

JUDGMENT

Before Shaukat Aziz Siddiqui, J

SAJJAD HUSSAIN ALI and others

Versus

FEDERATION OF PAKISTAN and others

W.Ps. Nos.1576 of 2015, 3852 and 4134 of 2016, decided on 7th August, 2017.

SHAUKAT AZIZ SIDDIQUI, J--- By means of this consolidated judgment, I intend to decide the above mentioned three writ petitions, which have arisen out of analogous facts and circumstances.

2. The epigrammatic features of Writ Petition No.1576/2015 are that Workers Welfare Fund (for brevity, "WWF") was established under WWF Ordinance, 1971 ("the Ordinance") as a statutory body which currently operates under the Ministry of Overseas Pakistanis and Human Resource Development. The services of its employees are governed under duly notified statutory Rules, 1997 ("the Rules").

3. The petitioner Sajjad Hussain Ali has called in question the appointment of Wasim Afzal as Director BS-19 being illegal, unlawful, void ab-initio, being obtained through fraud, misrepresentation of record and in violation of the Rules with further prayer that direction be issued to Respondents Nos.3 to 5 to verify B.A. and MBA (HRM) degrees and experience certificate of respondent Wasim Afzal, etc.

4. In 2nd Writ Petition No.3852/2016, three petitioners namely; Muhammad Hanif, Shahzad Ahmad Khan and Muhammad Zubair Malik who are regular employees of the WWF, have informed that on 16.11.2010, Respondent No.2 advertised vacancies requiring staff for appointment purely on temporary basis in the "Daily Dawn". Amongst others, two posts of Director BS-19 were also advertised, in which it contained merely the designation of Director BS-19, which designation was alien to the Rules. A meeting of Departmental Selection Board was held under the Chairmanship of the Secretary, WWF on 29.1.2011, for recruitment of candidates for two positions of the Directors. Minutes of the meeting reveals that fourteen candidates were shortlisted after scrutiny of the applications who were called for written test on 08.01.2011. Thereafter, the Board recommended the names of principal and alternate candidates against the regional quotas in order of merit, where the name of respondent Wasim Afzal was mentioned as principal candidate for the post of Director BS-19 on the regional quota of Punjab, who allegedly secured top position in written test as well as in interview. After completion of other formalities, Respondent No.2 issued offer of appointment as Director BS-19 to respondent Wasim Afzal on 'temporary basis' on 09.02.2011. Thereafter, respondent Wasim Afzal submitted his joining report for the said post on 15.2.2011. Consequently, Respondent No.2 issued office order regarding appointment of respondent Wasim Afzal as Director BS-19 on 'temporary basis' on 25.02.2011 with effect from 15.02.2011. Allegedly, initial appointment of respondent Wasim Afzal in the

WWF, which was on temporary basis, is still continuing and said respondent is in service as a regular employee in violation of procedure and statutory Rules, whereas, same is not sustainable in view of the qualification and experience laid down in the Statute for the said post and respondent Wasim Afzal is illegally and unlawfully holding public office, hence, this constitutional petition with the prayer to issue writ of quo warranto and to declare office order dated 25.2.2011 of Respondent No.2 regarding appointment of respondent Wasim Afzal in the WWF as illegal, unlawful, void ab-initio, without lawful authority and being obtained through fraud, misrepresentation of record, in violation of the Rules, without fulfilling the eligibility criteria laid down in the Rules as well as in the advertisement and the said post be declared vacant which by itself is rarity.

5. Petitioner have further prayed that direction be issued to respondent Wasim Afzal to return all monetary as well as other benefits availed from the WWF since his illegal and unlawful appointment as Director BS-19 and Respondents Nos.1 and 2 be directed to recover the same from him.

6 In 3rd Writ Petition No.4134/2016 almost similar facts have been narrated as mentioned in the above writ petitions. The petitioner Syed Intizar Hassan Naqvi after asserting the same facts has challenged the appointment of respondent Wasim Afzal as well as appointment of another respondent Naeem-ur-Rehman as Directors BS-19 in the WWF, who was also appointed through the same recruitment process.

7. Moreover, in the later W. P. judgment, it would be appropriate to mention that on 24.05.2017, the petitioner Syed Intizar Hassan Naqvi sought permission to withdraw the petition to the extent of respondent Naeem-ur-Rehman for the time being, however, he reserves his right to agitate the issue at some proper stage, which request was allowed.

