Form No: HCJD/C-121
ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No. 4673/2021

Syed Jamal Nasir
Vs.
Pak Data Com Ltd. & others.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	31.12.2021	Mr. Asad Iqbal Siddiqui, Advocate for petitioner.

Through the instant writ petition, petitioner has prayed for the following relief:-

> "*In view of the foregoing facts and circumstances it is, therefore, most humbly prayed that the instant Writ Petition be allowed and a as a consequence thereof the impugned communication dated December 10, 14, 17, 23, 24, 27of 2021 be declared illegal, unlawful and to have been initiated with malafide intentions and are without any legal force and is ab initio void.*
> *It is further prayed that the petitioner be allowed to continue the responsibilities as Chief Operating Officer as a permanent employee till the age of retirement or as may be lawfully available pending disposal the captioned writ petition.*
> *It is further prayed that the respondents be directed not to obstruct the petitioner from attending the office in performance of the duty. The respondent No. 1 be directed not to obstruct the payment of salary with all benefits as approved by the Board of Directors and as per employment norms throughout.*
> *It is further prayed that the respondents be restrained from tarnishing the image of the petitioner with the vendors and in the Information Technology Industry locally and internationally.*
> *Any other relief which the Hon'ble Court deems fit and proper may also be awarded in furtherance of justice. It is prayed accordingly."*

2. The learned counsel when confronted with the maintainability of the petition as the petitioner is contract employee with respondent No. 1 and as per the facts arising out of the petition respondent No. 1 is a company registered under the Companies Ordinance, 1984 with SECP, the learned counsel submits that the respondent No. 1 is an attached department of the Ministry of Information Technology and that the respondent No. 4- Telecom Foundation is 54% share-holder in the respondent No. 1-company, hence, writ can be issued to the respondents.

Further argued that letter dated 10.12.2021, was issued in pursuance of directive issued by the Ministry of Information Technology (MOIT). He added that service of any employee cannot be terminated merely on conjectures and surmises, without any reason and show cause. The learned counsel relied upon case law reported as 2013 SCMR 836 & 2015 PLC (CS) 116.

3. Head, record examined.

4. The submissions of the learned counsel are self-contradictory as on one hand it is stated that respondent No. 1 is an attached department of the Ministry of Information Technology while on the other hand it is argued that the Ministry of Information Technology has no authority to conduct audit or inspection of the account of respondent No. 1 company as it is a public sector company and has to be audited by the Auditor General of Pakistan.

5. The petitioner was a contract employee of respondent No. 1, a Company registered under the Companies Ordinance, 1984 with SECP, having non-

statutory rules. The relationship of the petitioner with respondent No. l is that of master and servant. Therefore, constitutional petition is not maintainable in view of dictum laid down by the Hon'ble Apex court in case titled "*Pakistan International Airlines Corporation and others v. Tanvir ur Rehman and others,* **(PLD 2010 (Supreme Court) 676)"**.

6 In the similar circumstances, this Court in the case of *Manzoor Ahmad v. Federation of Pakistan,* ***(2018 PLC (CS) 1224)***, has graciously observed that:-

> *"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 of 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 rules could not press into service the constitutional jurisdiction of a High court in order to seek relief with respect to his employment."*

7. Even otherwise, if the majority shareholding is owned by the Federal Government, even then constitutional jurisdiction of this court cannot be invoked. Reliance is placed upon case law reported as "*Pakistan International Airlines Corporation and others v. Tanvir ur Rehman and others,* **(PLD 2010 (Supreme Court) 676)"**, *"First Women Bank Ltd v. Muhammad Tayyab and others* **(2020 PLC (CS) 86)**" and *"Samiullah Narago v. Federation of Pakistan* **(2012 PLC (C.S) 1205)"**

8. The case law relied upon by learned counsel do not extend any help to the petitioner's case due to having distinct facts and circumstances.

9. In view of above, instant writ petition is **dismissed in limine.**

(ARBAB MUHAMMAD TAHIR)
JUDGE

Kamran.