

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No.3745 of 2019
Zahid Rafique
Versus
OGDCL through its Managing Director and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	29.10.2019	M/s Rehana Sarwar and Asma Sarwar, Advocates for the petitioner.

Through the instant writ petition, the petitioner, Zahid Rafique, seeks a direction to the Oil and Gas Development Company Limited ("O.G.D.C.L.") to consider him for promotion from the post of Senior Engineer to Deputy Chief Engineer (System/Software) with effect from 01.07.2017 with all consequential back benefits. The petitioner also seeks the correction of his performance evaluation reports for the years 2016 to 2019 and the withdrawal of the letters dated 11.01.2019 and 17.01.2019 as well as the report of the fact finding inquiry committee and the warning dated 26.06.2019.

2. In the instant petition, the petitioner has agitated grievances pertaining to the terms and conditions of his service with O.G.D.C.L. The petitioner was issued an offer for appointment as Assistant Engineer by O.G.D.C.L. on 11.06.2001. The charge sheet and statement of allegations dated 09.10.2019 have been issued to the petitioner under the O.G.D.C.L. Employees Service Rules, 2002. Given the fact that the petitioner was employed after the conversion of the Oil and Gas Development Corporation into O.G.D.C.L. which is a company established under the provisions of the erstwhile Companies Ordinance, 1984, the question that needs to be

determined is whether the instant petition is maintainable.

3. Oil and Gas Development Corporation (Reorganization) Ordinance, 2001 was promulgated on 05.07.2001. Section 1(3) of the said Ordinance provides that it shall be deemed to have taken effect on 23.10.1997. Section 3 of the said Ordinance provides that the Oil and Gas Development Corporation shall be deemed to have been converted into a company limited by shares with effect from the date of incorporation of the company with the Securities and Exchange Commission of Pakistan under the Companies Ordinance, 1984.

4. It is an admitted position that the petitioner was employed with O.G.D.C.L. after 23.10.1997 when the said Ordinance came into effect and when the company (i.e. O.G.D.C.L.) was incorporated. It is also an admitted position that the O.G.D.C.L. Employees Service Rules, 2002 do not have statutory force.

5. This Court in the judgment dated 30.06.2016 passed in writ petition No.1407/2015, titled "Muhammad Azhar Khattak Vs. OGDCL etc." has held *inter alia* that employees appointed in the O.G.D.C.L. after the promulgation of the Oil and Gas Development Corporation (Reorganization) Ordinance, 2001 were not governed by statutory rules and regulations but by rules framed by the Board of Directors of O.G.D.C.L. which were non-statutory in nature. Furthermore, it was held that such employees could not file a writ petition with respect to a matter concerning terms and conditions of their service.

6. Since the petitioner was employed by O.G.D.C.L. after the latter's conversion into a company, the petitioner's relationship with

O.G.D.C.L. is that of master and servant. It is well settled that an employee of a company, in the absence or violation of law or any statutory rule, cannot press in service the Constitutional jurisdiction under Article 199 of the Constitution for seeking the relief pertaining to the terms and conditions of his service.

7. In view of the above, this petition is dismissed *in limine* as not maintainable. The petitioner is at liberty to agitate his grievances against O.G.D.C.L. before a Court of competent jurisdiction, subject to law.

(MIANGUL HASSAN AURANGZEB)
JUDGE

Ahtesham*