

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Munib Akhtar
Mr. Justice Shahid Waheed
Ms. Justice Musarrat Hilali

Civil Appeal No.515 of 2015

(Against the judgment dated 15.12.2014 passed by the Lahore High Court, Rawalpindi Bench Rawalpindi in I.C.A.127/2013 in W.P.1516/2011)

Chairman, Board of Control, Canteen Stores, ...Appellant(s)
HQ, Rawalpindi & others

Versus

Muhammad Azam Khan & others ...Respondent(s)

For the Appellant(s) : Ch. Sultan Mansoor, ASC
Raja Abdul Ghafoor, AOR
Brigadier (Retd.) Farasat Ali
Khan, Legal Consultant

Respondents No.1-10 : Mr. Abdul Rahim Bhatti, ASC

Federation : Raja Shafqat Mehmood Abbasi,
Deputy Attorney General

Date of Hearing : 22.11.2023

JUDGMENT

Shahid Waheed, J. This is an appeal by leave from the judgment of the Lahore High Court dated 15th of December, 2014, whereby the intra-court appeal filed by the appellants against the order dated 1st of November, 2013, passed by the Single Bench in favour of the respondents was dismissed.

2. The dispute between the parties arises from the orders, dated 18th of March, 2011, of retirement/termination from service against the respondents on disciplinary grounds. *Inter alia*, leave was granted to examine whether the employees of the Canteen Stores Department (**CSD**) are in the service of the Armed Forces, and therefore, the jurisdiction of the High Court under Article 199(3) of the Constitution is barred. Besides, another question was raised during arguments: whether the CSD under which the respondents

served comes within the meaning of "person" provided in clause (5) of Article 199 of the Constitution so that they could obtain an order from the High Court directing it to reinstate them therein.

3. The brief facts giving rise to the above questions are that the respondents were CSD employees and served in various capacities; some were retired, and some were terminated due to misconduct. All together, they challenged the disciplinary action before the High Court under its constitutional jurisdiction. The petition was disposed of by sending a copy thereof to the Board of Control of CSD with a direction to decide the matter afresh. Under this order, notices were issued to the respondents, an opportunity for a hearing was given and on perusal of the record, they were all punished by various orders, all on the same date of 18th of March, 2011. The respondents again attacked these fresh orders in their joint petition, before the High Court out of which this appeal arises. The appellants raised a preliminary objection to the petition, contending that the CSD is an organisation whose object is to supply the personnel of the Armed Forces with articles of standard quality of daily use connected with the Armed Forces and, thus, an order under Article 199(3) could not be made. This objection was rejected by a Single Bench of the High Court with the observation that the CSD functions under the administrative control of the Ministry of Defence, which performs functions in connection with the affairs of the Federation. The Single Bench also found the facts in favour of the respondents and, therefore, by order dated 1st of November 2013, allowed their claim and set aside the disciplinary action. Aggrieved, the appellants filed an intra-court appeal before the Division Bench of the High Court but failed to establish the

merits of their objection. Their appeal was dismissed by a judgment dated 15th of December, 2014. So, this appeal.

4. To determine the two questions, it is essential to examine, among other things, the history, origin, organisational structure, and authorities exercising financial, administrative and executive control over CSD and the rules governing its functioning.

5. CSD's origin can be traced to British Control of the Indian Subcontinent when the Army Canteen Board was established in India as a Branch of the British Navy and Army Canteen Board. Although the Navy and Army Canteen Board in Britain was abolished in 1922 and replaced by the Naval, Army and Air Force Agency, its counterpart in India continued to function until 1927. The Army Canteen Board was abolished in 1927 and replaced by the Canteen Contractors' Syndicate (**CCS**). It was started as a private limited company with its registered office in Karachi. The shareholding of this company was limited to canteen contractors. The CCS operated with reasonable efficiency until the start of World War II. However, with the heavy concentration of British troops in India, the CCS could no longer cope with the situation. Therefore, on 1st of July, 1942, with the approval of the Governor-General-in-Council, the Canteen Stores were incorporated as a Government undertaking and comprised of the Canteen Services Board of Control, Canteen Section as part of the QMG's Branch, Army Headquarters and Canteen Stores Department with duties and functions specified in the notification. This notification was published in the Gazette of India on 30th of July, 1942. Indubitably, under this notification, the Canteen Services was an establishment run by the Department of Defence through its officer, the Quartermaster General. This position continued until 1947. After

