

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

W.P.No.3142/2019

Zulfiqar Ali

**Versus**

**Ministry of Overseas Pakistanis and Human Resource Development etc.**

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	<b>20.09.2019</b>	<b>Mr. Muhammad Sadiq Khan, Advocate for the petitioner</b>

Through the instant writ petition, the petitioner, Zulfiqar Ali, impugns the charge sheet dated 03.07.2019 issued by the Ministry of Overseas Pakistanis and Human Resource Development.

2. The petitioner is admittedly a civil servant working as Upper Division Clerk in the said Ministry. A fact finding inquiry was conducted against the petitioner, therefore, it was found necessary to hold an inquiry through an inquiry committee in accordance with Rule 5(1)(ii) of the Government Servants (Efficiency and Discipline) Rules, 1973. The allegations against the petitioner are of inefficiency, misconduct and persistent reputation of corruption. The initiation of disciplinary proceedings against the petitioner pertaining to the terms and conditions of his service.

3. The consistent view of the Superior Courts is that a petition under Article 199 of the Constitution cannot be filed by a civil servant with respect to a matter connected with the terms and conditions of the service. The jurisdiction of the High Court in such matters is barred in view of the provisions contained in Article 212 of the Constitution. It is well settled that seeking the grant of a better pay scale relates to the terms

and conditions of service. Reference in this regard may be made to the following case law:-

- (i) In the case of Peer Muhammad Vs. Government of Balochistan through Chief Secretary and others (2007 SCMR 54), it has been held as follows:-

*"It is well-settled by now that the question of posting of a Government servant squarely falls within the jurisdictional domain of the Competent Authority subject to law and rules made thereunder. The question of posting/transfer relates to terms and conditions of a Government servant and Service Tribunal would have exclusive jurisdiction to dilate upon and decide such matters and Constitutional jurisdiction cannot be invoked to get such controversies resolved. We have also adverted to the question of mala fides which according to the learned Advocate Supreme Court could have been dilated upon in Constitutional jurisdiction which is not correct because the provisions as contained in Article 212 of the Constitution of Islamic Republic of Pakistan ousts jurisdiction of all other Courts and orders of the departmental authority even though without jurisdiction or mala fide can be challenged only before the Service Tribunal and jurisdiction of Civil Court including High Court is specifically ousted. The plea of mala fide does not confer upon High Court jurisdiction to act in the matter in view of the Constitutional ouster as contained in Article 212 of the Constitution of Islamic Republic of Pakistan and learned Service Tribunal has full jurisdiction to interfere in such-like matters."*

- (ii) In the case of Rai Ahmad Ali Vs. Province of Punjab and others (1999 SCMR 1832), it was held as follows:-

*"Article 212 of the Constitution is a bar against filing of a Constitutional petition in relation to the terms and conditions of civil servants. It has been repeatedly held by this Court that a Constitutional petition under Article 199 of the Constitution is not maintainable in relation to any matter connected with the terms and conditions of service in respect whereof the appropriate Service Tribunal is*

*possessed of the requisite jurisdiction, in view of the provisions contained in Article 212 of the Constitution. This Court has also held that even in cases where the order is alleged to be mala fide, the bar of Article 212 is attracted."*

4. For the reasons mentioned above, the instant writ petition is not maintainable and the same is accordingly dismissed in limine.

**(MIANGUL HASSAN AURANGZEB)**  
**JUDGE**

*Sultan\**