

IN THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Aftab Ahmed Gorar

Mr. Justice Adnan-ul-Karim Memon

C.P. No. D- 5143 of 2020

Dr. Tariq Ahmed Shaikh

Petitioner

through

: Malik Naeem Iqbal advocate

Respondents 1

Through

: Mr. Ali Safdar Depar, AAG and

Respondents 2,

through

: Mr. Zeeshan Abdullah, advocate

Respondents 3 and 4

through

: Mr. Ayan Mustafa Memon, advocate

Dates of hearing

: **17.2.2022, 23.2.2022 and 02.03.2022**

Date of announcement

: **10.03.2022**

JUDGMENT

Through the instant petition, the petitioner has impugned the office order dated 05.10.2020, whereby he was awarded a Major penalty of Termination from Service by the competent authority of the National Institute of Cardiovascular Diseases Karachi (**NICVD**). The stance of the respondent-Institute is that the petitioner is a ghost employee and remained absent most of the time from duty. Respondent-institute appointed inquiry officer to probe the allegations leveled against the petitioner. The inquiry officer conducted the inquiry and reached the following conclusion:

Recommendation of Enquiry Committee

The Enquiry Committee after review of the record has consensus and signed for the following action in the light of NICVD Employees Service Regulations.

01. Dr. Tariq Ahmed Shaikh Employee No.1742, is guilty of misconduct/is inefficient and awarded Major Penalties i.e. Dismissal from service.

02. Dr. Tariq Ahmed Shaikh Employee No.1742 has right to submit appeal within (30) days to competent authority i.e. Executive Director against the decision of Enquiry Committee.

03. Further, the order passed by the competent authority i.e. Executive Director on appeal shall be final under NICVD Employees Service Regulations.

04. Moreover, subsequent approval from the competent authority i.e. Executive Director shall be taken before proceeding in the case of Dr. Tariq Ahmed Shaikh Employee No. 1742.”

2. We queried from the learned counsel for the Petitioner as to how the instant Petition is maintainable against the Respondent-Institute as well as the charges leveled against the petitioner, which were subsequently proved against him through the inquiry proceedings as discussed supra.

3. It is, inter alia, contended by Malik Naeem Iqbal, learned counsel for the petitioner that the petitioner's service is governed under the National Institute of Cardio-Vascular Diseases Employee (Service) Regulations; and, as per the regulations, the competent authority to take disciplinary action against the petitioner is Governing body and not the Chief Operating Officer; that the dismissal letter dated 05.10.2020 is without jurisdiction, illegal, discriminatory, and malafide thus liable to be set aside. Learned counsel further submitted that the Respondent-Institute is a Government-owned and controlled Institution; therefore, the instant petition is maintainable under the law. On the second issue of charges leveled against the petitioner, he has submitted that the Inquiry Team/Officer has violated the basic rules by not providing a hearing to him on the charges leveled against him, therefore, the Inquiry report is a nullity in the eyes of law, thus is void, and it cannot form the basis of punishment of the petitioner; that the competent authority awarded major punishment to the petitioner by placing reliance upon the inquiry report, without ascertaining the truth; that the petitioner had served the Respondent-Institute for a considerable time with effect from 26.9.2016, therefore, the action on the part of respondents is harsh. He further submitted that even though the rules contained in the statute are non-statutory and are merely administrative instructions, they supplement the rules and, therefore, any breach of administrative or executive instructions, makes the action of the respondents invalid. Learned counsel referred to the letter of confirmation of his service and reply to the charges leveled against him from time to time by the respondent Institute. He lastly prayed for allowing the instant petition.

4. Mr. Zeeshan Abdullah, learned Counsel for the respondent-institute, has submitted that the Service Regulations of NICVD are non-statutory, hence, the Writ Petition does not lie.; that the relationship between Respondent No.2 and the Petitioner was one of 'Master' and 'Servant, therefore, the impugned termination cannot be challenged by way of the instant Writ Petition. He next contended that the disputed facts involved in the instant Petition require recording of evidence, which cannot be done in a Constitutional Petition. In addition, the applicable NICVD Service Rules are not statutory and the Petitioner is not covered by Section 2(1)(b) of Civil Servant Act, 1973, as such the relationship between “NICVD” and the Petitioner is that