independence, the assets of CSD India were divided between Pakistan and India in the agreed ratio of 2/5 and 3/5, respectively. As a result, the Ministry of Defence vide letter No.302/100/Q(Can) dated 7th of February, 1948, informed the approval of the Governor-General-in-Council for the opening of the Canteen Service (Pakistan) comprising Canteen Service (Pakistan) Board of Control and Canteen Stores Department as a government undertaking with effect from 1st of January, 1948. This letter further stated that the CSD will be managed by a Board of Administration, which will be answerable to the Board of Control through the Branch of the Quartermaster General. However, the above position of CSD was modified in 1959 vide letter No.5503/119/Q-Coord./646-Q/D-3 dated 21st of February, 1959. This letter is still in the field, and thus, it is profitable to reproduce it here and so we do:

*No.5503/119/Q-Coord./646-Q/D-3
Government of Pakistan,
Ministry of Defence (Army Branch),
Rawalpindi, the 21st February 1959.*

To,
The Quartermaster General,
General Headquarters, Rawalpindi (10)

Subject: **CANTEEN STORES DEPARTMENT -
ORGANIZATION AND PROCEDURE.**

Sir,

I am directed to say that in this Ministry's letter No.302/100/Q(CAN), dated the 7th February 1948 orders were issued declaring the Canteen Service (Pakistan) as a Government undertaking. The position has since been reviewed and it has been decided that, as this service was inaugurated from non-public funds, the Canteen Stores Department (Pakistan) should be treated as a non-Government commercial concern under the control of the Ministry of Defence for the welfare the of the Armed Forces personnel. Accordingly, neither the transactions of this organization will pass through Government accounts nor will its trade results be exhibited in the Commercial Appendices of the Defence Services.

2. a. *The accounts of Canteen Stores Department will be audited on month to month basis by the Military Accounts Department. The audit will include 16 2/3% of the total CSD accounts.*

b. *Audit Fee at the rate of Rs.2,009/00 per Shop per annum will be paid by the Canteen Stores Department to the Military Accounts Department.¹*

*Sd/-
(Muzaffar Hussain)
Assistant Secretary to the Government of Pakistan.
(underlining is for emphasis)*

¹ Para 2 of this letter was deleted vide letter No.5548/210/Q-Coord./4261/D-3(8) dated 21st of November, 1964.

A perusal of the record before us shows that on 12th of June, 1959, the powers and duties of the Board of Control of the CSD were again revised and it was reiterated that the CSD would be supervised by a Board of Control with the Quartermaster General as its Chairman in whom executive control of CSD would also be vested. This letter bearing No.5548/210/Q-Coord./1814-Q/D-3 dated 12th of June, 1959, reads as under:

*No.5548/210/Q-Coord./1814-Q/D-3
Government of Pakistan,
Ministry of Defence (Army Branch),
Rawalpindi, the 12th of June, 1959.*

To,

*The Quartermaster General,
General Headquarters, Rawalpindi (20)*

Subject: **CANTEEN STORES DEPARTMENT -
ORGANIZATION AND PROCEDURE.**

Sir,

I am directed to refer to this Ministry's letter No.5503/119/Q-Coord./646-Q/D-3, dated the 21st of February, 1959, and to state that the Canteen Stores Department will be supervised by a Board of Control with the Quartermaster General as its Chairman in whom executive control of the Department will also be vested.

2. *The constitution of the Board of Control, Canteen Stores Department its duties, and the responsibilities, duties and powers of the General Manager, Canteen Stores Department will be as laid down in annexure to this letter.*

3. *This Ministry's letter Nos.302/100/Q(CAN),98/DSIII and 5548/105/Q-1/5880-G/D-3, dated the 7th of February, 1948, the 3rd of May, 1951 and the 16th of July, 1952 respectively, are hereby cancelled.*

*Your obedient servant,
Sd/-
(Muzaffar Hussain)
Assistant Secretary to the Government of Pakistan.*

The record also bespeaks that the Quartermaster General's Branch through its letter No.5548/210/67/Q-Coord., dated 17th of April, 1967, clarified to the General Manager of the CSD that the status of the CSD was as a non-government commercial concern under the control of Ministry of Defence for the welfare of the Armed Forces personnel. This letter is to the following effect:

Registered
 General Headquarter,
 Quartermaster General's Branch,
 Rawalpindi,
 Tele: GHQ:6404,
 No.5548/210/67/Q-Coord.
 17th of April, 1967.