8. Learned Counsel for the petitioners unanimously contended that vide advertisement for the posts of Directors BS-19 entire process of recruitment was tainted with mala fide intentions, persons specific and aimed at providing favour to Blue eyed candidates i.e. respondents Wasim Afzal and Naeem-ur-Rehman. Learned Counsel stressed that said respondents are holding the positions of Director BS-19, whereas, no post of such nomenclature is prescribed in the Rules as the posts available for induction in BS-19 were Director (Admn.), Director (Finance and Accounts), Director (Resource and Recovery), Director (Monitoring and Technical), (Works) and Superintending Engineer only. Learned Counsel further argued that for the post of Director (Finance and Accounts) prescribed education was MBA (Finance), while respondent Wasim Afzal was MBA (HRM), this his application for recruitment was liable to be discarded on this score alone. They vigorously contended that MBA (HRM) degree of respondent Wasim Afzal was also fake. Moreover, said respondent did not possess the prescribed 12 year of experience in the relevant field i.e. finance, which was prerequisite for appointment against the post of Director (Finance and Accounts). They pointed out that experience certificate issued by SME Bank does not contain designation of the post which he served in the said organization, but surprisingly, Departmental Selection Board of the WWF considered it as relevant experience in the relevant field. Thus, continuous occupation of office of Director (Finance and Accounts) by respondent Wasim Afzal is incurring loss to the public exchequer.

9. Elaborating their submissions, Learned Counsel for the petitioners added that respondent

Wasim Afzal appeared in B.A. Second Annual Examination, 1991 conducted by University of the Punjab, Lahore. His B.A. result was withheld by University of the Punjab as "R.L. Complaint" on 22.8.1992. Neither university take further action in the aforesaid complaint nor respondent Wasim Afzal approached them for declaration of his B.A. result for about 18 years. His B.A. result was declared by the university vide result gazette dated 10.11.2010, issued him B.A. result card on 04.12.2010 and B.A. degree on 26.1.2011. They added further that contrary to aforesaid facts, respondent Wasim Afzal had possessed a B.A. Result Intimation Card bearing Serial No.10049 dated 22.08.1992, on the basis of which he got job as OG-III in Small Business Finance Corporation (SBFC) now SME Bank on regular basis on 17.8.1993, got retirement from the SME Bank under Voluntary Separation Scheme (VSS) with monetary benefit of more than Rs.4.5 million on 31.12.2009 and also got admission to MBA (HRM) degree at Newports Institute of Communications and Economics (hereafter referred as "NICE"), Karachi on 01.04.2007. Therefore, service rendered by respondent Wasim Afzal in the SBFC/SME Bank on the basis of fake and forged B.A. Result Intimation Card dated 22.8.1992 cannot be counted as valid experience for appointment as Director (Finance and Accounts) in the WWF.

10. Learned Counsel for the petitioners contended further that respondent Wasim Afzal was appointed in the WWF in violation of Government's policy circulated vide Establishment Division's office memorandums No.35/2/97-RW-III and No.35/4/97-RW-I (R&R) dated 22.10.1997 and 12.6.1999, respectively, which bars re-employment of persons under Government, public sector corporations and autonomous/semi-autonomous bodies etc. for a period of at-least five years in any form who exercised their option for Golden Hand Shake/Early Retirement Benefits Scheme.

11. Learned Counsel for the petitioners also contended that MBA (HRM) degree issued by NICE to respondent Wasim Afzal on 30.3.2009 is also invalid as University of the Punjab declared his B.A. result on 10.11.2010, duration of MBA (HRM) degree i.e. 01.04.2007 to 30.3.2009 clashes with his regular service as OG-III with SME Bank while posted at Rawalpindi and Gujrat without obtaining prior permission and without availing any kind of leave. Moreover, despite clear cut orders of this Court, Registrar, NICE failed to produce record of attendance and record of semester-wise fees deposited by respondent Wasim Afzal. It was pleaded that respondent Wasim Afzal is holding unauthorized appointment as Director BS-19 in the WWF by playing fraud, misrepresentation, and fabricated documents, therefore, concerned authorities be directed to initiate criminal proceedings against the respondent Wasim Afzal on account of possessing fake and forged B.A. Result Intimation Card dated 22.8.1992, obtaining job as OG-III in SBFC/SME Bank on 17.8.1993 on the basis of fake and forged B.A. Result Intimation Card, getting admission in MBA (HRM) degree on 1.4.2007 on the basis of fake, fabricated and forged B.A. Result Intimation Card, availing monetary benefits on the basis of fake B.A. Result Intimation Card from SBFC/SME Bank, obtaining fake and forged MBA (HRM) degree without physical participation in the degree programme in question and obtaining job as Director BS-19 in the WWF on 15.2.2011 on extraneous grounds.

