JUDGMENT SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No. 1067/2025

Azhar Ali

Versus

Federation of Pakistan, etc.

Petitioner by:	Raja Saif ur Rehman, Advocate.
Respondents by:	Mr. M. Asif Khan Jadoon, AAG. Mr. M. Shafiq ur Rehman Dab, Advocate for respondent No.2/DRAP. Hafiz Bilal Bin Akbar, Dy. Director (Legal) DRAP. M. Sohail, AD (Lit-iv), M/o NHSR&C.
Date of Hearing:	24.06.2026.

Islamabad High Court, Islamabad

KHADIM HUSSAIN SOOMRO, J: Through this judgment, I intend to decide the instant writ petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, whereby the petitioner has assailed the dismissal order dated 21.09.2022 as well as the appellate order dated 27.02.2025, through which his departmental appeal was dismissed. The petitioner has further sought reinstatement in service along with all consequential benefits.

2. The brief facts of the present case are that the petitioner, Mr. Azhar Ali, was initially appointed in the Accountant General's Office in the year 1990. During his service, he obtained the ICMA qualification and subsequently joined Sui Southern Gas Company Limited in 2001 as Deputy Chief Manager. In response to an

advertisement issued by the Drug Regulatory Authority of Pakistan (DRAP) in 2015, he applied for the post of Director (Budget and Accounts). According to the petitioner, he secured first position in the selection process conducted through NTS and, after approval by the competent authority, was appointed as Director (Budget and Accounts), DRAP, in 2016. It is further his case that after successful completion of the prescribed probation period, his services were confirmed under Regulation 5 of the DRAP Employees Regulations, 2015. The petitioner pleads that following the appointment of a new Chief Executive Officer of DRAP, differences arose between them. Thereafter, anonymous complaints dated 17.02.2019 and 20.02.2019 alleging financial irregularities and other misconduct were received against him. Acting upon the said complaints, the authority, through its 63rd meeting held on 26.02.2019, initiated proceedings against the petitioner and placed him under posting vide letter of even date. Subsequently, a charge sheet and an inquiry order, both dated 13.12.2019, were issued, after which departmental inquiry proceedings were conducted against him. According to the petitioner, the disciplinary proceedings were initiated and conducted under the Civil Servants (Efficiency and Discipline) Rules, 1973, whereas the DRAP Employees Regulations, 2015, governed his service. He further alleges that the procedure prescribed under Regulation 10 of the said Regulations was not followed; the proceedings were founded upon anonymous complaints; copies of

Islamabad High Court, Islamabad

the annexures and inquiry report were not supplied to him; no effective opportunity of cross-examination or personal hearing was afforded; and the inquiry remained pending for an inordinate period. Ultimately, the petitioner was dismissed from service vide order dated 21.09.2022. Hence, this petition.

3. Learned counsel for the petitioner submits that the impugned dismissal order dated 21.09.2022 and the appellate order dated 27.02.2025 are wholly without lawful authority, having been passed in blatant disregard of the DRAP Employees Regulations, 2015, which exclusively govern the service conditions of the petitioner. He contends that despite the existence of a complete disciplinary mechanism under Regulation 10 of the said Regulations, the respondents illegally initiated and concluded disciplinary proceedings under the Civil Servants (Efficiency and Discipline) Rules, 1973. According to learned counsel, Regulation 21 of the DRAP Employees Regulations, 2015 permits recourse to the Civil Servants Act and the rules framed thereunder only in matters not specifically provided for in the Regulations. Since Regulation 10 specifically prescribes the procedure for removal of a Director on the ground of misconduct, recourse to the E&D Rules, 1973 was legally impermissible and amounts to a patent misapplication of law, rendering the entire disciplinary proceedings void ab initio. Learned counsel further argues that the mandatory procedure envisaged under Regulation 10 was not adhered to in letter or spirit. Neither

