

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

W.P. No.810/2019

Muhammad Umar Nadeem Qureshi

Versus

Federation of Pakistan, etc.

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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26-12-2019	Mr Majid Rashid Khan, Advocate for petitioner. Mr Umaar Zia Ud Din, Advocate for respondent no.2 and 5. Mr M. Saif Ullah Gondal, Asstt. Attorney General.
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Through this petition, Muhammad Umar Nadeem Qureshi (*hereinafter referred to as the 'Petitioner'*) has assailed order, dated 11-02-2019, whereby his service contract, dated 18-08-2016, was terminated.

2. The facts, in brief, are that the petitioner was appointed as Project Director and the terms and conditions of his service contract were described vide letter, dated 18-08-2016. The service contract was later terminated vide the impugned letter, dated 11-02-2019. The employer i.e. Pakistan Real Estate Investment &

Management Company (Pvt) Limited (*hereinafter referred to as the 'respondent Company'*) is a juridical person and was duly incorporated under the Companies Ordinance, 1984.

3. The learned counsel for the respondent Company has raised a preliminary objection regarding maintainability of the petition. He has argued that the respondent Company has not been established under an Act of the Parliament and, therefore, the terms and conditions of service of its employees are not governed under statutory rules/regulations. He has further argued that the relationship of the respondent Company with its employees is in the nature of master and servant. He has stressed that it is settled law that when the relationship between an employee and an employer is in the nature of master and servant, then reinstatement cannot be ordered.

4. The learned counsel for the petitioner has argued that the respondent Company is controlled by the Federal Government and that it is to be treated as a 'person' for the purposes of Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (*hereinafter referred to as the 'Constitution'*). The learned counsel

has placed reliance on the cases of '*Sabir Iqbal v. Cantonment Board, Peshawar through Executive Officer and others*' [PLD 2019 SC 189], '*Human Rights case No.3654 of 2018 (In the matter regarding appointment of Managing Director, Pakistan Television Corporation)*' [2019 SCMR 1], '*Messrs State Oil Company Limited v. Bakht Siddique and others*' [2018 SCMR 1181], '*Muhammad Rafi and another v. Federation of Pakistan and others*' [2016 SCMR 2146], '*Pir Imran Sajid and others v. Managing Director/ General Manager (Manager Finance) Telephone Industries of Pakistan and others*' [2015 SCMR 1257].

5. The learned counsels have been heard and the record perused with their able assistance.

6. It is not disputed that respondent no.1 has not been established under an Act of the Majlis-e-Shoora (Parliament) and that the terms and conditions of its employees are not governed under statutory rules/regulations. The relationship of the petitioner and respondent Company is in the nature of master and servant. It is settled law that when the rule of master and servant applies, then a constitutional petition under Article

199 of the Constitution is not competent. Moreover, even otherwise if the relationship is in the nature of master and servant then reinstatement of an employee cannot be ordered and the only remedy in case of wrongful termination is by way of seeking damages.

7. It is settled law that when the relationship falls within the ambit of the principles of master and servant then an employee cannot seek his reinstatement. In case the termination is in violation of law or wrongful even then the only remedy available to such an employee is by way of seeking damages. Reliance is placed on the cases of '*Muhammad Umar Malik v. The Muslim Commercial Bank Ltd. through its President, Karachi and 2 others*' [1995 SCMR 453], '*Pakistan Red Crescent Society and another v. Syed Nazir Gillani*' [PLD 2005 SC 806], '*Chairman, WAPDA and 2 others v. Syed Jamil Ahmed*' [1993 SCMR 346], '*Anwar Hussain v. Agricultural Development Bank of Pakistan and others*' [PLD 1984 SC 194], '*Gohar Ali and another v. Messrs Hoechst Pakistan Limited*' [2009 PLC (CS) 464], '*Messrs Malik and Haq and another v. Muhammad Shamsul Islam Chowdhury and two others*' [PLD 1961 SC 531].

8. For what has been discussed above, this petition is not maintainable and is, therefore, accordingly dismissed.

(CHIEF JUSTICE)

Luqman Khan/\*