To,
 The General Manager,
 Canteen Stores Department,
 PB No.3908, Karachi-4

Subject: **CANTEEN STORES DEPARTMENT -
 ORGANIZATION AND PROCEDURE.**

Your letter No.8/75/129 dated 18th March, 67, refers.

The correct status of the Canteen Stores Department is as laid down in Government of Pakistan, Ministry of Defence (Army Branch), Rawalpindi letter No.5503/119/Q-Coord./646-Q/D-3 dated 21st of February, 59 as amended by letter No.5548/210/Q-Coord./4261/D-3(B) dated 21st of 64 (copies attached). Please, therefore, cancel your above quoted letter and inform all concerned regarding the correct status of the CSD accordingly.

Board of Control, CSD
 for Quartermaster General

Here ends an overview of CSD conveying that currently, CSD is a non-Governmental commercial organization, its services are connected with the defence, it has its own funds, its post holders are not in the service of Pakistan, and it is supervised by a Board of Control with the Quarter Master General as its Chairman.

6. It will also be gainful to explore precedents set by the Courts, dealing with the letters about the genesis and the organizational structure of CSD, to draw results for the questions presented to us. Doing so, we have been able to lay our hands on some judgments that have considered the conspectus of CSD. These judgments also illustrate the questions before us here. We discuss them briefly. The first case is of Niaz Muhammad Khan² and in that case the judgment is of a Division Bench of the Lahore High Court, wherein it made allowance for the above aspects of CSD while dealing with the facts identical to the present appeal. In this case, Niaz Mohammad Khan was a confirmed Manager in CSD and his

² Niaz Muhammad Khan v. Quartermaster General, G.H.Q, [Writ Petition No.332 of 1963, decided on 15th of January, 1970 (unreported)].

services were terminated by order of the Quartermaster General for gross negligence in performing his duties. He challenged his termination in the High Court's constitutional jurisdiction and sought reinstatement. In the contest, it was pleaded that CSD is a non-governmental commercial organisation and Niaz Muhammad Khan does not hold any position in the service of Pakistan. Therefore, the only question was whether Niaz Muhammad Khan held such a post in the service of Pakistan entitling him to the constitutional guarantees attached to his service. Based on the history of the CSD and specifically the letter dated 21st of February, 1959, the Lahore High Court ruled that the CSD was not a government institution and its post holders were not in the service of Pakistan. Niaz Muhammad Khan was, therefore, not found entitled to any constitutional protection and relief of reinstatement in service was declined.

7. The second case is that of Abdul Rashid.³ He was appointed as Assistant in CSD on 18th of September, 1948. At that time, the CSD was a Government undertaking vide letter No.302/100/Q(CAN) dated 7th of February, 1948. Abdul Rashid's services were terminated on 9th of January, 1968, without giving him a show cause notice or holding any inquiry. Displeased, he filed a petition in the Sindh High Court. He claimed constitutional protection for his services. On the contrary, it was contended that CSD is not a government department as it does not have such characteristics. The history of the conversion of CSD from a government undertaking to a non-government commercial concern was also laid out. The High Court, however, declared that since Abdul Rashid was appointed in 1948, he should be deemed to have

³ *Abdul Rashid v. General Manager, Canteen Stores Department*, [Writ Petition No.218 of 1968, decided on 11th of August, 1971 (unreported)].

been appointed to a government service. Based on this conclusion, the dismissal was declared to have no legal effect. The findings returned by the High Court were then considered by a five-member Bench of the Supreme Court. Reviewing all the facts and rival arguments, it was held by the Supreme Court that Abdul Rashid could not claim any constitutional protection for his position in CSD as the Government had employed him in connection with the defence and did not belong to a duly constituted civil service of the Federation. As a consequence, the findings of the High Court were set aside.⁴

8. We now hit on the third case of Lt. Mohammad Zaman Khan which is unreported.⁵ He was employed as a Manager at CSD and later terminated for embezzlement and theft. He, therefore, instituted a suit against CSD for a declaration that his termination was illegal. The Trial Court passed a decree in his favour, holding that the Government of Pakistan had employed him and, therefore, could not be terminated without complying with the requirements of the relevant rules applicable to Government servants. The decree was upheld in the first appeal. The CSD then took its second appeal in the Peshawar High Court, relying on the case of Niaz Muhammad Khan (*supra*). On considering the matter, the Peshawar High Court came to hold that the CSD is run from its funds, does not receive any funds from any government source and is completely autonomous in its internal administration. Thus, it followed that CSD was a private commercial organisation, and Lt. Mohammad Zaman Khan's claim that it was part of the government was untenable. Hence, agreeing with the decision of the Lahore High

⁴ *General Manager, Canteen Stores Department, Karachi v. Abdul Rashid*, [1983 SCMR 487].