Islamabad High Court, Islamabad

was the recommendation of the Policy Board obtained nor was the petitioner proceeded against by the competent authority in the manner prescribed by the Regulations. It is submitted that the inquiry proceedings themselves stand vitiated as no effective opportunity of cross-examination was afforded to the petitioner, copies of the annexures referred to in the charge sheet and the inquiry report were never supplied, and no meaningful personal hearing was granted before imposition of the major penalty. Such procedural violations, it is contended, constitute a gross infringement of the principles of natural justice and fair trial guaranteed under Article 10A of the Constitution. It is further contended that the respondents acted with unexplained and inordinate delay in concluding the inquiry proceedings. Although Regulation 10 contemplates completion of the inquiry within the prescribed period, the respondents allowed the proceedings to remain pending for almost four years without any lawful justification. Such extraordinary delay, according to learned counsel, has caused serious prejudice to the petitioner and itself vitiates the disciplinary proceedings. Learned counsel also submits that the petitioner had preferred a statutory departmental appeal against the dismissal order, which remained undecided despite repeated requests. Consequently, the petitioner approached this Court by way of Writ Petition No. 1547 of 2023, which was disposed of with a direction to decide the departmental appeal within 90 days. Even this direction

Islamabad High Court, Islamabad

was not complied with, compelling the petitioner to institute contempt proceedings, whereafter the appeal was ultimately rejected through a non-speaking and mechanical order without independently examining the substantial legal and factual grounds raised by the petitioner.

4. Lastly, learned counsel contends that the impugned orders, having been passed in violation of the governing statutory framework, settled principles of natural justice, and constitutional guarantees of due process, are liable to be declared without lawful authority and of no legal effect. He, therefore, prays that the writ petition be allowed, the dismissal order dated 21.09.2022 and appellate order dated 27.02.2025 be set aside, and the petitioner be reinstated in service with all consequential benefits.

5. The learned counsel for respondent No.2, at the very outset, raises a preliminary objection regarding the maintainability of the instant writ petition. He submits that no violation of any constitutional, statutory, or legal right of the petitioner has been established to invoke the extraordinary constitutional jurisdiction of this Court under Article 199 of the Constitution. According to him, the petitioner is neither an aggrieved person within the meaning of Article 199 nor has any provision of law been infringed by the respondents. He further contends that the controversy raised by the petitioner involves disputed questions of fact requiring recording and appraisal of evidence, which cannot be undertaken in

Islamabad High Court, Islamabad

constitutional jurisdiction. Learned counsel further submits that the petitioner was appointed directly by the Drug Regulatory Authority of Pakistan after its establishment and, therefore, his service conditions are governed by the DRAP Employees Service Regulations, 2015, which have already been declared to be non-statutory by this Court in the judgment reported as 2025 PLC (C.S.) 268. Consequently, the relationship between the petitioner and DRAP is that of master and servant, and no constitutional petition is maintainable for the enforcement of contractual service rights.

6. It is next argued that the petitioner has deliberately concealed material facts, filed incomplete documents, and attempted to mislead this Court. According to the learned counsel, the petitioner intentionally omitted pages of the inquiry report while annexing the record with the writ petition and falsely alleged that the inquiry report had never been supplied to him. He further points out that the handwritten application relied upon by the petitioner regarding anonymous complaints bears no official receiving stamp and is of doubtful authenticity. Such suppression and concealment of material facts disentitle the petitioner from any equitable relief under Article 199 of the Constitution. Learned counsel submits that the petitioner's repeated assertion that the disciplinary proceedings originated solely from anonymous complaints is factually incorrect. He argues that the matter was placed before the DRAP Policy Board on 26.02.2019 on allegations relating to financial embezzlement, mismanagement, and

Islamabad High Court, Islamabad

maladministration, whereafter, in terms of Regulation 10(1) of the DRAP Employees Service Regulations, 2015, the case was referred to the Federal Government, being the competent appointing authority for the removal of Directors. The Federal Government thereafter appointed an Authorized Officer and subsequently an Inquiry Officer to conduct disciplinary proceedings in accordance with the law.

7. Learned counsel submits that there is no inconsistency between Regulations 10 and 21 and, therefore, the petitioner's allegation regarding misapplication of law is wholly misconceived. Referring to the inquiry proceedings, learned counsel contends that the petitioner was afforded repeated and meaningful opportunities to defend himself. It is argued that, after receiving the charge sheet, the petitioner repeatedly delayed the inquiry by raising frivolous objections rather than responding to the allegations. Although he complained about certain documents, the Inquiry Officer informed him that the requisite record was available for collection, but the petitioner deliberately refused to receive it, despite being called for that purpose. It is submitted that the inquiry record itself demonstrates that the petitioner adopted delaying tactics throughout the proceedings. Learned counsel further submits that the allegation regarding inordinate delay is equally unfounded.

