


Riazul Haq advocate on behalf of the petitioner, Raja Abdul Latif challenging provisions of Usc services Rules 1992 being not in line with the Islamic injunctions has filed this Shariat petition. The Federal Shariat Court while examining Civil servant act on its own motion had held that: Nobody can be dismissed from Service without giving a chance of being heard. The august Supreme Court also upheld our judgment when appeal against our judgment preferred before it. (PLD 1984 FSC 34).(PLD1987 SC304.) But regarding the employees of Corporations, Banks and universities, the Federal Shariat Court has given divergent views. In Shariat petition No 1/R of 1980, Daryab yousuf VS Chairman wapda, the petitioner had challenged the power of the chairman, wapda to dismiss or retire the employee of Wapda without assigning reasons. This petition was dismissed declaring the employees of Wapda different from the Civil Servants, thus not entitled to any protection of Service. (PLD 1983 FSC 17.) In Shariat petition No25/I of1984, Maqbool Hussein Qurishi Vs State, the officers of the Banks were declared different from the civil servants. PLD 1986 FSC-1) In Shariat petition No9/K of1983, it was held that Employee of corporation are distinguished from Government employee, thus not entitled to any protection in regard to tenure of service under Shariah.(PLD 1986 FSC 3). Then in Shariat petition No 2/I of 983, 1/I of 1984, The Federal Shariat Court delivered an elaborative judgment on this subject drawing distinctions between Civil servant and employees of statutory corporations. It was held that the employees of statutory corporations are not entitled in shariah any other safeguard except (1): Immediate payment of wages (2): Strict adherence to the terms of contract. (3): Abstinance from making his work un-bearable. (PLD 1986 FSC 200). Relying on this judgment, in subsequent period, the Federal Shariat Court dismissed petitions on this subject. However, in Shariat Petition No 2/k of 1087, S.A Zubairi Vs Federation of Pakistan, the Court gave divergent view declaring rule 17 (1). If National Bank rules as repugnant to the Islamic injunctions. In this judgment, the Court held that issuing show cause notice and charge sheet is necessary for taking any action against any employee of the Bank or corporation.(PLD 1989 FSC 35)

Since the petitioner's case is pending before the Service Tribunal for hearing, he has filed an application praying therein for withdrawal of his petition from this Court, in circumstances, this petition may be placed before the Court and may be treated "dismissed as withdrawn."


Fazal Elahi Qazi
SRA
20/12/03