

**ORDER SHEET**

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

**I.C.A No. 49 of 2019**

Falak Taj

**Versus**

Federation of Pakistan through Secretary Petroleum, Petroleum Division, Ministry of Pakistan and others

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	21.02.2019	Mr. Naeem Ullah Khan, Advocate for the appellant.

This appeal is directed against order dated 30.01.2019, passed by Judge in Chambers, whereby a petition under Article 199 of the Constitution, filed by the appellant, was dismissed.

2. The facts, in brief, are that the appellant filed a petition under Article 199 of the Constitution impugning letter dated 13.08.2018, whereby he was imposed major penalty of removal from service. The referred petition was dismissed on the ground that rules of service of respondents No. 3&4 are non-statutory.

3. Learned counsel for the appellant, *inter alia*, contended that undoubtedly rules of service of the respondents are non-statutory, however, this Court in case titled **Syed Kamran Ali vs. Federation of Pakistan, etc. (ICA No. 91/2018)**, decided the matter on merit. It was contended that the instant petition of the appellant ought to have been decided on merit.

4. Arguments advanced by the learned counsel for the appellant were heard and documents placed on record examined with his able assistance.

5. Admittedly, the rules of service governing the relationship between the appellant and respondents No. 3&4 are non-statutory, hence the relationship is one of Master and Servant. Where such is the position, undoubtedly, a petition under Article 199 *ibid* is not maintainable unless there is violation of law as was held by the Apex Court in case reported as *Pakistan Defence Officer's Housing Authority and Others vs. Lt. Col. Syed Jawaid Ahmed (2013 SCMR 1707)*. No violation of law is made out in the facts and circumstances as the appellant was proceeded against and opportunity to defend was duly allowed to him and only thereafter major penalty was recorded. Impugned judgment does not suffer from any error of law or fact.

6. For the above reasons, the instant petition is without merit and is accordingly **dismissed** in *limine*.

**(MOHSIN AKHTAR KAYANI)**  
**JUDGE**

**(AAMER FAROOQ)**  
**JUDGE**

M.Shah.