court.

3. At the very outset the learned counsel for the petitioner was asked regarding the maintainability of the petition since the latter has availed an adequate and efficacious alternate remedy. Moreover, the relationship of the petitioner with the Corporation is in the nature of 'master and servant'.

4. The learned counsel argued the case at length and has mainly contended that the rule of 'master and servant' has become obsolete and is in violation of the fundamental right guaranteed under the Constitution.

5. The learned counsel has been heard and the record perused with his able assistance.

6. Admittedly, the petitioner has filed a suit and the same is pending before the competent Court. The petitioner through the suit is seeking damages for his wrongful dismissal. It is also not denied that there are no statutory rules or regulations governing the terms and conditions of the service of the employees of the Corporation and, therefore, the relationship falls within the ambit of 'master and servant'. It is settled law that in case of wrongful dismissal or termination from service, when the principle of 'master and servant' is attracted, a person

can only claim damages but not reinstatement. Reliance is placed on the cases "*Anwar Hussain versus Agricultural Development Bank of Pakistan and others*" [PLD 1984 S.C. 194], *M/S Malik and Haq and another versus Muhammad Shamsul Islam Chaudhry and others*" [PLD 1961 S.C. 531], "*Goha Ali and another versus M/S Hoechst Pakistan Ltd.*" [2009 PLC (C.S) 464] and "*Chairman, WAPDA and 02 others versus Syed Jamil Ahmed*" [1993 SCMR 346].

7. In the light of the above, the instant petition is not competent nor the prayer sought can be granted by way of issuance of a writ. The relationship between the petitioner and the employer is that of 'master and servant', therefore, his only remedy is to claim damages. The suit of the petitioner is also pending before the competent Court.

8. The writ petition is, therefore, ***dismissed in limine*** as not maintainable.

(ATHAR MINALLAH)  
JUDGE

Asad K/\*