

Form No: HCJD/C-121
JUDGEMENT SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No. 16 of 2010

Liaqat Ali Khan

Versus

The Secretary, Ministry of Planning & Development, etc

Date of decision. 02.12.2019

Petitioner by. Muhammad Asif Gujjar, Advocate.

**Respondents by. Raja Saad Sultan, Assistant Attorney
General.
Mian Abdul Rauf, Advocate.**

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Aamer Farooq J : Through the instant petition, the petitioner has assailed letter dated 19.05.2010, whereby his service contract was terminated.

2. The facts, in brief, are that the petitioner was inducted in the service of National Trust for Population Welfare on contract basis vide Order dated 16.03.1998. Letter for appointment became effective from 01.01.1998, however, it was provided that the same is for indefinite period. During the course of employment, disciplinary proceedings were initiated against the petitioner in which fact finding inquiry was held and the petitioner duly participated in the same. He was provided the opportunity of hearing. The fact finding inquiry culminated in charge sheet which was duly replied and the matter eventually was decided by the Board, wherein it was suggested that the petitioner be terminated. Pursuant to the same petitioner's services were terminated, vide impugned letter.

3. Learned counsel for the petitioner was confronted as to the status of the respondent employer and the petitioner i.e. National Trust for Population Welfare. Learned counsel for the petitioner contended that the referred Trust is the creation of Charitable Endowment Acts. He further contended that there is violation of the Rules of service as wrong provision of the Rules have been stated in the termination letter dated 19.05.2010. Learned counsel placed reliance on case reported as Pakistan Defence Officers Housing Authority versus Mrs. Itrat Sajjad Khan (2017 SCMR 2010).

4. Learned counsel for respondents, *inter alia*, contended that the instant petition is not maintainable. The respondent Authority is a Trust and does not fall within the concept of Person as provided under Article 199 of the Constitution. It was further contended that there are non-statutory Rules of service and the guidelines for the regulation formulated are for internal consumption hence the relationship between the petitioner and employer was of master and servant; that it is trite law that where service of employment is governed through contract or arises out of relationship of master and servant a petition under Article 199 of the Constitution is not maintainable. Learned counsel further contended that there was no violation of law or principles of natural justice as the petitioner was charge sheeted and he filed reply and was provided an adequate opportunity of hearing.

5. Arguments advanced by learned counsel for the parties have been heard and documents placed on record examined with their able assistance.

6. The petitioner is aggrieved of termination of his employment, vide letter dated 19.05.2010. The terms of service of his employment

were governed through contract though the same did not have any specific time frame. Learned counsel for the petitioner alleged that the service regulations have been framed by the respondents. It is pertinent to observe that National Trust for Population Welfare framed employees service Rules in 1997. The said Rules were published in the gazette vide Notification bearing SRO 1128-(I)/94, dated 21.11.1994. In this behalf the case law relied upon by the learned counsel for the petitioner is instructive inasmuch as *Pakistan Defence Officers Housing Authority versus Mrs. Itrat Sajjad Khan (2017 SCMR 2010)* the august Apex Court observed that the test whether any Rules of service are statutory or non-statutory depends is whether the same are for internal control management or; if such the case they are non-statutory, while those having broad area of efficacy was broader and or complementary to the parent statute they were statutory. Moreover, it was observed by the august Apex Court where the employee of a statutory body having non-statutory Rules filed a petition under Article 199, the same is not maintainable. The petitioner was afforded adequate opportunity of defending himself and he filed reply to the charge sheet and also was provided an opportunity of hearing. Nothing is on record to show that the Order impugned is without law full authority or suffers from any error of law otherwise.

7. In view of the above, instant petition is without merit and is accordingly dismissed.

**(AAMER FAROOQ)
JUDGE**