12. To add strength to their contentions, Learned Counsel has relied upon the following dictums:-

- (i) Malik Nawab Sher v. Ch. Muneer Ahmad and others (2013 SCMR 1035);

- (ii) Ejaz Hussain v. Abdul Qayyum (1996 PLC (C.S.) 622 [Balochistan High Court];
- (iii) Barrister Sardar Muhammad v. Federation of Pakistan and others (PLD 2013 Lahore 343);
- (iv) Ali Hussain Bokhari and 39 others v. Azad Government of the State of Jammu and Kashmir (1992 PLC (C.S.) 289 [High Court of AJ&K]; and,
- (v) Qazi Mustafa Kamal v. Federation of Pakistan through Secretary, Establishment Division and others (PLD 2014 Islamabad 123).

13. Learned Counsel for Respondents Nos.1 and 2 through para-wise comments as well as through oral submissions admitted that respondent Wasim Afzal applied for the post of Director BS-19 in the WWF on the basis of MBA (HRM) degree only issued by NICE and appointed as Director BS-19 in the WWF purely on temporary basis without possessing relevant qualification and experience as laid down in the Rules as well as in the advertisement. They also intimated that respondent Wasim Afzal also replaced para-wise comments, which were approved by then Secretary, WWF for submission before this Court in Writ Petition No.1576/2015 during mailing process. They further intimated that respondent Wasim Afzal also concealed the fact of his early retirement from SME Bank under VSS at the time of his appointment in the WWF. They also provided copy of Prime Minister Inspection Commission's report dated 29.6.2016, which endorsed various contentions of Learned Counsel for the petitioners' mentioned in the preceding paragraphs. They also provided copy of respondent Wasim Afzal's note dated 20.1.2015 through which he has claimed as under:-

"2. My native city is Gujranwala and during my service when I was posted at Gujrat, I did my MBA in Human Resource Management (HRM) from Pak Lawrence Institute, Lahore an affiliated college of Newports Institute of Communications and Economics.

14. Contrary to above claim of respondent Wasim Afzal vide his note dated 20.1.2015, NICE, Karachi vide their certificate dated 16.10.2010, duly produced by respondent Wasim Afzal before this Court, has categorically certified as under:

"This is to certify that Mr. Wasim Afzal S/O Muhammad Afzal Roll No.NIL-MBA-2527, student of Newports Institute of Communications and Economics, Karachi has completed all the prescribed courses of Master of Business Administration program from this Institute..."

15. Learned Counsel for the Higher Education Commission of Pakistan (hereinafter referred to as "HEC") in para-wise comments as well as through oral arguments asserted that NICE Karachi started granted illegal affiliations in other provinces including AJ&K violating the provisions of its charter. HEC has taken serious notice and as a result, NICE, Karachi de-affiliated all such institutions and floated an advertisement in the national press.

15 (sic) Learned Counsel for SME Bank in para-wise comments as well as in oral assertions contended that respondent Wasim Afzal was appointed in the defunct SBFC (now SME Bank) as OG-III on 17.8.1993 on the basis of B.A. Result Intimation Card dated 22.8.1992 issued by University of the Punjab. Consequent upon exercise of option for VSS-2009, he was relieved of

his duties from SME Bank on 31.12.2009 and availed monetary benefits of Rs.4,519,636/- on this account. He also produced SME Bank's certificate dated 02.02.2017 before this Court, intimating details of VSS-2009, monetary benefits availed by respondent Wasim Afzal and his posting details for the duration of MBA (HRM) degree at NICE i.e. 1.4.2007 to 30.3.2009, which is reproduced below:-

<u>Date</u>	<u>From</u>	<u>To</u>
21.3.2006	Area Office Rawalpindi	Area Office (OPR) Rawalpindi
11.8.2007	Area Office (OPR) Rawalpindi	RO Gujrat

17. Learned Counsel for University of the Punjab vide para-wise comments, documents produced before this Court and oral contentions pleaded that respondent Wasim Afzal appeared in B.A. Second Annual Examination 1991 under Roll No.15007 and Registration No.91-z-27606 vide admission Form No.59357 (containing fake signature of respondent Wasim Afzal), his result was withheld as "R.L. Complaint" vide Result Gazette dated 22.08.1992. Respondent Wasim Afzal applied for B.A. degree under Apply No.8454-F on 30.09.2010. Accordingly, his B.A. result was declared vide Result Gazette dated 10.11.2011 and B.A. degree bearing Serial No.B-844806 was issued to him on 26.1.2011. When Learned Counsel was asked regarding genuineness of B.A. Result Intimation Card dated 22.8.1992 bearing Serial No.10049 produced by respondent Wasim Afzal before this Court, he replied that University of the Punjab issued Result Intimation Card in question on 4.12.2010. Perusal of three petitions, para-wise comments and documents on record reveals that respondent Wasim Afzal had possessed the Result Intimation Card in question since the year, 1993 as he utilized it at the time of appointment as OG-III in the defunct SBFC/SME Bank on 17.8.1993, utilized it for admission to MBA (HRM) on 1.4.2007, which indicates that the certificate is fabricated and forged document, used as genuine to gain monetary benefits by obtaining different jobs. Incidentally record of University of the Punjab is silent about issuance of B.A. Result Intimation Card on 22.8.1992. But apparently this act of forgery committed in connivance with the staff of esteemed Institution like University of the Punjab, which has brought stigma and bad name of the University.

