

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

Writ Petition No. 135 of 2018

Mohammad Zaid  
Vs  
Brig.(R) Mohammad Zia ul Hassan Sahi, Director Administration,  
NUML, Islamabad, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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04-12-2019. Ch. Imtiaz Ahmed, Advocate for the petitioner.  
Mr. Nauman Munir Paracha, Advocate for the  
respondents.

Through this petition the petitioner has  
assailed notification, dated 30.10.2017.

2. The petitioner was appointed as Driver  
vide letter, dated 07.07.2010. Perusal of  
terms and conditions of his service shows  
that he was to remain on probation for a  
period of one year from the date of his  
appointment. The petitioner, therefore, had  
attained the status of a permanent employee.

3. It appears from the record that the  
impugned order, dated 30.10.2017, was  
passed without issuance of a show cause  
notice. Moreover, reasonable opportunity of  
hearing was also not afforded to the  
petitioner. Perusal of the written comments  
filed by the respondent University shows that  
no show cause notice was issued to the  
petitioner. The record also does not indicate

that the petitioner was associated in the inquiry purported to have been conducted against him. The respondent University has been established under the National University of Modern Languages Ordinance, 2000 (hereinafter referred to as the "**Ordinance of 2000**"). Section 27 thereof is reproduced as follows:

***Opportunity to show cause:- Except as otherwise provided, no officer, teacher or other employee of the University holding a permanent post shall be reduced in rank, or removed or compulsorily retired from service, unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken."***

4. It is obvious from the above that the legislature has explicitly provided that no person can be proceeded against nor removed from service without issuance of a show cause notice and affording a reasonable opportunity of hearing. The learned counsel for the respondent University has stated that terms and conditions of an employee of the University are not covered under statutory regulations. The august Supreme Court in the case titled "*Muhammad Rafi and another vs. Federation of Pakistan and others*" [2016 SCMR 2146] has unambiguously held that regardless of regulations being non

statutory, a constitutional petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 would be maintainable if there is violation of a law. This Court is satisfied that there is a clear violation of section 27 of the Ordinance of 2000.

5. For the above reasons, this petition is allowed and the impugned order, dated 30.10.2017, is hereby set aside. The petitioner would be entitled to all back benefits. Moreover, in case the respondent University intends to proceed against the petitioner then it would be at liberty to do so after issuance of a proper show cause notice and giving reasonable opportunity of hearing as has been explicitly provided under section 27 of the Ordinance of 2000.

***CHIEF JUSTICE***

*Saeed.*