⁵ *General Manager Canteen Stores Department v. Lt. Mohammad Zaman Khan*, [RSA No.434 of 1970, decided on 11th of December, 1972 (unreported)].

Court in Niaz Muhammad Khan, it was declared that the CSD rightly terminated the services of Lt. Mohammad Zaman Khan, as their inter se relationship was no more than that of master and servant, and consequently, he could not claim to be reinstated in the CSD. As such, the decrees passed by the two courts below were accordingly reversed. An Appeal from this judgment was preferred before the Supreme Court.⁶ It was heard and decided by a three-member Bench. The Supreme Court, in its judgment dated 14th of November, 1982, set at rest the status of CSD and its employees in the following words:

"the Canteen Stores Department in the year 1948 was a sanctioned government undertaking under the Ministry of Defence, which position continued and no organisational change was effected therein upto 1958. However, the Canteen Stores Department changed its legal character and status consequent upon the organisation changes brought about by way of revision of government policy as would appear from the letter dated 21.2.1959 already referred to. It is, therefore, clear that after 1959 the Canteen Stores Department continued to exist as a non-Government Commercial Concern, although the control of the Ministry of Defence, was for administrative reasons retained, for the obvious reason that this organisation was for the welfare of the Armed Forces personnel. As would appear from the cited passage of the impugned judgment, with which we agree entirely, the appellant having been employed after 21.2.1959, when the Canteen Stores Department ceased to be a government department obviously he cannot be held to be holding a government post in the service of Pakistan."

9. The last case in the row is of the CSD employees Welfare Union.⁷ Although it proceeds in different contexts, it sheds light on the attributes of CSD, so we deem it expedient to examine

⁶ Lt. Mohammad Zaman (Retd.) v. General Manager, Canteen Stores Department [Civil Appeal No.20-P of 1973 (unreported)].

⁷ Canteen Stores Department Employees Welfare Union, Karachi v. Canteen Stores Department [1983 SCMR 1101].

it. It so happened that employees of CSD in the Province of Punjab and NWFP (now KPK) formed themselves in a union and applied for its registration under the Industrial Relations Ordinance. The CSD resisted this application on the grounds that it was a service connected with the Defence. Therefore, the question that fell for the Supreme Court's consideration was whether employment in the CSD was a service connected with the Defence or the Armed Forces and hence excluded under Section 1(3) of the Industrial Relations Ordinance. The three-member Bench of the Supreme Court, based on Muhammad Niaz Khan and Lt. Mohammad Zaman Khan, answered that: 'the object of the CSD when it was a government undertaking and even after it ceased to be so was and has been not only to supply the entitled personnel with articles of standard quality of daily use but what is more important to form the basis of an efficient Canteen Organisation in peace and war for troops located anywhere in the country and operational areas during the war.⁸ This aspect of the purposes of CSD clearly makes it out to be an organisation connected with the Armed Forces'. It is important to clarify here that in this judgment, the CSD, was treated as an organisation providing services related to the Armed Forces. However, CSD was not declared a part of the Armed Forces, nor were its employees treated as Government servants or members of the Armed Forces.

10. In light of the rundown of the case law so far developed on the characteristics of CSD, we consider the first moot question of whether the employees of CSD are in the service of the Armed Forces and, therefore, the High Court cannot make an order concerning them. In order to see if this is the position, we would first look at the respondents' letter of appointment. Be it noted that the contents of the appointment letters of the respondents with negligible variation are selfsame, so we reproduce hereunder the appointment letter of Muhammad Azam Khan, respondent No.1, which reads:

⁸ See also Army Order 22 dated 4th of September, 1957, and Army Order 10 dated 25th of February, 1975.

CANTEEN STORES DEPARTMENT
265 MUHAMMAD HUSSAIN ROAD, POST BOX No.1039
RAWALPINDI CANTT.