18. Despite issuance of notices on 07.02.2017, 15.02.2017 and 16.02.2017. Registrar NICE did not appear before this Court along with requisite record. Finally, he was issued show-cause notice on 25.02.2017 for appearance in person on 02.03.2017 for the purpose of onward proceedings. Accordingly, he appeared before this Court on 02.03.2017 and produced requisite record through Learned Counsel for NICE. Learned Counsel for NICE vide documents produced before this Court and oral submissions contended that respondent Wasim Afzal got admission in MBA (HRM) program on 1.4.2007 vide NICE's application form dated NIL bearing Serial No.3942 (containing fake signature of respondent Wasim Afzal) on the basis of B.A. Result Intimation Card dated 22.8.1992 bearing Serial No.10049 and without submitting attested copy of B.A. degree. He further informed that respondent Wasim Afzal attended two years MBA (HRM) program of six semesters, maintained minimum attendance of 70%, appeared in Semester Examinations on 7-8 July, 2007, 10-11 November, 2007, 8-9 March, 2008, 12-13 July, 2008, 8-9 November, 2008 and 7-8 March, 2009 and MBA (HRM) degree was issued to him on 30.3.2009 and MBA (HRM) transcript was issued to him on 01.06.2009. However, they failed to produce record of attendance and fees deposited by respondent Wasim Afzal during the course of study of

MBA (HRM) program. Contrary to these documents, Document Request Form containing dated signature of the Registrar, NICE as 02.10.2010 produced before this Court is evident that respondent Wasim Afzal applied for issuance of MBA (HRM) degree and transcript on 2.10.2010 on payment of Rs.25,000/-. Moreover, as per NICE's certificate dated 16.10.2010, MBA (HRM) program in question was of two years duration with four semesters of six month duration. These contradictions proved the fact that MBA (HRM) degree in question is fake, forged, issued to respondent Wasim Afzal in connivance of concerned authorities of the NICE and call for criminal proceedings against them.

19. Learned Counsel for respondent Wasim Afzal through written arguments filed on 26.7.2017 has contended that respondent was appointed after undergoing a lengthy selection process, which includes written test followed by an interview by a five members board constituted by WWF, thus all the Rules, Regulations and formalities were duly observed while making appointment of the respondent. Learned Counsel while raising preliminary objections, has stated that the writ petitions have been filed after four long years of appointment of respondent when a legitimate expectation to compete his service tenure has developed. Moreover, it is settled law that before issuing a writ of quo warranto, the Court will invariably enquire into the conduct and motive of the person who is laying information before the Court and the conduct of the present petitioners is extremely unfair and unjust as he has annexed apparently classified, confidential and unattested documents of the WWF. Learned Counsel added that no introduction of the petitioners has been given in the entire petitions, which is an essential requirement to seek writ of quo warranto. Moreover, the assertions of petitioners with regard to credentials of respondent are baseless and without any valid proof. Learned Counsel further added that pre-requisites of a writ of quo warranto has not been fulfilled by the petitioners thus same are not maintainable.

20. Learned Counsel has contended that the post of Director (BS-19) was created with the approval of the Governing Body of WWF in its 104th meeting in the light of relevant provisions of section 8 of the Ordinance. Learned Counsel further submitted that the respondent did his MBA in HRM with Finance as a subject with 3.01 GPA that equals to 75% of total GPA, served as officer in OG-III in S.M.E Bank Limited which is under the control of Ministry of Finance, Government of Pakistan w.e.f. 17.8.1993 to 31.12.2009, during which period he served as Branch Manager and also on other responsible positions, hence, he not only met the required criteria for appointment against the post of Director but also excelled from it. Responding to the contention of learned Counsel for petitioners that the respondent was appointed purely on temporary basis but is now holding a regular post of Director (Finance and Accounts), it is submitted that although appointment and office order issued to the respondent have the inscription on temporary basis but it does not find mention of the time limit of the appointment rather inscription on temporary basis is part of all appointment letters issued to all the permanent employees of WWF on initial appointment, who remain on probation and after completion of probation, their services are confirmed. Learned Counsel while referring the provision available at Serial No.2 of Chapter (iv) and Rule 7 of Chapter II of ESTACODE contended that mere use of expression "on purely temporary basis and liable to be terminated at any time without any notice or reasons" does not declare an appointment temporary as long as employment is for an indefinite period or the very post continues to exist for an indefinite period. Rather, a person so appointed, on satisfactory completion of his probation becomes eligible for confirmation, thus, as per condition (viii) of the offer of appointment, of the respondent, he stands confirmed as Director (BS-19) in WWF. Moreover, it is also notable that the terms and conditions given in the offer of appointment of the

