Form No: HCJD/C-121.

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No. 3665 of 2018

Raja Mazhar Hussain
Vs
The GM (HR) CAA HQ, Karachi, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
04)	05-12-2018.	Mr Mozzam Sajjad Kiani Advocate, for the petitioner.

The petitioner was appointed and remained an employee of Civil Aviation Authority (hereinafter referred to as the "***Authority***") till his termination. The petitioner was transferred to the Airport at Gilgit. He was relieved from his duties at Islamabad but he did not join his new place of posting. The competent authority issued Show Cause Notice, dated 11-12-2014. Instead of giving effect to his transfer order the petitioner applied for grant of leave encashment, which was accepted. The competent authority taking a lenient view did not continue with the disciplinary proceedings relating to Show Cause Notice, dated 11-12-2014. The petitioner had earlier filed W. P. No. 1858/2015 which was disposed of by this Court vide order, dated 11-06-2015. In compliance with the direction given by this Court, the competent authority decided the representation of the petitioner vide order,

dated 16-11-2016. The petitioner is aggrieved on account of the said order.

2. The learned counsel was asked regarding maintainability of this petition on this ground that the regulations governing terms and conditions of service of employees of the Authority have been declared as non-statutory by the august Supreme Court. The learned counsel despite his able assistance was not able to satisfy this Court that the petition was maintainable in the light of law expounded by the august Supreme Court.

3. The august Supreme Court in a recent judgment titled "Shafique Ahmad Khan, etc versus NESCOM etc", passed in Civil Appeals No. 654 to 660, 330, 735, 1243 to 1259 of 2010, has reaffirmed the earlier judgment passed in the case titled "Muhammad Nawaz versus Civil Aviation Authority and others" [2011 SCMR 523]. In the latter case the august Supreme Court had declared the Service Regulations of Civil Aviation Authority as non-statutory. The august Supreme Court having declared the Service Regulations as non-statutory renders the relationship between an employee and the Civil Aviation Authority as that of master and servant. It is settled law that where the relationship is that of master and servant a petition under Article 199 of the Constitution is not competent. Reference in this regard may be made to the cases of *"Muhammad Aslam Khan versus FOP and others" [2013 SCMR 747], "Muhammad Nawaz versus Civil Aviation Authoirty" [2011 SCMR 523], "Khan versus Pakistan Civil Aviation Authority and*

another" [2011 PLC (C.S) 889] and "Zafar Iqbal versus Pakistan Civil Aviation Authority through Director Administration and another" [2011 PLC (C.S) 348].

4. For what has been discussed above the instant petition is not maintainable and is, therefore, accordingly *dismissed in limine*.

CHIEF JUSTICE

Tanveer Ahmed

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