Ref. No.PA/Estb/106/A-1

Dated:8-April-97

To,

PF-Temp-570 SSA
 Muhammad Azam Khan s/o
 Salam Khan c/o
 CSD Shop S/M RWP

LETTER OF APPOINTMENT

You are hereby appointed in the service of this organization on the terms and conditions notified in this letter.

Designation	:SSA (Temp for one year only)
Date of appointment	:11 Mar 97
Present place of duty	:CSD Shop Super Market Rawalpindi
Pay	:Rs.1725/- per month
Grade	:1725-116-3465 (BPS-11)
Allowances	:As admissible in the department
Probationary period	:One year
Terms of service	:As printed on reverse
Postings and transfers	:Any place of duty in Pakistan
Remarks	: The above named indl is civilian and his date of birth is 22 Nov 1965

N.B:

In the event of any dispute regarding the uninterpretation of the Rules of this department the decision of the Q.M.G as Chairman, Board of Control, CSD Pakistan shall be final.

Acceptance of appointment: I, Have read the above
Have been explained

The above and hereby accept the appointment subject to the TERMS AND CONDITIONS of service of this department.

Signature of the individual

Or left hand thumb impression _____

Lt. Col. (Retd.)
 Director Personnel & Adm. CSD
 (Shaikh Ibrahim)

Copy to:

1. Individual concerned
2. Office record after obtaining the signature of indl.
3. F & A Division
4. CSD Shop Super Market Rawalpindi
5. Zonal Manager (North)
6. Estb Sec (P & A Div) HQ, CSD RWP

ON REVERSE

TERMS AND CONDITIONS OF TERMINATION OF SERVICE

- 1) *During Probationary Period. Service to be terminated on 24 hours notice on either side without assigning any reason.*
- 2) *After Confirmation*
 - a) *For Class IV appointments one week's notice either side or one week's basic pay in lieu thereof.*
 - b) *For clerical appointments including drivers, electricians, carpenters, painters one month's notice either side or one month's basic pay in lieu thereof.*
 - c) *For Junior Grade Manager's to Special Grade Managers 1 month's working notice either side or 1 month's basic pay in lieu thereof.*
 - d) *If an employee is found to have committed theft, fraud, gross negligence in performance of his duties, gross misconduct and insubordination, his services will be summarily terminated and he will be paid off his salary upto the date of dismissal from service. He will also forfeit the right to Bonus dues, if any.*

The terms and conditions contained in this letter clearly show that the post which the respondents had been offered was not in the Armed Forces of Pakistan. It is plain to one that, unlike a member of the Armed Forces of Pakistan, whose terms and conditions are specified by uniform statutory rules, the terms and conditions of the respondents were mentioned in the above letter, issued under the signature of a retired Lieutenant Colonel. Quite apart from the fact that no such terms and conditions are ever prescribed in the case of a member of the Armed Forces of Pakistan, it is clear to us that the posts offered to the respondents were private, particularly when the respondents were not subject to any law relating to Armed Forces of Pakistan. Here, we deem it expedient to clear the misconception often arising from Instruction No. 38 of the Army Regulations, Vol-II (Instructions), 2000, page 19. The impression that detracts is that since, in this instruction, the Quartermaster General's Branch is shown to be dealing with the CSD, it should be considered a part of the Armed Forces. This is not well founded, for all that this instruction means is that the Quartermaster General's Branch shall deal with matters about policy, control and administration of CSD. This does not imply that the CSD has become a part of the Quartermaster General's Branch and so, CSD can only be considered an organisation that provides services connected with the Armed Forces, and its employees cannot be treated as Government Servants or Armed Forces members. Consequently, in light of this analysis, it can be safely concluded that concerning the terms and conditions of its employees, the CSD cannot put forward the bar contained in clause (3) of Article 199 of the Constitution before the High Court.

11. Now, we have reached the stage to examine whether the CSD comes within the fold of "person" defined under clause (5) of Article 199 of the Constitution. Before proceeding further, we take a pause and consider it pertinent to reiterate that under Article 199(5) person includes any body politic or corporate, and any authority of or under the control of Federal Government or of Provincial Government. In that vein, it is to be first ascertained whether CSD could be treated as a body politic or corporate. It may be observed that under the Anglo-Saxon Law, there are two main classes of corporations: Corporations sole and Corporations aggregate. A corporation sole is a body politic having perpetual succession constituted in a single person like a sovereign or some Ministers of the Crown, Government officers or an archbishop, dean, a vicar, etc., who have been created as Corporation sole by name under the relevant statute but this is not a common type of corporation. The Corporation aggregate is more common contemporary. The method of their incorporation in Britain is either by a Royal Charter or by the authority of the Parliament, that is, by or by virtue of statute. In Pakistan, corporations are incorporated either by a statute or by registration of companies under the statute such as Companies Act, associations under the Societies Act, cooperative societies under the Cooperative Societies Act, or trusts under the Trust Act. It is also common for corporations to be created by an executive order under the authority delegated by an Act of Parliament.⁹ In light of this perspective, we cannot say that CSD is a body politic or corporate because the historical perspective and the precedents set out above tells us that it has not come into being by a statute or under a statute.