of “master and servant”. The learned counsel further stated that the services of the Petitioner were terminated, under the non-statutory rules of service vide notification dated 05.10.2020 based on the recommendation of the inquiry committed vide letter dated 24.8.2020. As to the Service Rules of NICVD, since these are non-statutory and mere instructions for internal control and management of the employees of Respondent No.2. In support of his contentions, he relied upon the cases of *The Principal, Cadet College, Kohat and another v. Muhammad shoab Qureshi*, **PLD 1984 Supreme Court 170**, *Raziuddin v. Chairman, Pakistan International Airlines Corporation and 2 others*, **PLD 1992 Supreme Court 531**, *National Bank of Pakistan and another v. Punjab Labour Appellate Tribunal and 2 others*, **1993 SCMR 105**, *Mrs. Anisa Rehman v. PIAC and another*, **1994 SCMR 2232**, *Abdul Wahab and others v. HBL and others*, **2013 SCMR 1383**, *Pakistan Defence Officers’ Housing Authority and others v. Lt. Col. Syed Jawaid Ahmed*, **2013 SCMR 1707**, *Syed Nazir Gillani v. Pakistan Red Crescent Society and another*, **2014 SCMR 982**, *Dr. M. Sohail Karim Hashim v. Federation of Pakistan and others*, **2014 PLC (CS) 367**, *Shafique Ahmed Khan and others v. NESCOM through Chairman, Islamabad and others*, **PLD 2016 Supreme Court 377**, *Muhammad Zaman and others v. Government of Pakistan through Secretary, Finance Division (Regulation Wing), Islamabad and others*, **2017 SCMR 571**, *Pakistan Defence Officers Housing Authority v. Mrs. Itrat Sajjad Khan and others*, **2017 SCMR 2010**, *Fazl-e-Akbar v. Pakistan Defence Officers Housing Authority through Administrator*, **2020 PLC (CS) 245**, *Ghulam Rabbani v. Governor State Bank of Pakistan and others*, **2020 PLC (CS) 525**, and *Fouzia Khan and others v. Chairman /CEO PIA and others*, **2020 PLC (CS) 1078**.

5. At this stage we reminded him that the larger bench of the Honorable Supreme Court has already held that if there is a statutory intervention, in matters of service of an employee of a statutory body, he can maintain a writ petition by invoking constitutional jurisdiction of this Court under Article 199 of the Constitution, though there may not be statutory rules, governing the services of such employees. Besides that, it is a settled principle of law that in case of conflict between the judgments of the honorable Supreme Court then the judgment of the larger bench shall prevail as law laid down by the Hon’ble Supreme Court in *Multi lines Associate’s case* (**PLD 1995 SC 423**).

6. He replied to the query and reiterated the contentions raised by him as noted in the preceding paragraph. He further urges that regulations already framed by the respondent-NICVD under Ordinance 1979 are not statutory regulations. He

further submits that the Government had no absolute control over the functions of the NICVD and the Governing body of NIVCD has unlimited power to terminate the services of the petitioner as is evident from the said regulations. He finally supported the impugned action of the respondents by saying that non-statutory rules of service cannot be enforced in writ jurisdiction, come what may.

7. On merits, he has submitted that petitioner was appointed in the year 2016, on one year's probation, as 'Staff Officer to the Executive Director. His services were confirmed in the year 2017. However, the petitioner from the initial days of his service habitually remained absent from duty under the pretext of carrying out assignments given to him by the Executive Director of NICVD. He was warned by the competent authority from time and again but he did not mend his ways. Finally, Executive Director reprimanded the Petitioner for violating the Hospital Order dated 5.11.2019 and again warned him that if he did not desist from carrying on the said activity, stern disciplinary action under NICVD Regulations would be initiated against him, and subsequently, the head of Human Resources issued various reminders to the Petitioner for compliance of hospital duty hours, but no avail. The Executive Director issued another 'Warning Letter' dated 15.6.2020 to the petitioner, followed by Explanation / Show Cause notice dated 22.6.2020, wherein the earlier correspondence was referred to. However, due to unauthorized absence from duty, he was dismissed from service vide impugned order dated 05.10.2020 after following the procedure laid down in the Revised Service Regulations, 2016-17.