8. It is also argued that after completion of the inquiry, the Inquiry Officer recommended the major penalty of dismissal from service. The recommendations were thereafter placed before the

Islamabad High Court, Islamabad

DRAP Policy Board at its 40th meeting held on 09.03.2022, which recommended the petitioner's case to the Federal Government, being the competent appointing authority, after which the impugned dismissal order was lawfully passed. Therefore, every stage of the disciplinary proceedings was undertaken strictly in accordance with the applicable legal framework. It is also argued that after completion of the inquiry, the Inquiry Officer recommended the major penalty of dismissal from service. The recommendations were thereafter placed before the DRAP Policy Board in its 40th meeting held on 09.03.2022, which recommended the petitioner's case to the Federal Government, being the competent appointing authority, whereafter the impugned dismissal order was lawfully passed. Therefore, every stage of the disciplinary proceedings was undertaken strictly in accordance with the applicable legal framework and the petition is liable to be dismissed.

9. I have heard the learned counsel for the parties at considerable length and carefully examined the material available on the record.

10. The learned counsel for the petitioner submits that the DRAP Employees Service Regulations, 2015 have been framed under Section 24 of the Drug Regulatory Authority of Pakistan Act, 2012 through a notification published in the official Gazette and, therefore, possess statutory force. It is further argued that the disciplinary proceedings have been conducted in violation of the mandatory provisions of the said Regulations and the principles of natural justice, thereby

Islamabad High Court, Islamabad

rendering the impugned orders amenable to judicial review. Conversely, According to the learned counsel for the respondents, the petitioner was appointed directly by the Drug Regulatory Authority of Pakistan and his service conditions are governed by the DRAP Employees Service Regulations, 2015. It is contended that the said Regulations are non-statutory in character and merely regulate the internal affairs of the authority. Consequently, the relationship between the petitioner and the authority is that of master and servant and, therefore, the extraordinary constitutional jurisdiction of this Court cannot be invoked for enforcement of contractual service rights.

11. The first question which arises for determination is whether the Drug Regulatory Authority of Pakistan Employees Service Regulations, 2015 possess statutory character so as to render an alleged breach thereof enforceable in constitutional jurisdiction. The objection is of some significance because the petitioner is a direct appointee of DRAP and substantially seeks reinstatement on the premise that the disciplinary proceedings were conducted in violation of Regulations 10 and 21 of the 2015 Regulations.

12. The answer requires examination of the parent statute. Section 3 of the Drug Regulatory Authority of Pakistan Act, 2012, establishes DRAP as a body corporate with perpetual succession and a common seal and declares it an autonomous body under the administrative control of the Federal Government. Under section 4(1), the Chief

Islamabad High Court, Islamabad

Executive Officer and the Directors of the Authority are appointed by the Federal Government on the recommendation of the Policy Board. The mere fact, however, that DRAP is a statutory and autonomous body does not, by itself, render every rule, regulation, instruction, or term of employment governing its employees statutory. The character of the instrument regulating the service relationship must be determined independently of the scheme of the parent enactment.

13. For that purpose, sections 23 and 24 of the DRAP Act are pivotal. They provide as follows:-

> ***23. Power to make rules.---*** *The Authority may, with the approval of the Federal Government, by notification in the official Gazette, make rules for carrying out the purposes of this Act.*
>
> ***24. Power to make regulations.---*** *The Authority may, by notification in the official Gazette, with the approval of the Board, make regulations, for its internal working and terms and condition of employees not inconsistent with the provisions of the Act or the rules, for the carrying out of its functions under this Act.*

14. Power to make regulations. The authority may, by notification in the official Gazette and with the approval of the Board, make regulations for its internal working and the terms and conditions of employees, not inconsistent with the provisions of the Act or the rules, for carrying out its functions under this Act.

15. A plain reading of the aforesaid provisions demonstrates that the Legislature has consciously maintained a distinction between "rules" and "regulations". Rules under section 23 are to be made with the approval of the Federal Government for carrying out the

Islamabad High Court, Islamabad

purposes of the Act, whereas regulations under section 24 are to be made with the approval of the Policy Board and their expressly stated field is the internal working of DRAP and the terms and conditions of its employees. The distinction in the source of approval, as well as the area of operation assigned to the two forms of subordinate legislation, cannot be treated as superfluous.

