

**ISLAMABAD HIGH COURT  
ISLAMABAD**

**W.P. No. 3599 of 2015.**

**Muhammad Amir Taimur Baig, etc.**

*VERSUS*

**The Secretary Aviation / Chairman Civil Aviation Board, etc.**

Petitioners by : Malik Qamar Afzal and Ms Sumera Naqvi, advocates.

Respondents by : Mr Bilal Akbar Tarar, advocate.

Date of Hearing : 22-06-2016.

**ATHAR MINALLAH, J:-**

The petitioners have invoked the jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred to as the "**Constitution**"), seeking the following prayer;-

*"In these circumstances, it is very respectfully prayed that this Honourable Court may very graciously order and declare;*

a) The *Interim*

the *Court*

be *do*

- b) The respondents act of 'pick and choose' be declared as an illegal and unlawful;
- c) The petitioners are entitled for legitimate expected rights in accordance with law.

Any other equitable relief the Honourable Court may find justifiable in the given circumstances.

2. At the very outset, the learned counsel appearing on behalf of the petitioners was asked to satisfy this Court regarding maintainability of the petition, particularly when the august Supreme Court has consistently held that the Service Regulations of the Civil Aviation Authority are non-statutory. The learned counsel for the petitioners while conceding that the question regarding the status of the Service Regulations as being non-statutory is settled has argued that the grievance of the petitioners relates to violation of the statutory provisions

3. The august Supreme Court in the recent judgment titled "Sharique Ahmad Khan etc versus NAFSA etc", passed in Civil Appeal No. 1259 of 2010, has referred to the case titled "Shariq Ahmad Khan etc versus NAFSA etc" in the case titled "Sharique Ahmad Khan etc versus NAFSA etc".

Authority and others" [2011 SCMR 523]. In the latter case the august Supreme Court had declared the Service Regulations of the Civil Aviation Authority as non-statutory. The august Supreme Court having declared the Service Regulations as non-statutory renders the relationship between an employee and the Civil Aviation Authority as that of master and servant. It is settled law where the relationship is that of master and servant a petition under Article 199 of the Constitution is not competent.

4. The petitioners have assailed respective notices, whereby inquiry has been initiated in order to verify their educational qualifications. Firstly, the impugned orders by no stretch of the imaginations can be treated as being final or adversely affecting the rights of the petitioners, secondly the impugned notices relate to the terms and conditions of the service and lastly the Service Regulations having been held by the august Supreme Court as non-statutory, therefore, the relationship of the petitioners and the Civil Aviation Authority is governed by the principles of master and servant.

5. For what reasons stated above, the instant petition is not maintainable and is accordingly **dismissed**.