8. Mr. Ayan Mustafa Memon, learned counsel for respondents N.3 and 4, has adopted the arguments of Mr. Zeeshan Abdullah, however, he further submitted that for breach of administrative instructions which have no statutory force, a public servant or the person guilty of such a breach can be subjected to disciplinary action; but the same cannot be pressed into service for action. He added that it is trite that where a citizen seeks relief in constitutional jurisdiction he must point to a right statutory or constitutional which vests in him and has been denied in violation of the law. The petitioner has failed to point out any right to seek reinstatement based on any constitutional guarantee or statutory law or instrument which may have been denied to him. His terms and conditions of service were governed by his appointment letter, therefore, the respondent-NICVD took all efforts to convince the petitioner to adhere to the rules and regulations of the NICVD and pay respect to the office hours of the hospital, however, the petitioner was adamant thus ignored all the instructions and finally faced the dismissal from service order. In support of his contentions, he relied upon the cases of *Federation of Pakistan through Secretary Ministry of Law and Justice Division Islamabad v. Mamoon Ahmed Malik*, **2020 SCMR 1154**, *Chief Administrator of Auqaf Punjab Lahore v. Muhammad Amin*, **2017 YLR 2194**, *Abdul*

Haseeb v. Principal, Karnal Sher Khan Cadet College, Swabi and 2 others, **2016 PLC (CS) 1054**, *Metropolitan Corporation, Islamabad through Mayor v. Chairman CDA (Capital Development Authority), Islamabad*, **PLD 2021 Islamabad 144**, *Raziuddin v. Chairman Pakistan International Airlines Corporation and 2 others*, **1992 PLC (CS) 1098**, *Tasawar Hussain v. Deputy Commissioner District Jhelum and others*, **2021 SCMR 1367**, *Dr. Muhammad Amin v. Zarai Taraqiati Bank Limited through Board of Director and 3 others*, **2020 PLC (CS) 249** and *Maj @ Syed Muhammad Tanveer Abbas v. Federation of Pakistan through Secretary Ministry of Interior, Islamabad and others*, **2020 PLC (CS) 67**.

9. In exercising the right of rebuttal, learned counsel denied the allegations leveled against the petitioner and submitted that all the documents filed by the respondents are afterthought except few one and referred to the attendance sheet whereby his presence has been shown which show that the petitioner was attending the duty under the law. Learned counsel referred to the statement dated 11.9.2021 and submitted that the petitioner was booked in various criminal cases by the respondent-NICVD, however, he has been acquitted from all the charges. Per learned counsel, the petitioner has been the victim of the ego of the competent authority of the respondent-institute on the premise that he surfaced the corruption and corrupt practices of the Executive Director and others of the respondent-institute to the NAB authority, who have been probing the allegations against the NICVD officers. Prima facie, these are allegations and counter-allegations which cannot be looked into in the constitutional jurisdiction. However, we intend to decide the matter on merits.

10. We have heard the learned Counsel for the parties and perused the material placed on record and case-law cited at the bar.

11. Upon perusal of the pleadings and arguments extended thereon by the learned counsel for both the Parties, three basic primordial questions require our determination, which is as follows:

- (i) *Whether or not a writ could be issued against the Respondent-NICVD under Article 199 of the Constitution?*
- (ii) *Whether "NICVD" is a "person"?*
- (iii) *Whether there is any violation of the operative sections of the statutory law to invoke the Writ Jurisdiction of this Court?*
- (iv) *Whether the Respondent-NICVD was justified to impose a penalty of removal from service against the Petitioner, under the service Regulations.*

12. All the learned counsel very adeptly and elaborately briefed us on the issue of statutory and non-statutory rules of service and took pains by saying that the status and nature of the Rules or Regulations governing the services of the employees is to be determined about the statutory instrument conferring rule-making power on the concerned authority; that when the statute provides that Rules may be framed by the concerned authority subject to the approval of the government, central or provincial, as the case may be, and shall be published in the official gazette, it must be followed and framed in the same manner. If the condition stipulated in the statute has not been followed and the rules/regulations are not framed, as prescribed in the statute, it may conveniently be termed as non-statutory. However, if there is no such condition imposed by the statute for the publication of the Rules/Regulations in the official gazette, it may not be poked into any hypothesis. The rule-making authority, in contemplation of the parent statute, cannot supply, what is not required of it nor can accord approval beyond its mandate; that it cannot be demanded of, nor supposed to make any addition, alteration, or subtraction in the elementary scope of delegating provision; it follows that the Rules/Regulations framed strictly under the requirement of the statute would be statutory and shall, accordingly, have inbuilt statutory credence; that in the present case the subject rules are not published in the official gazette. Per learned counsel, the regulations can only have the force of law if they have been published in the Official Gazette as provided under the General Clauses Act.