respondent are altogether different from that of contract appointment as defined in Part VII of Chapter 3 of the Rules.

21. Regarding educational qualification of the respondent, it is contended that he availed MBA (HRM) degree from NICE, Karachi as he remained student of Pak Lawrence Institute, Lahore which is an affiliated campus of the said Institute. Moreover, NICE is duly recognized by the HEC. It is further stated that during the study period the respondent was posted at Gujrat but living in Gujranwala and attended weekly classes held at the weekends, thus, was not required to avail study leave from the SME Bank.

22. Apart from merits of the case learned Counsel for respondent Wasim Afzal through written arguments while referring different interim orders passed by this Court during proceedings raised certain questions relating to alleged discriminatory treatment meted out to the respondent, but I am of the view that same are not to be adhered to in this judgment as same does not relate to the controversy involved in the instant writ petitions and orders referred by the Learned Counsel contains detailed reasons on the basis of which the same were passed.

23. Arguments heard, record of writ petitions and para-wise comments filed by the parties perused.

24. The main controversy involved in all the three writ petitions, relate to the appointment of respondent Wasim Afzal as Director (Finance and Accounts) BS-19 as allegedly he lacks requisite qualification and experience as laid down in the Rules as well as in the advertisement. Other issues agitated through these writ petitions relate to genuineness of B.A. Result Intimation Card dated 22.8.1992 bearing Serial No.10049 issued by University of the Punjab on 4.10.2010, MBA (HRM) degree issued by NICE, Karachi on 30.3.2009 and job obtained by respondent as OG-III in the SBFC/SME Bank on 17.8.1993, admission obtained in MBA (HRM) program at NICE, Karachi on 1.4.2007 on the basis fake and forged B.A. Result Intimation Card in question and appointment as Director BS-19 in the WWF on 15.2.2011 in violation Government's policy regarding re-employment of any kind after availing benefits of more than Rs.4.5 million through Early Retirement Benefits Scheme/VSS on 31.12.2009. In amerce question is that under which authority of law respondent Wasim Afzal is holding the post of Director BS-19/ Director (Finance and Accounts) in the WWF.

25. Before dilating upon merits of the case, it is appropriate to address preliminary question raised by Learned Counsel for respondent Wasim Afzal with regard to the maintainability of the writ petitions on the ground that the petitioners are not aggrieved persons and the instant petitions have been filed due to mala fide intentions. In the instant cases, nothing has been placed on record, which could justify any mala fide on part of the petitioners or which could establish that the petitioners are seeking writ to exploit the process for personal gains. It has been held by the Honourable Supreme Court of Pakistan in the case of Muhammad Yasin v. Federation, of Pakistan through Secretary, Establishment Division and others, (PLD 2012 SC 132), which reads as under:-

"Before concluding our discussion on the issue of maintainability of this petition we need to address the respondent's submission that the petition has been filed mala fide. We have found no lawful basis for this submission. Simply because the petitioner may have been a contender for the office of Chairman, OGRA, does not per se translate into mala fide. The

petitioner can genuinely consider himself to be a suitable candidate for the position while simultaneously holding the view that the respondent does not meet the eligibility criteria set out in section 3(4) of the Ordinance. Furthermore, we have already held in the case titled *Moulvi Iqbal Haider v. Capital Development Authority and others* (PLD 2006 SC 394 at 413) that the contents of a petition under Article 184(3) *ibid* will override concerns arising on account of the conduct or antecedents of a petitioner. This approach is reflective of the sagacity of wise men such as Maulana Jalaluddin Rumi who have emphasized the importance of the message rather than the messenger."

