

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No. D-5258 of 2025

[Khair Muhammad V. NADRA]

Date	Order with signature of Judge(s)
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Before:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Muhammad Jaffer Raza

Date of hearing and Order: 10.08.2026

Mr. Matloob Hussain Qureshi, Advocate for the Petitioner.

Ms. Samina Maqsood, Advocate for NADRA.

ORDER

Adnan-ul-Karim Memon, J. – Petitioner, has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking the following relief:

“a. Held that the impugned action taken by the department Under Rules 2(1)(c) of Civil Servants Efficiency Rules 2020 Servants Efficiency & Discipline Rules 2020 is illegal and void as the Respondents Departments rules are non statutory in nature.

b. Held that awarding the major punishment of Compulsory Retirement from Service dated 27-01-2023 is void / illegal and liable to be set aside.

c. Direct the Respondent No. 1-3 to pay all the back benefits to the petitioner.

2. The petitioner, Khair Muhammad, has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, challenging the order dated 27.11.2023 passed by NADRA whereby he was compulsorily retired from service under Rule 2(1)(c) of the Civil Servants (Efficiency & Discipline) Rules, 2020. His departmental appeal against the said punishment was also dismissed by the competent appellate authority.

3. The petitioner was serving NADRA as Deputy Superintendent (BPS-14). He claims to have rendered about 37 years of unblemished service without any previous complaint, warning, show-cause notice or disciplinary action. According to him, disciplinary proceedings were initiated through charge-sheet dated 24.08.2023, alleging that he had been involved in suspicious activity and had offered a bribe to a Deputy Director, V&R Branch, for processing/clearing the verification case of one Jaffer son of Abdul Kareem. The petitioner denied the allegations as false and baseless. An inquiry was thereafter conducted and the Inquiry Board furnished its findings. A show-cause notice dated 17.10.2023 was issued, followed by a personal hearing notice dated 13.11.2023. The petitioner submitted replies at different stages and also expressed no confidence in the Convener of the Inquiry Committee, which, according to him, was not considered. He maintains that no proper regular inquiry was conducted, no witnesses were

examined and he was condemned unheard. Nevertheless, the competent authority imposed the major penalty of compulsory retirement on 27.11.2023. The petitioner initially approached the Federal Service Tribunal through Service Appeal No.53(K)(CS)/2023, but the appeal was dismissed on 15.07.2025 as not maintainable, on the ground that NADRA employees are not “civil servants” and their service is governed by the NADRA Employees (Service) Regulations, 2002. He thereafter filed C.P. No.D-4275/2025 before this Court, which was withdrawn on 18.09.2025. He has now invoked the constitutional jurisdiction of this Court, contending principally that the NADRA service regulations are non-statutory and, therefore, the respondents could not lawfully impose the penalty of compulsory retirement by invoking the Civil Servants (Efficiency & Discipline) Rules, 2020. He further alleges violation of natural justice, mala fide exercise of authority and infringement of his fundamental rights under Articles 4 and 25 of the Constitution, and seeks reinstatement with back benefits.

4. The respondents, through NADRA, have opposed the petition mainly on the ground of maintainability. They contend that NADRA was established under the NADRA Ordinance, 2000 and its employees are governed by the NADRA Employees (Service) Regulations, 2002. According to the respondents, NADRA employees are public servants of the Authority and not civil servants; consequently, they have no right of appeal before the Federal Service Tribunal. Reliance has been placed upon the judgments reported as PLD 2006 SC 602, PLJ 2006 SC 1296, 2019 SCMR 984 and 2020 PLC (CS) 1, holding that NADRA employees, whose service is regulated by non-statutory service regulations, cannot invoke the statutory service remedies available to civil servants. The respondents further contend that the petitioner has already invoked the constitutional jurisdiction of this Court in C.P. No.D-4275/2025 and withdrew the same on 18.09.2025 without obtaining permission to file a fresh petition; therefore, according to them, the present petition is barred by the principle of res judicata under Section 11 CPC. On merits, NADRA maintains that the disciplinary proceedings were conducted in accordance with the applicable service regulations and principles of natural justice. The petitioner was served with a charge-sheet, provided an opportunity to submit his defence, furnished with the inquiry findings, issued a show-cause notice and afforded a personal hearing. His explanation was found unsatisfactory and the allegation of offering a bribe in connection with a verification case was held proved. The respondents assert that the punishment of compulsory retirement was imposed after considering the petitioner's long service and was, in fact, a lenient view of the matter. The respondents also deny the allegations of mala fide, discrimination and violation of fundamental rights, contending that such allegations are vague and unsupported by any specific particulars. They maintain that previous appreciation certificates or an otherwise clean service record do not grant immunity from

disciplinary action for misconduct committed during service. The respondents have consequently prayed for dismissal of the petition on the grounds of non-maintainability as well as on merits.

5. We have heard learned counsel for the petitioner as well as learned counsel for the respondents and have examined the record with their assistance. The principal question requiring determination, at the outset, is whether the present Constitutional Petition is maintainable under Article 199 of the Constitution against the impugned disciplinary action taken by NADRA.

6. The principal controversy, therefore, is whether the present Constitutional Petition is maintainable against NADRA, whose employees are governed by the NADRA Employees (Service) Regulations, 2002; whether the respondents could validly invoke the Civil Servants (Efficiency & Discipline) Rules, 2020 or otherwise impose the penalty of compulsory retirement; and whether the disciplinary proceedings afforded the petitioner adequate opportunity of defence and complied with the principles of natural justice.