13. In our understanding, briefly, the term, statutory refers to organizations and bodies that are defined by a formal law or a statute and these bodies derive their power from a 'Law' or 'Statute' made by Parliament, which is called a statutory body or statutory authority. Statutory regulation is a law passed by a legislature. A non-statutory regulation is not based on legislative action but instead is derived from the interpretation of the federal or provincial statute.

14. In this context, the Parliament is the law-making authority. It passes the Acts and empowers the Government under the relevant Act to make Rules for carrying on the business. A statute is the formal "expression" in writing of the will of the legislative organ in a State. A 'Statute' is a declaration of the law, as it exists or as shall be from the time at which such statute is, to take effect. It is usually called an Act of the Legislature. It expresses the collective will of that body. A Statute is the highest constitutional formulation of the law after the fullest deliberation expresses its final will.

15. "Statute law" is defined as the will of the nation, expressed by the Legislature, expounded by the Courts of Justice. If the Parliament is not in session then the laws are enforced through the Ordinances issued by the President or the Governor

expressing the will of the nation as the case may be. So, the Act passed by the Parliament and the Ordinance issued by the nation would be called the “Statutory Law”. The Rules framed under the powers conferred by an Act are an integral part of the Act and these Rules are called Statutory Rules and are held to be part of the parent Act. It can do anything if within its scope. The Rules or the Bye-Laws made under the Statutes or Act cannot override the provisions of other Statutes. Neither the Rules control the construction to be placed on the provisions of the Act nor can they enlarge the meaning of the section. The Rules are framed under the Act in aid to the construction of ambiguous Statutes. The Rules under the Act shall be made by the Authority, empowered under the Act to frame the Rules or Bye-Laws. No other authority who is not empowered under the Act makes the Rules. A Rule Making Body also cannot frame the Rules in conflict with or derogating from the substantive provisions of law or Statute under which the Rules are framed. On the aforesaid proposition, we are guided by the decisions of the Honorable Supreme Court in the cases of Salahuddin and 2 others v. Frontier Sugar Mills **PLD 1975 SC 244**, Muhammad Yousuf Shah v. PIA (**PLD 1981 SC 224**), Principal Cadet College Kohat v. Muhammad Shoaib Qureshi (**PLD 1984 SC 170**), Anwar Hussain v. Agricultural Development Bank of Pakistan (**PLD 1984 SC 194**), Raziuddin v. Chairman Pakistan International Airlines Corporation and 2 others **PLD 1992 SC 531**, Muhammad Tariq Badr and another v. National Bank of Pakistan and others (**2013 SCMR 314**), Zarai Taraqati Bank Limited v. Said Rehman and others **2013 SCMR 642**, Muhammad Ashraf Tiwana v. Pakistan and others **2013 SCMR 1159**; Abdul Wahab and others v. HBL and others **2013 SCMR 1383**, Pakistan Defence Officers’ Housing Authority and others v. Lt. Col. Syed Jawaid Ahmed reported as **2013 SCMR 1707**; Syed Nazir Gillani v. Pakistan Red Crescent Society and another **2014 SCMR 982**, Warid Telecom (Pvt.) Limited and 4 others v. Pakistan Telecommunication Authority through Chairman **2015 SCMR 338**, Shafique Ahmed Khan and others v. NESCOM through Chairman, Islamabad, and others (**PLD 2016 SC 377**) and Muhammad Zaman and others v. Government of Pakistan through Secretary, Finance Division (Regulation Wing), Islamabad, and others (**2017 SCMR 571**).

16. Coming to the main theme of the case, primarily, NICVD is a statutory body established under the statute, i.e. the National Institute of Cardiovascular Diseases (Administration) Ordinance, 1979. It was nationalized by the Government of Pakistan and became an Autonomous Body under the Federal Ministry of Health. The main function of NICVD is to cater to the cardiovascular needs of a vast majority of patients from all provinces of Pakistan. It is responsible for training the bulk of local cardiac physicians, nurses, and paramedics throughout the country.

17. The present Governing Body of NICVD comes under the Government of Sindh with the worthy Chief Minister of Sindh as the Chairman of the Board of Governors. The Executive Director of NICVD maintains the role of Secretary of the Board of Governors and Chief Executive Officer of the Institute and Chairman of the Academic Faculty. The Governing Body with the previous approval of the Government has framed service regulations for the administration and management of the affairs of the employees of the Institute. Now the Sindh Assembly has enacted the National Institute of Cardiovascular Diseases (Sindh Administration) Act, 2014. However, the dispute between the Federation and Sindh province, on the issue of its affairs and management, is pending before the Honorable Supreme Court in Civil Review Petitions in Dr. Nadeem Rizvi's case 2020 SCMR 1, therefore at this juncture, we layoff our hands so far as the subject dispute between two governments, pending before the Honourable Supreme Court, is concerned.

