

Form No: HCJD/C-121.
ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No. 2226 of 2017.

Muhammad Asif.
Vs
FOP, 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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01. 09-06-2017. Mr Muhammad Umair Baloch, advocate for the petitioner.

The petitioner has invoked the jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking the following relief;-

"In view of the above-mentioned facts and circumstances, it is respectfully prayed that instant writ petition may kindly be accepted by directing the respondents to re-instate the petitioner and issue a formal notification regarding regularization of the services of the petitioner from the date of his initial appointment, with all consequential back benefits.

It is also prayed that during the pendency of the writ petition, the post of Audit Officer, IESCO, may not be filled in through any other means except

*through regularization of the petitioner till
final disposal of the writ petition”.*

2. At the very outset, the learned counsel for the petitioner was asked as to how the petition is maintainable when the grievance relates to terms and conditions of service and the relationship between the petitioner and his employer i.e. Islamabad Electric Supply Company is in the nature of master and servant.

3. The learned counsel for the petitioner has argued the case at length but was not able to satisfy this Court regarding the maintainability of the petition.

4. Admittedly, Islamabad Electric Supply Company is a juridical person incorporated under the Companies Ordinance, 1984. It has neither been established under a statute nor it is the case of the petitioner that the terms and conditions of service of employees of Islamabad Electric Supply Company are governed by statutory rules of regulations. The grievance of the petitioner essentially relates to the terms and conditions of service. The petitioner is seeking reinstatement into service which inevitably entails extension of his service contract. This Court vide order dated 14.01.2016 passed in Writ Petition No. 1295/2012, placing reliance and seeking guidance from order dated 21.06.2012 passed by the august

Supreme Court in Civil Petition No. 1591 of 2011 has already held that a constitutional petition seeking relief against Islamabad Electric Supply Company in matters relating to terms and conditions of service of its employees is not competent under Article 199 of the Constitution. The relationship of Islamabad Electric Supply Company and its employees essentially falls within the realm of 'master and servant'. Moreover, a constitutional petition is also not maintainable in cases where relief seeks enforcement of contractual terms. Moreover, it is also settled law that when relationship between employer and employee is in the nature of 'master and servant' then even if the latter is able to establish that he or she was wrongfully terminated, relief by way of reinstatement cannot be granted. The only remedy which an employee can claim is damages. The case law cited at the Bar by the learned counsel appearing on behalf of the petitioner is distinguishable in the facts and circumstances of the case.

5. In the light of the above, the instant petition is not maintainable and is, therefore, accordingly ***dismissed in limine.***

(ATHAR MINALLAH)
JUDGE