⁹ *Mrs. M.N. Arshad v. Ms. Naeema Khan* [PLD 1990 SC 612].

12. Could we then construe CSD as an authority of or under the control of the Federal Government? It is now well settled that to be such an authority, it must be entrusted with functions of the government involving some exercise of sovereign or public power, and it must also be legally entitled to, or entrusted by the Government with, the control or management of a local fund.¹⁰ In the case of CSD, we find that its entire capital belongs to it and does not form part of the government money or government funds. It has independent financial resources and is run by its own funds, receives no funds from any source of the Government and is completely autonomous in its internal administration. The Public Accounts Committee does not scrutinise its accounts to include the same in the Public Fund Account of the Federal Government. It is a private commercial organization and does not perform any function of the Government. All these features are also borne out from letter No. 5503/119/Q-Coord./646-Q/D-3 dated 21st of February, 1959 (reproduced hereinabove), in which it has categorically been stated that neither the transactions of CSD will pass through Government accounts nor will its trade results be exhibited in the Commercial Appendices of the Defence Services. That apart, the Ministry of Finance, Government of Pakistan, in its letter No.2611/E-III/FAMF/67 dated 22nd of June, 1967, has also clarified that the revenue of the CSD is not administered by a body which, by law or rule, having the force of law come under the control of the Government nor the revenue are ever notified by Government as such. For these reasons, the CSD also cannot be held as an authority of the Government.

¹⁰ The expressions "*Local Fund*" has been defined in Rule 652 of the Treasury Rules of the Federal Government, Vol.-I, Revised Edition 2019.

13. It is now clear that CSD is neither a body politic nor corporate nor an authority; as such, a petition against it by its employees before the High Court in its constitutional jurisdiction is not competent. Nevertheless, as the word "Department" is part of the name of CSD, it will also be suitable to look at its connotation. It must be remembered that "person", in clause (5) of Article 199 of the Constitution, has not been defined restrictively. We, therefore, may inquire into whether the status of CSD is that of the government department. This requires us to examine the Federal Government's rules that specify how it conducts its business. The Federal Government has made these rules in exercise of the powers conferred by Articles 90 and 99 of the Constitution, and they are called Rules of Business, 1973. A perusal of these rules suggests that the Federal Secretariat comprises Ministries and Divisions, and with the Divisions are attached Departments. The list of Ministries and Divisions is provided in Schedule I, while the list of Departments is in Schedule III. It is important to note that only that can be termed Department whose name is mentioned in Schedule III. Since CSD is not mentioned in Schedule III to the Rules of Business, we cannot call it a government department. This conclusion also gets strength from the survey of case law made in the preceding paragraphs of this judgment in which it has been categorically declared that CSD is not a government department.

14. We have also examined the CSD Revised Instructions and Procedures Manual (2006). In the wake of the above discussion, it can be said that the rules contained in the Manual are non-statutory because these have not been framed under the authority of the Constitution or any statute. Since the respondents were employed when the CSD had ceased to be a government department

or undertaking, the inter se relationship of the respondents and CSD was governed by the ordinary law of Master and Servant, and, as such, it follows that respondents being employees of CSD, which does not come within the meaning of clause (5) of Article 199 of the Constitution, could not maintain their writ petition before the High Court to obtain an order of their reinstatement. Under Article 199 of the Constitution, their petition was incompetent.

15. Given this discussion, this appeal is allowed. Consequently, the order dated 1st of November, 2013, of the Single Bench and judgment dated 15th of December, 2014, of the Division Bench of the High Court are set aside, and the writ petition of the respondents is dismissed.

Judge

Judge

Judge

Islamabad
22.11.2023
"APPROVED FOR REPORTING"
Rashid & Agha M. Furqan, L.C

Announced in Court on ____/____/2024 at Islamabad

Judge