18. We have considered the case of respondents in the light of the "function test" as made by the Honorable Supreme Court in the case of Pakistan Defence Housing Authority & others vs. Lt. Col. Syed Jawaid Ahmed (2013 SCMR 1707). The respondent-institute is performing the functions, in line with the command of the federal/provincial government, and exercising public power, by creating public employments. NICVD is, therefore "person" within the meaning of Article 199(1)(a)(ii) read with Article 199(5) of the Constitution. And if the actions or orders passed by the competent authority of NICVD, are violative of the Statute creating this Institute or of Rules/Regulations framed under the Statute, the same could be interfered with by this Court under Article 199 of the Constitution.

19. On merits, the case of the petitioner is that he was appointed as Staff Officer to Executive Director of NICVD in BPS-18 vide office letter dated 02.09.2016, his services were confirmed vide letter dated 10.01.2017. However, the respondent-NICVD terminated his services vide letter dated 05.10.2020 on the ground of poor attendance/punctuality and such absence from duty of the petitioner is available on record, and it is well-settled law that in such like cases there was no need to hold a regular inquiry because the Honorable Supreme Court in the case of Federation of Pakistan through Secretary Ministry of Law and Justice Division, Islamabad v. Mamoon Ahmed Malik (2020 SCMR 1154), has already held that where the fact of absence from duty being available on the record, there was no need for holding of a regular inquiry. However, in this case, we have been informed that the proper inquiry was conducted by the committee. However, this factum has been denied by the learned counsel for the petitioner. At this stage, Mr. Ali Safdar Debar learned AAG came into support of the respondent institute with

the assertion that petitioner is not usefull for the institute, because of his attitude toward duty, therefore he is not entitled for the extraordinary relief under Article 199 of the Constitution.

20. Based on findings of the Enquiry Committee dated 31.8.2019, the Petitioner was awarded the Major penalty of Termination from Service vide Office Order dated 05.10.2020. An excerpt of the Office order dated 05.10.2020 is reproduced as under:-

*“Sub: - **Dismissal from Services.***

WHEREAS Disciplinary Proceedings under National Institute of Cardiovascular Diseases Employees (Service) Regulations was instituted against you vide no. NICVD/HR/P/2051 dated June 27, 2020, due to attendance, punctuality, and non-compliance of Hospital duty hours since joining of duties.

Accordingly, Enquiry Committee vide letter # NICVD/HR/P/2198 dated 24.08.2020 recommended the penalty of Dismissal from Service due to poor attendance/punctuality (Ghost Employee) and disregard of hospital duty hours since joining of duties.

NOW, THEREFORE, after considering the facts/circumstances of the case and approval of competent authority, the undersigned has imposed a major penalty for Dismissal from Services.”

21. The following is the summary of the factual aspect of the case so far as an intimation to the petitioner about the adherence of the hospital duty hours;

S#	Subject	Letter	
		No	Date
1	Attendance & Punctuality	NICVD/P/4231	11.07.2017
2	Attendance & Punctuality	NICVD/P/2714	13.03.2018
3	Attendance & Punctuality	NICVD/P/3852	17.10.2018
4	Attendance & Punctuality	NICVD/P/1586	26.07.2019
5	Hospital Order	-	05.11.2019
6	Reprimand	NICVD/HR/P/1114	11.01.2020
7	Non-compliance of hospital duty hours	-	10.03.2020
8	Non-compliance of hospital duty hours	-	17.03.2020
9	Non-compliance of hospital duty hours	-	04.04.2020
10	Final Reminder Non-compliance of Hospital Duty hours	NICVD/HR/P/1104	29.05.2020
11	Caution	NICVD/HR/P/1324	03.06.2020
12	Warning	NICVD/HR/P/1428	15.06.2020
13	Explanation/Show Cause	NICVD/HR/P/1450	22.06.2020
14	Suspension	NICVD/P/1136	27.06.2020
15	Inquiry Committee Formulated	NICVD/HR/P/2051	27.06.2020
16	Enquiry Notice-1	NICVD/HR/P/2053	04.07.2020
17	Enquiry Notice-11	NICVD/HR/P/2101	08.07.2020

22. The question is whether, while passing the impugned order by the competent authority of the respondent-NICVD, against the petitioner, any opportunity of hearing was afforded to him.