7. It is not disputed that the petitioner was an employee of NADRA and that his terms and conditions of service were governed by the NADRA Employees (Service) Regulations, 2002. The petitioner himself relies upon the fact that the said Regulations are non-statutory. The legal position with regard to the status of these Regulations is no longer *res integra*. The Hon'ble Supreme Court, in *Maj. (Retd.) Syed Muhammad Tanveer Abbas and another v. Federation of Pakistan and another* (2019 SCMR 984), has held that the NADRA Employees (Service) Regulations, 2002, framed under the NADRA Ordinance, are non-statutory in nature and that an employee governed thereunder cannot invoke the constitutional jurisdiction of the High Court merely for enforcement of his terms and conditions of service.

8. The petitioner's principal contention is that, since the impugned punishment was purportedly imposed under Rule 2(1)(c) of the Civil Servants (Efficiency & Discipline) Rules, 2020, the matter assumes a statutory character and consequently becomes amenable to the constitutional jurisdiction of this Court. The contention, however, cannot be accepted. The mere adoption or application by reference of statutory Government rules by an authority whose own service regulations are non-statutory does not, by itself, confer statutory status upon such adopted rules. The Supreme Court has settled this principle in *M.H. Mirza v. Federation of Pakistan*. The same principle has specifically been applied to NADRA's adoption of the Government E&D Rules.

9. The very question whether the adoption of Government E&D Rules by NADRA constitutes statutory intervention has recently been considered by a

Division Bench of this Court in *Raheel Mehtab v. Federation of Pakistan and others* (C.P. No.D-6242 of 2018, order dated 30.04.2025). After examining Section 45 of the NADRA Ordinance, 2000, the NADRA Employees (Service) Regulations, 2002, the judgment in *M.H. Mirza* and the Supreme Court judgment in *Maj. (Retd.) Syed Muhammad Tanveer Abbas*, this Court held that the Government E&D Rules, when applied to NADRA employees through the non-statutory NADRA Regulations, do not acquire statutory character. Consequently, the disciplinary proceedings remain referable to the non-statutory service framework of NADRA and a Constitutional Petition under Article 199 is not maintainable.

10. The distinction sought to be drawn by the petitioner on the basis of his being a regular employee rather than a contractual employee is also of no assistance to him in the present circumstances. The objection to maintainability does not rest merely upon the contractual nature of his appointment; rather, it arises from the fact that the terms and conditions of his service are governed by non-statutory regulations. The Supreme Court's judgment in 2019 SCMR 984 makes clear that the NADRA Regulations are non-statutory, while the subsequent jurisprudence has continued to apply that principle to service disputes concerning NADRA employees.

11. Even otherwise, the petitioner's challenge to the disciplinary proceedings substantially concerns disputed questions relating to the factual determination of misconduct, appreciation of inquiry material, sufficiency of evidence, validity of the inquiry findings and proportionality of punishment. Such matters arise out of the terms and conditions of service and cannot, in the absence of a statutory service framework or violation of an independent statutory obligation, be converted into a constitutional dispute merely by alleging violation of fundamental rights or mala fide. The allegation of mala fide is also general in nature and no specific particulars have been furnished demonstrating that the competent authority acted for an ulterior or extraneous purpose.

12. The petitioner's earlier recourse to the Federal Service Tribunal also does not improve his position. The Federal Service Tribunal dismissed his appeal as not maintainable on the ground that he was not a civil servant governed by the statutory service regime. Thereafter, the petitioner invoked the constitutional jurisdiction of this Court through C.P. No.D-4275/2025, which was withdrawn on 18.09.2025. Although the respondents have invoked the doctrine of res judicata, we consider it unnecessary to rest the decision solely upon Section 11 CPC, particularly when the fundamental question of maintainability under Article 199 can independently be determined on the basis of the applicable legal framework and binding precedent.

13. As regards the merits, we are also not persuaded that the record, as presently placed before us, demonstrates that the petitioner was condemned unheard. The material shows that he was served with a charge-sheet, submitted his reply, was supplied the inquiry findings, was issued a show-cause notice and was afforded an opportunity of personal hearing. Whether the evidence relied upon by the Inquiry Board was sufficient to establish the charge or whether the punishment was proportionate may constitute a service dispute; however, such questions cannot confer jurisdiction upon this Court where the underlying service regulations themselves are non-statutory.

14. It is equally significant that the petitioner cannot simultaneously rely upon the non-statutory character of the NADRA Regulations to challenge the Respondents' invocation of the E&D Rules and, on the other hand, seek enforcement of the same service relationship through the extraordinary constitutional jurisdiction of this Court. The constitutional jurisdiction under Article 199 is not intended to provide a substitute for a statutory service appeal or an ordinary civil remedy where the employee's rights arise exclusively from a non-statutory service arrangement.

15. In view of the foregoing legal position, particularly the binding principle laid down by the Hon'ble Supreme Court in *Maj. (Retd.) Syed Muhammad Tanveer Abbas* (2019 SCMR 984), and the subsequent application of the same principle by this Court to disciplinary proceedings initiated against NADRA employees, we are of the considered view that the present petition is **not** maintainable under Article 199 of the Constitution. The fact that the respondents referred to or adopted the Government E&D Rules does not transform the NADRA service regulations into statutory rules or create statutory jurisdiction where none otherwise exists.

16. Consequently, the question whether the charge of offering bribe was correctly established, whether the inquiry findings were factually correct, or whether the punishment of compulsory retirement was proportionate, need not be examined by this Court in its constitutional jurisdiction.

17. Accordingly, the Constitutional Petition is dismissed as not maintainable, along with pending applications, if any. However, dismissal on the ground of maintainability shall not be construed as an expression of opinion on the merits of the allegations or the petitioner's entitlement, if any, to pursue such remedy as may otherwise be available to him in accordance with law.

JUDGE

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