26. From the above, it is obvious that in these writ petitions in the nature of quo warranto, the messages are more important than the messengers and the contents of such petitions generally override the conduct or antecedents of the petitioners, therefore, the contention of the Learned Counsel for respondent Wasim Afzal, that the instant writ petitions are based on mala fide intention, is not tenable. Even otherwise, there is no material on record which may substantiate the contention of the Learned Counsel. It is well settled law that in the matters of quo warranto any person can place information before the Court and it is not the requirement of law that he must be an "aggrieved person". The other objection raised by the Learned Counsel is that instant writ petitions are being filed after almost more than four years after the appointment of respondent, thus are beyond the reasonable time and hit by the doctrine of laches, this objection is also not tenable because it is well recognized principle of law that laches do not apply to writs of quo warranto as the cause of action is a recurring one long as the public office is being held by a particular person, then the unlawful holding of public office is continuing wrong and the said wrong may be called in question by anyone at any time. Reference is made to the cases reported as (PLD 2010 Lahore 625), (2010 PLC (C.S.) 731), (2002 PLC (C.S.) 274) and in the case titled *Malik Umar Aslam v. Mrs. Sumaira Malik and others* (2014 SCMR 45), the Honourable Supreme Court of Pakistan observed as under:-

"Thus, from the above discussion we are of the opinion that adjudication in appeal proceedings by this Court at the apex level is distinct and different from the decision/findings of domestic Tribunals, not because of hierarchy but because of the statutory powers available to an appellate Court under section 67 of ROPA. Adjudication of an issue, which is a continuous bone of contention between the parties, cannot be postponed because of lapse of a period of 10 years as it has been suggested by the respondent No.1's learned counsel. More particularly, a candidate has to prove credentials in terms of both Articles 62 and 63 of the Constitution to establish that no objection/attack is actionable against him or her; both before as well as after entering the Parliament or Provincial Assembly. In a number of cases, the Court has intervened in the election of such candidates who were found to be disqualified after having been elected the members of the Parliament and thereby were de-notified."

Thus, as far as question of limitation for filing a writ of quo warranto is concerned, it is obvious that the question of limitation or time period is of no relevance rather it can be filed within the period when the person against whom relief is sought is holding the public office. Even, otherwise no limitation runs against the fraud or benefits gained through illegal means.

27. As far as eligibility criteria for the post of Director BS-19/ Director (Finance and Accounts) as laid down in the Rules as well as in the advertisement is concerned, replies submitted

Respondents Nos.1 and 2 in all the three writ petitions are very much relevant. They have stated that respondent Wasim Afzal was not fulfilling the educational and experience requirement laid down in the Rules as well as in the advertisement, hence, appointment of respondent Wasim Afzal against the post in question is illegal, unlawful and void ab initio.

28. As far as genuineness of B.A. Result Intimation Card dated 22.8.1992 bearing Serial No.10049 is concerned, replies submitted by respondent University of the Punjab in the instant writ petitions are very much relevant. They have stated that respondent appeared in B.A. Second Annual Examination 1991 under Roll No.15007 and Registration No.91-z-27606 vide admission Form No.59357. Admission form in question has apparently contained fake signature of the respondent as same differ from the other admitted signatures of respondent Wasim Afzal, for ease of the person who actually appeared in the said examination in his place. His result was withheld by University of the Punjab as "R.L. Complaint" vide Result Gazette dated 22.08.1992. Neither University took any further action in the aforesaid complaint nor had respondent approached the University for the declaration of his B.A. result for more than eighteen years due to the fact that he had possessed fake B.A. Result Intimation Card dated 22.8.1992 obviously in connivance of concerned authorities of University of the Punjab and used it as genuine for obtaining job as OG-III in the SBFC/SME Bank on 17.8.1993, for admission to MBA (HRM) on 1.4.2007 and for applying for the post of Director BS-19/ Director (Finance and Accounts) in the WWF in December, 2010. Although respondent Wasim Afzal only applied for issuance of B.A. degree to University of the Punjab under Apply No.8454-F on 30.09.2010. But the University was kind enough to declare his B.A. result vide Result Gazette dated 10.11.2011 after removing adverse complaint from the relevant record on the basis of which his result was withheld as "R.L. Complaint" vide Result Gazette dated 22.8.1992. Thereafter, B.A. degree bearing Serial No.B-844806 was issued to him on 26.1.2011.

