ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No.3889 of 2020
Adnan Mansoor Syed
Versus
Oil and Gas Development Company Limited and another

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	09.05.2022	**Petitioner in person.** **Mian Belal Ahmad and Mirza Abdul Maalik Baig, Advocates for O.G.D.C.L.**

Through the instant writ petition, the petitioner, Adnan Mansoor Syed, has voiced his grievance regarding the inaction on the part of the Oil and Gas Development Company Limited (“O.G.D.C.L.”) to reimburse expenses amounting to Rs.2,064,455/- incurred by the petitioner on the “cochlear implant surgery” performed on his son, Abdul Rehman on 02.04.2014 at the Agha Khan University Hospital, Karachi.

2. The record shows that on 24.09.2002, the petitioner was appointed in O.G.D.C.L. on contract basis. He is presently serving as Deputy Chief Engineer (Mechanical). Clause 8 of his employment contract entitles him and his wife and children to medical facilities as determined by O.G.D.C.L. from time to time. The petitioner’s son has undergone “cochlear implant surgery” for which the petitioner is seeking a reimbursement of Rs.2,064,455/- from O.G.D.C.L. On 01.11.2016, revised medical policy was issued by O.G.D.C.L. which, according to O.G.D.C.L., does not entitle him for the reimbursement of the expenses incurred on his son’s surgery.

3. The petitioner appeared in person and referred to documents in order to substantiate the expenses incurred by the petitioner on his son’s surgery, and submitted that since the terms and

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conditions of his employment entitle him and his family for a medical facility, O.G.D.C.L. ought to have reimbursed the expenses incurred by the petitioner on his son's surgery.

4. On the other hand, learned counsel for O.G.D.C.L. raised an objection to the maintainability of the instant petition on the ground that since the terms and conditions of the petitioner's employment with O.G.D.C.L. were not governed by any statutory rules or regulations, the instant petition was not maintainable. Furthermore, it was submitted that O.G.D.C.L., being a company, is under no obligation to formulate a policy for the reimbursement of the medical expenses incurred on treatment of an employee or his family at a private hospital. Learned counsel for O.G.D.C.L. prayed for the petition to be dismissed.

5. I have heard the contentions of the petitioner and the learned counsel for O.G.D.C.L. and have perused the record with their able assistance.

6. I deem it appropriate to decide, at the first instance, the objection taken to the maintainability of the instant petition.

7. It is an admitted position that the petitioner was employed in O.G.D.C.L. after its conversion into a company incorporated under the provisions of the erstwhile Companies Ordinance, 1984.

8. The employees of O.G.D.C.L. who had been regularly employed prior to the promulgation of the Oil and Gas Development Company Limited (Reorganization) Ordinance, 2001, were governed by the Oil and Gas Development Corporation Employees (Service) Regulations, 1994, and the terms and conditions of their services were protected under Section 5 of the said Ordinance. However, the employees of O.G.D.C.L. employed

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after the promulgation of the said Ordinance, or the making of the Oil and Gas Development Company Limited Employees Service Rules, 2002, their terms and conditions of service were not governed by statutory rules/regulations. The relationship of the latter category with their employer was that of master and servant. Such employees could not file a petition under Article 199 of the Constitution with respect to a matter concerning the terms and conditions of their service.

9. In the case at hand, it is an admitted position that the appellant was employed after the promulgation of Oil and Gas Development Company Limited (Reorganization) Ordinance, 2001. The petitioner, through this writ petition, had raised a grievance pertaining to the terms and conditions of his service with O.G.D.C.L/ Company i.e., the non-reimbursement of the expenditure incurred on the surgery performed on his son at a private hospital. Admittedly, the petitioner's terms and conditions of service were not governed by any statutory rules/regulations. Therefore, his relationship with O.G.D.C.L. is governed by the principle of master and servant.

10. It is well settled that a writ petition is maintainable where the respondent/authority violated any provision of law or statutory rules. Employees who are governed by statutory rules can avail the remedy of filing a writ petition before the High Court. It is also well settled that the principle of 'master and servant' was applicable to the employees whose services were not governed by any statutory rules. Employee of a company, owned by the Government, in the absence of violation of law or any statutory rule, could not press into service the Constitutional jurisdiction of

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the High Court in order to seek relief with respect to his employment. Reference in this regard may be made to the law laid down in the cases of Samiullah Narago Vs. Federation of Pakistan (2012 PLC (C.S.) 1205), Pakistan Telecommunication Company Limited Vs. Iqbal Nasir (PLD 2013 SC 132), and Pakistan International Airline Corporation Vs. Tanveer-ur-Rehman and others (PLD 2010 SC 676). In the latter case, it has been held as follows:-

> ***"19. However, this question needs no further discussion in view of the fact that we are not of the opinion that if a corporation is discharging its functions in connection with the affairs of the Federation, the aggrieved persons can approach the High Court by invoking its constitutional jurisdiction, as observed hereinabove. But as far as the cases of the employees, regarding their individual grievances, are concerned, they are to be decided on their own merits namely that if any adverse action has been taken by the employer in violation of the statutory rules, only then such action should be amenable to the writ jurisdiction. However, if such action has no backing of the statutory rules, then the principle of Master and Servant would be applicable and such employees have to seek remedy permissible before the Court of competent jurisdiction."***

11. This Court, vide judgment dated 30.06.2016 passed in W.P. No.1407/2015, titled "Muhammad Azhar Khattak Vs. OGDCL", after referring to Section 5 of the Oil and Gas Development Corporation (Re-organization) Ordinance, 2001, held as follows:-

> ***"7. It is obvious from the above, that the employees who were transferred from the Corporation to the Company on the date of incorporation thereof are deemed to be the employees of the Company on the same remuneration and other conditions of service, rights and privileges as were applicable before the said conversion. The legislature, therefore, protected the terms and conditions of those employees who were previously appointed by the Corporation and on its incorporation were transferred and deemed to have been given the status of the employees of the Company with effect from the date on which the said incorporation had taken effect. As a corollary, the employees appointed after the date of***

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incorporation i.e. 23-10-1997 are not the transferred employees from the Corporation to the respondent Company. Section 5 of the Re-Organization Ordinance, therefore, does not extend the protection to such employees who were appointed after the date of incorporation or in other words the said provisions are not attracted to their extent. Moreover, pursuant to a resolution passed by the Board of Directors of the respondent Company for making provisions for the appointment of the servants and the employees and for matters incidental and ancillary thereto, the Oil & Gas Development Company Limited Employees Service Rules, 2002 (hereinafter referred to as the "Service Rules, 2002") were framed and notified. The latter rules, therefore, governed the terms and conditions of service of the employees who were appointed after the incorporation of the respondent Company. The said rules are non-statutory in nature since they have not been framed or enacted under powers exercised under a Statute. The Service Regulations, 1991 or the Service Regulations 1994 are, therefore, not attracted in case of employees appointed after the incorporation of the respondent Company, particularly in the light of the provisions of the Re-Organization Ordinance. The employees, therefore, who do not fall within the preview of Section 5 of the Re-Organization Ordinance can neither claim protection of their terms and conditions under the Service Regulations, 1994 nor their grievances relating to the terms and conditions of service could be treated as being governed by statutory rules or regulations."

12. In view of the above, the instant petition is dismissed as not maintainable. After holding that the instant petition is not maintainable, it would not be appropriate to discuss or give a finding on the merits of the case. The petitioner is at liberty to approach the Court of competent jurisdiction for the redressal of his grievance.

(MIANGUL HASSAN AURANGZEB)
JUDGE

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