

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

W.P. No.3138/2019

Naveed Yousaf

**Versus**

Pakistan Telecommunication Company Ltd. and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
-------------------------------	----------------------------	---

**01.10.2019**

**Mr. Muhammad Umair Baloch, Advocate for the petitioner**

Through the instant writ petition, the petitioner, Naveed Yousaf, impugns the order dated 16.11.2017, passed by the respondents, whereby a major penalty of "removal from service" was imposed on him. Furthermore, the petitioner seeks a direction to the respondents to reinstate him in service with all back benefits.

2. Learned counsel for the petitioner submitted that the petitioner was appointed as Assistant Divisional Engineer (Planning and Coordination) in respondent No.1/Company in the year 2002 and was subsequently promoted as Manager (Planning and Coordination); that on 06.09.2017, a show cause notice was issued to the petitioner, wherein it was alleged that Rs.2,00,000/- had been demanded by him from the Chief Executive Officer of KPK Engineering Services for the clearance of the latter's bill for rehabilitation works; that there is no truth to the allegations against the petitioner; that on 11.09.2017, the petitioner submitted a detailed reply to the said show cause notice; that without conducting a regular inquiry, major penalty of "removal from service" was imposed on the petitioner, vide impugned order dated 16.11.2017; that the said order was assailed by the petitioner in W.P.No.4991-P/2017 before the Hon'ble Peshawar High Court; and that vide order

dated 10.07.2019, the said petition was returned so that the same could be filed before the Court in whose jurisdiction the cause of action had accrued to the petitioner.

3. Learned counsel for the petitioner further submitted that by not holding a regular inquiry, the petitioner's fundamental rights under Articles 4, 9, 10-A and 25 of the Constitution had been violated; and that the impugned order dated 16.11.2017 had stigmatized the petitioner and adversely affected his future employment prospects. Learned counsel for the petitioner prayed for the writ petition to be allowed in terms of the relief sought therein. In making his submissions, learned counsel for the petitioner placed reliance on the judgments reported as 2016 SCMR 2146 and 2013 SCMR 1707.

4. I have heard the contentions of the learned counsel for the petitioner and have perused the record with his able assistance.

5. It is an admitted position that the petitioner joined the respondents' employment in the year 2002 i.e., after the enactment of the Pakistan Telecommunication (Re-organization) Act, 1996. The petitioner's grievance is that after the issuance of a show cause notice and the submission of a reply thereto, a major penalty of "dismissal from service" was imposed on him without a regular inquiry having been conducted against him.

6. Before proceeding with the merits of the case, I deem it appropriate to decide whether the instant petition is maintainable.

7. It is well settled that where the conditions of service of an employee of a statutory body were governed by statutory rules, any action prejudicial against such an employee in

derogation or in violation of statutory rules could be set-aside by the High Court in exercise of writ jurisdiction. However, in the case at hand since the petitioner was employed by the respondents after the latter's conversion into a company, the petitioner's relationship with respondent No.1 is that of master and servant. In the case of Executive Council, Allama Iqbal Open University Vs. M. Tufail Hashmi (2010 SCMR 1484), it has been held that the employees of non-statutory corporations with no protection of statutory rules would be governed by principle of master and servant. It is admitted that there are no statutory rules governing the petitioner's relationship with the respondents. Learned counsel for the petitioner could not even point out any non-statutory service rule which had been violated by the respondents in imposing a major penalty on him.

8. The Hon'ble Supreme Court, in the case of Masood Ahmed Bhatti Vs. Federation of Pakistan (2012 SCMR 152), held *inter-alia* that employees appointed by the Pakistan Telecommunication Company Limited, after the enactment of the Pakistan Telecommunication (Reorganization) Act, 1996 were not governed by statutory rules or regulations, and therefore they could not press into service under Article 199 of the Constitution with respect to matters concerning terms and conditions of their service.

9. In view of the above, this petition is dismissed as not maintainable.

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