29. As far as genuineness of MBA (HRM) degree bearing Serial No.003467 issued by NICE, Karachi to respondent Wasim Afzal on 30.3.2009 is concerned, replies submitted by respondent NICE, Karachi in the instant writ petitions are very much relevant. They have stated that respondent Wasim Afzal got admission to MBA (HRM) program on 1.4.2007 vide NICE's application form dated NIL bearing Serial No.3942. Application form in question is not filled up in the hand writing of respondent, contained his fake signature as two different signatures are existed on it (comparison made with the admitted signatures and writing, contained incorrect detail of educational background of respondent, employment of SME Bank has been concealed, contained landline No.055-3731566 which was not existed on 1.4.2007 as the 7-digit landline numbers were introduced by the PTCL with effect from 1.7.2009. Admission to MBA (HRM) program was obtained on the basis of fake and forged B.A. Result Intimation Card stated 22.8.1992 bearing Serial No.10049. Other details provided, by NICE in this regard are also contradictory to ground realities. Duration of the aforesaid degree also clashes regular job of respondent with the SME Bank at Rawalpindi and Gujrat. In view of foregoing, it is established fact that MBA (HRM) degree and transcript issued to respondent Wasim Afzal in connivance of concerned authorities of NICE, Karachi on 30.3.2009 and 1.6.2009 while the respondent applied for issuance of the same on 2.10.2010, are fake and forged, which call for criminal proceedings against them.

30. It is being observed with great concern that in the name of parting education, some person (s) established the Institutes, only with an object of minting money. Their interest evolves around making money. These institutions prepare fake attendance sheets, operate the Institute in the

residential buildings, use the name of some University to attract students, deceitfully showing it to be affiliated, whereas, such Universities never been in competent authority to grant affiliation, as is the case in the instant matter. This Court is constrained to observe that fake certificates and degrees are prepared/sold and to justify the same manipulation, tempering in the records is made. This approach does not reflect noble cause of spreading education rather **"Trade of Education"**

31. Now, coming to the appointment of respondent Wasim Afzal as OG-III in SBFC/SME Bank on 17.8.1993 is concerned, replies submitted by respondents University of the Punjab and SME Bank in the instant writ petitions are very much relevant. They have stated that respondent Wasim Afzal was appointed as OG-III in the SBFC/SME Bank on 17.8.1993 on the basis of B.A. Result Intimation Card dated 22.8.1992 bearing Serial No.10049. The result intimation card in question is fake and forged as B.A. result of the respondent was declared by University of the Punjab vide result gazette dated 10.11.2010. Such appointment on the basis of fake and forged B.A. Result Intimation Card in question call for criminal proceedings against the respondent and recovery of all monetary benefits connected with the said appointment.

32. As far as appointment of respondent Wasim Afzal as Director BS-19/Director (Finance and Accounts) in the WWF on 15.02.2011 in violation of Government policy is concerned, replies submitted by Respondents Nos.1 and 2 and SME Bank in the instant writ petitions are very much relevant. They have stated that respondent Wasim Afzal was relieved of his duties from SME Bank on 31.12.2009 after availing monetary benefit of more than Rs.4.5 million under Early Retirement Benefits Scheme/VSS. He was appointed in the WWF as Director BS-19/ Director (Finance and Accounts) on 15.02.2011 in violation of Government's policy circulated vide Establishment Division's office memorandums No.35/2/97-RW-III and No.35/4/97-RW-I (R&R) dated 22.10.1997 and 12.6.1999, respectively, which bars re-employment of persons under Government, public sector corporations and autonomous/semi-autonomous bodies etc. for a period of at-least five years in any form who exercised their option for Golden Hand Shake/Early Retirement Benefits Scheme, by concealment of this fact at the time of appointment in the WWF. Establishment Division's office memorandum No.35/4/97-RW-I (R&R) dated 12.6.1999 is reproduced below for ready reference:-

"MOST IMMEDIATE

GOVERNMENT OF PAKISTAN

ESTABLISHMENT DIVISION

No.35/4/97-RW-I (R&R)

Islamabad, 12th June, 1999

OFFICE MEMORANDUM

SUBJECT: RE-EMPLOYMENT AFTER RETIREMENT UNDER GOLDEN HANDSHAKE/EARLY RETIREMENT BENEFITS SCHEME

The undersigned is directed to refer to Establishment Division's O.M. No.35/2/97-RW-III dated 22nd October, 1997 (copy enclosed) on the subject cited above and to say that in terms of the instructions contained therein Government servants/ employees of Corporations, Autonomous/semi-autonomous bodies who exercised their option for

GHS/Early Retirement Benefits Scheme are not eligible for re-employment under government, public sector corporations and autonomous/semi-autonomous bodies etc. for a period of at least five years in any forum i.e. re-employment, contract appointment or consultancy contract etc.

2. It has come to the notice of the Establishment Division that the above instructions have not been complied with and the government servants/employees of the public sector organizations etc. have been re-employed after their retirement under GHS/Early Retirement Benefits Scheme by their parent organizations or by other public sector organizations although the stipulated period of 5 years has not yet passed.