16. The 2015 Regulations were initially notified on 21.04.2015 through S.R.O. 49(KE)/2015 in exercise of the power conferred by section 24 of the DRAP Act. The original preamble referred to previous approval of the federal government. However, by S.R.O. 97(KE)/2015 dated 10.09.2015, the words "Federal Government" were substituted by the words "Policy Board" and were deemed always to have been so substituted. The legal effect is that the 2015 Regulations derive their authority from section 24 and were made with the approval contemplated by that provision, namely, approval of the Policy Board. They were not rules framed under section 23 with the approval of the federal government.

17. The distinction between statutory and non-statutory service instruments has repeatedly been examined by the Hon'ble Supreme Court of Pakistan. In Chairman, State Life Insurance Corporation v. Hamayun Irfan (2010 SCMR 1495), it was observed that statutory regulations are legislative, rather than merely executive, in character and are made in exercise of delegated statutory power in the manner contemplated by the parent enactment. In Zarai Taraqiati Bank

Islamabad High Court, Islamabad

Limited v. Said Rehman (2013 SCMR 642), the Court identified the relevant characteristics as the instrument being framed by a statutory or public body, under authority conferred by statute, and with the statutory governmental approval or sanction required by the enactment.

18. The test, however, is not confined to the single circumstance of approval by the Federal Government. In Shafique Ahmed Khan v. NESCOM through Chairman, Islamabad (PLD 2016 SC 377), followed in Muhammad Zaman and others v. Government of Pakistan (2017 SCMR 571), the Hon'ble Supreme Court emphasized that the nature and area of efficacy of the rules or regulations are equally determinative. Instruments dealing essentially with internal control or management are ordinarily treated as non-statutory, whereas those having a broader field of operation and operating as a complement to the parent statute in matters of crucial importance may possess statutory character. The same principle was reiterated in Pakistan Defence Officers Housing Authority v. Mrs. Itrat Sajjad Khan (2017 SCMR 2010).

19. When the aforesaid test is applied to section 24 of the DRAP Act, the statutory language itself assumes decisive importance. The Legislature has expressly described the subject matter of the regulations as the "internal working" of the authority and the "terms and conditions of employees". Thus, although the 2015 Regulations were undoubtedly made in exercise of a power conferred by statute,

Islamabad High Court, Islamabad

were notified in the official Gazette, and remain operative unless lawfully displaced, those circumstances do not, by themselves, convert them into statutory service rules of the kind contemplated by section 23. The distinction is between an instrument having a statutory source and an instrument possessing statutory service status for purposes of enforceability under Article 199 of the Constitution.

20. This precise statutory scheme came under examination before this Court in Dr. Abdur Rashid v. Drug Regulatory Authority of Pakistan (2025 PLC (C.S.) 268). It was held that rules made under section 23 require approval of the Federal Government, whereas the 2015 Regulations made under section 24 do not; that approval by the Policy Board or vetting by the Establishment Division, Finance Division and Law and Justice Division could not elevate the Regulations to the status of rules required to be made with the approval of the Federal Government; and that, wherever the DRAP Act requires a matter to be prescribed through rules, the 2015 Regulations cannot substitute such rules. At the same time, the Court recognized that the 2015 Regulations had been made in exercise of the statutory power conferred by section 24 and declined to declare them ultra vires. These observations are important because they preserve the validity of the Regulations as an internal service framework while maintaining the statutory distinction between regulations under section 24 and rules under section 23. Section 37 of

Islamabad High Court, Islamabad

the DRAP Act. That provision requires some clarification. It does not generally declare every employee of DRAP to be a civil servant or an employee of the Federal Government for all purposes. The deeming fiction created by section 37 is expressly confined to the Pakistan Essential Services (Maintenance) Act, 1952. It, therefore, cannot be enlarged so as to confer upon a directly recruited employee of DRAP the general status of a civil servant, nor can it alter the legal character of the 2015 Regulations.

21. The consequences for constitutional jurisdiction are well settled. In Pakistan Defence Officers' Housing Authority v. Lt. Col. Syed Jawaid Ahmed (2013 SCMR 1707), the Hon'ble Supreme Court summarised that where conditions of service are regulated by statutory rules or regulations, violation thereof may be enforced through constitutional jurisdiction in the absence of an adequate remedy; conversely, where the service conditions are governed only by rules or instructions meant for internal use, their violation cannot ordinarily be enforced through a writ and the relationship remains governed by the principle of master and servant. The principle was subsequently applied in Pakistan Defence Officers Housing Authority v. Mrs. Itrat Sajjad Khan (2017 SCMR 2010), where the Court reiterated that a service grievance founded on non-statutory rules cannot ordinarily be converted into a constitutional cause merely because the employer itself is a statutory body.