23. A simple reading of the above factual position shows that the petitioner has continued to remain absent from duty without sanctioned leave despite the warning to join the duty. Thus, it becomes crystal clear that when the service of a

permanent employee is required to be terminated, even on the ground of remaining absent from duty without prior permission of the concerned authority, the minimum requirement of principles of natural justice by issuing a show-cause notice is to be followed.

24. The nub of the matter is that the petitioner was given caution notice vide letter No. NICVD/HR/P/1324 dated 03.06.2020 to improve his attendance/punctuality and fulfillment of hospital duty hours, followed by the Warning letter No. NICVD/HR/P/1428 dated 15.06.2020 to improve his attendance and punctuality. He was also served with the Explanation/Show Cause notice vide letter No. NICVD/HR/P/1450 dated 22.06.2020 to explain his position regarding violation of hospital duty hours and failed to improve his punctuality. Due to the above reasons, the petitioner's services were placed under suspension vide office letter No. NICVD/P/1136 dated 27.06.2020. The respondent-NICVD initiated inquiry proceedings against the petitioner vide letter No. NICVD/HR/P/2051 dated 27.06.2020 to probe the allegations regarding attendance/punctuality and noncompliance of hospital duty hours since joining his duties. The Enquiry officer served upon the petitioner notice vide letter No. NICVD/HR/P/2053 dated 04.07.2020 for a personal hearing on 08.07.2020 at 11:00 a.m., however, the petitioner failed to attend the personal hearing on a fixed date, time, and venue. The record further reflects that 2nd Enquiry Notice vide letter No. NICVD/HR/P/2101 dated 08.07.2020 was issued to the petitioner for a personal hearing on 13.07.2020 at 11:00 a.m. He again failed to attend the personal hearing. The inquiry officer opined against the petitioner on the premise that he deliberately broke the discipline of the Institute and his frequent act of noncompliance of hospital duty hours, proved his disobedient nature. Prima-facie petitioner was issued numerous warnings by the competent authority, which are available on record to improve his attendance/punctuality and comply with the hospital duty hours, but he failed to pay any heed to these warnings/communications. The Petitioner was finally found guilty in the inquiry proceedings and was removed from service under the Revised Service Regulations, 2016-17.

25. The say of the petitioner is that because he disclosed the secrets of some of his superior officers of NICVD regarding their involvement in corruption and corrupt practices, he was being victimized and harassed.

26. The aforesaid narration, as well as the impugned order of dismissal from the service, would clearly show that the order of dismissal was based on non-attendance, punctuality, and non-compliance of Hospital duty hours since joining of his duties.

27. The Honorable Supreme Court in the case of Tahir Jamil Butt v. Mian Jehangir Pervez and another (1999 3CMR 2779) held that the Petitioner, who was facing departmental inquiry, absented on two dates. The Inquiry Officer recorded a finding that his absence was deliberate and contumacious and proceeded against him. The Honorable Supreme Court declined leave to appeal holding that issue related to enforcement of terms and conditions of service and the constitutional petition was held to be incompetent.

28. The Petitioner has alleged that the impugned disciplinary proceedings initiated against him are malafide though he has not placed any material on record to substantiate his plea. It would be appropriate to point out that the allegations and counter-allegations cannot be thrashed out by this Court under Article 199 of the Constitution.

29. We do not see any violation of law, rules, and regulations in the proceedings of the inquiry conducted by the Respondent-Institute against the Petitioner as asserted by the Petitioner.

30. We based on documents placed on record by the petitioner have concluded that the case of Petitioner does not require further investigation so far as the allegations leveled against him are concerned. Since the petitioner was dealt with, on the ground of misconduct, was given a fair opportunity of hearing, and was finally found guilty of the charges leveled against him as discussed supra. The impugned order dated 05.10.2020, supports the stance of the Respondent-institute, which does not require interference at our end for the reasons that, the matter requires a thorough probe, which is not permissible under Constitutional jurisdiction.

31. It is the considered view of this Court that to maintain a Constitution Petition it is the duty and obligation of the Petitioner to point out that the action of the respondents violated their rules and regulations. Thus the Petitioner has failed to make out his case for his reinstatement in service.

32. As a result of the aforesaid reasoning and the conclusion that we have reached, none of the submissions or contentions raised on behalf of the petitioner survive, and the petition is, therefore, dismissed along with the listed application(s).

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Nadir*

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