3. Ministries/Divisions are requested that detailed particulars (name, designation, BPS, organization from where retired with name of the post on which re-employed, BPS with pay/perks and organization where re-employed) of such Government servants of the Ministries/Divisions/Sub-ordinate Offices and employees of the Corporations, Autonomous/Semi-autonomous bodies etc. under their administrative control who have re-employed after retirement under the GHS/Early Retirement Benefits Scheme before the expiry of the stipulated period of 5 years, may be furnished to the Establishment Division by 19th June, 1999 positively.

Sd/-

(Muhammad Shareef)

Deputy Secretary (RW)

Secretaries/Additional Secretaries Incharge

All Ministries/Divisions (By name)"

Perusal of contents of above mentioned office memorandum clearly depicts that the respondent Wasim Afzal was not eligible for re-employment of any kind and his appointment is liable to set aside on this score alone. It is also very strange that despite circulation of above said instructions to all the Ministries/Divisions/ Organizations, etc. this aspect ignored by the Departmental Selection Board of the WWF who finalized appointment of respondent, the mannerism in which respondent Wasim Afzal appointed in WWF, loudly speaking about executive and political influence by him coupled with other factors of irrelevant considerations.

33. This Court is constrained to observe that persons like respondent Wasim Afzal through their criminal acts defeat the rights of deserving people, who with genuine testimonial on the basis of excellent performance, running between pillar to post, even to get appointment against a clerical post. But these persons are deprived for want of lucrative and political influence, on the contrary people like respondent Wasim Afzal through engineered fraud, dubious educational profile, stigmise the esteemed Institutions, promote the culture of corruption and corrupt practices. Obtaining of job on the strength of fake, forged and fabricated documents is not less than a commission of fraud with public at large and Pakistan. Entire career of respondent Wasim Afzal appears to be polluted with fraud, misrepresentation and gaining of financial benefits on the basis of forged documents. It is so unfortunate that all the departments worked in aid of ill gotten gains

instead of curbing the malpractices and fraud. It is beyond comprehension of this Court that Institute like University of the Punjab, SBFC/SME Bank, WWF would keep silent with close eyes and would allow a person to ridicule the systems, achieve desired objects and to smile on those who believe in merit and Rule of law. It is the right time to curb all kind of corruption, in particular from educational institutions. Respondent Wasim Afzal for personal motive and illegal gains played havoc and naked fraud, therefore, such person does not deserve any leniency. He demonstrated through his conduct and mannerism that in order to protect ill gotten gains, he went to all extent even maligning this Court.

34. In this view of the matter, Writ Petitions Nos.1576/2015, 3852/2016 and 4134/2016 are allowed and this Court decides the matter as under:-

- (i) The appointment of respondent Wasim Afzal as Director (BS-19) in the WWF is hereby declared as result of an abuse of the process of law, misrepresentation, fraud sham, rarity, unprecedented, void, result of colourable exercise of authority, against the prescribed procedure, non-transparent approach, against the principles of transparency, fairness, merit, offensive to the Constitutional guarantees, besides the applicable law and dictum laid down by the Superior Courts of the country, hence, WWF's office order dated 25.02.2011 of his appointment is set aside; the post of Director BS-19/Director (Finance and Accounts) in the WWF declared as vacant with immediate effect, which shall be filled by Respondents Nos.1 and 2 in accordance with the relevant Law/Rules.
- (ii) Director General, Federal Investigation Agency, Islamabad is hereby directed to initiate criminal proceedings against respondent Wasim Afzal, all public servants, government officials, and private persons who facilitated commission of offence of alleged forgery, cheating, fraud and criminal breach of trust by preparing fake, forged and fabricated educational documents, using them as genuine for getting financial benefits to which respondent Wasim Afzal was not entitled to.
- (iii) Ministry of Overseas Pakistanis and Human Resource Development, Workers Welfare Fund, Ministry of Finance and SME Bank are directed to ensure recovery of all monetary benefits from respondent Wasim Afzal availed by him on the basis of appointment as OG-III in SBFC/SME Bank for the period from 17.8.1993 to 31.12.2009, monetary benefits availed through VSS-2009 and monetary benefits availed by him on the basis of appointment as Director (BS-19) in the WWF for the period from 15.02.2011 till date.
- (iv) All the authorities concerned shall intimate this Court through learned Registrar about the progress made in compliance of directions issued above on monthly basis.

Uploaded by IT department, IHC

Disclaimer: The content available in this document are just for information. Users are advised not to depend on the information and use it for official purpose. Islamabad High Court, Islamabad is not responsible for any damages arising in contract from the use of the content of this document

DRAFT