Islamabad High Court, Islamabad

22. It is equally true that constitutional jurisdiction is not altogether excluded merely by describing the service relationship as one of master and servant. An action which is coram non judice, demonstrably mala fide, in direct violation of the parent statute, or attended by a patent denial of the constitutional requirement of fair treatment may still be examined within the recognized exceptions. The jurisdiction, however, is not attracted merely because an employee alleges breach of an internal service regulation; the pleaded defect must independently possess a constitutional or statutory character.

23. In the present case, the principal grievance of the petitioner is that the procedure contemplated by Regulation 10 was not followed and that recourse to the Civil Servants (Efficiency and Discipline) Rules, 1973 was impermissible in view of Regulation 21. Both propositions are founded essentially upon the enforcement and interpretation of the 2015 Regulations. Once those Regulations are held to constitute the internal service framework of DRAP rather than statutory service rules enforceable as such under Article 199, an alleged deviation therefrom does not, by itself, furnish a cause for reinstatement in constitutional jurisdiction.

24. Even otherwise, no patent lack of jurisdiction is apparent from the record placed before the Court. The petitioner was holding the post of Director (Budget and Accounts). Section 4(1) of the DRAP Act contemplates appointment of Directors by the Federal Government

Islamabad High Court, Islamabad

on the recommendation of the Policy Board. The respondents' case is that the allegations were placed before the competent forums, an Authorized Officer and an Inquiry Officer were appointed, the inquiry was conducted, the matter was thereafter placed before the Policy Board, and the penalty of dismissal was ultimately imposed by the Federal Government. Whether every procedural step of the inquiry was factually complied with, whether particular documents were supplied or declined, whether an effective opportunity of cross-examination was availed, and to whom delay in the proceedings is attributable are matters on which the parties are at variance and which would require a factual appraisal not ordinarily undertaken in constitutional jurisdiction for enforcement of non-statutory service conditions.

25. The reliance placed by the petitioner upon Article 10A of the Constitution has also been considered. The requirement of fairness cannot be gainsaid; however, on the material presently before the Court, no admitted or self-evident denial of hearing is demonstrated which would convert the dispute into an independent constitutional wrong. The respondents specifically assert that repeated opportunities were afforded, that the requisite record was made available for collection, and that the petitioner himself prolonged the inquiry by raising objections. Determining these competing factual assertions would require a deeper examination of the inquiry record

Islamabad High Court, Islamabad

and evidence, which falls outside the limited scope of the present proceedings.

26. The appellate order dated 27.02.2025 has also been assailed as non-speaking. The fact remains that the departmental appeal was ultimately decided pursuant to the earlier direction of this Court. Since the underlying right asserted by the petitioner is a service right flowing from the 2015 Regulations and no independent violation of the parent statute or lack of competence has been established, the alleged inadequacy of reasons in the departmental appellate order does not, in the circumstances of the present case, furnish a sufficient basis for ordering reinstatement in exercise of constitutional jurisdiction.

27. For the foregoing reasons, the preliminary objection raised by the respondents carries weight. DRAP is undoubtedly a statutory and public authority; however, the petitioner, being a direct appointee whose service conditions are governed by the DRAP Employees Service Regulations, 2015, framed under section 24 for the internal working of the authority and the terms and conditions of its employees, cannot ordinarily seek enforcement of those service conditions through a constitutional petition for reinstatement. No case falling within the recognized exceptions of lack of jurisdiction, violation of a mandatory provision of the parent statute, mala fide established from the record, or patent denial of constitutional due process has been made out. Consequently, the instant writ petition is

Islamabad High Court, Islamabad

dismissed as not maintainable. The dismissal shall, however, not preclude the petitioner from availing any other remedy, if available to him under the law, before the competent forum. There shall be no order as to costs.

(KHADIM HUSSAIN SOOMRO)
JUDGE

Announced in open Court on 25.08.2026.

JUDGE

Zahid

APPROVED FOR REPORTING

Islamabad High Court, Islamabad