

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No.4123/2019.

Amir Khan Wazir

Versus

The Associated Press of Pakistan Corporation through its Secretary, Islamabad, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	28.11.2019.	Barrister Muhammad Bashir Kayani, Advocate for petitioner.

Through this writ petition, the petitioner has assailed the charge sheet dated 21.11.2019, issued by Director International News Agreements/Inquiry Officer of the Associated Press of Pakistan Corporation (APPC).

2. Learned counsel for the petitioner *inter-alia* contends that petitioner was dismissed from service by APPC/respondent No.1 vide order dated 19.09.2013, which was assailed by the petitioner before learned Single Bench, NIRC through Grievance Petition No.4B(269)/2013, the same was allowed vide order dated 12.01.2016, however, against the said order learned Full Bench, NIRC allowed the appeal filed by APPC vide order dated 21.09.2016; that order of learned Full Bench, NIRC was assailed by the petitioner before this Court in W.P No.4258/2016, which was allowed by this Court vide judgment dated 29.10.2018 and petitioner's dismissal order was set aside alongwith the judgment of learned Full Bench NIRC; that respondent department has initially issued a letter dated 08.11.2019

and reinstated the petitioner conditionally subject to outcome of de-novo inquiry and final order in CPLA No.4835/2018; that respondent department could not initiate two simultaneous action at the same time especially when respondent department has assailed the judgment of this Court through CPLA, there is no need to initiate de-novo inquiry and the statement of allegation/charge sheet issued by respondent department is illegal; that act of respondent authority is illegal and void *ab-initio* qua the rights of petitioner.

3. Arguments heard, record perused.

4. Perusal of record reveals that petitioner was Junior Clerk in the APPC who was dismissed from service by the respondent department vide order dated 20.09.2013, which was assailed before the Single Bench NIRC through Grievance Petition and the same was allowed in his favour vide order dated 12.01.2016 and dismissal order was set aside, however, the order of Single Bench NIRC was challenged by APPC before the Full Bench NIRC in appeal, which was allowed in favour of APPC. The petitioner being aggrieved with the order of Full Bench NIRC assailed the order before this Court through W.P No.4258/2016, which was allowed vide judgment dated 29.10.2018 in the following terms:-

In view of above, the impugned order dated 21.09.2016 passed by the learned Full Bench of NIRC is hereby set-aside, the instant writ petition is allowed and the order dated 19.09.2013 passed

by the learned Single Bench of NIRC is hereby upheld.

Before parting with this judgment, the matter is remanded to the APPC authorities to reconsider the case of petitioner through a regular inquiry on the following two questions.

- a. Whether the petitioner had submitted bogus matric certificate vide Roll No.37145 issued by BISE, Peshawar at the time of his appointment?*
- b. Whether appointment of petitioner as Junior Clerk could be made on the basis of Madrassa certificate and school leaving certificate of 9th Crade?*

However, the APPC authorities are at liberty to draw their conclusion on the basis of their answers to the above questions and they are well within their powers to reconsider the appointment of petitioner independently notwithstanding any observations passed by this Court hereinabove.

5. The above referred order has been complied with by the APPC/respondent and at the same time APPC has assailed the said order before the Apex Court through CPLA No.4835/2018, which is pending and no restraining order has been issued till date, however, respondent department has issued office order dated 08.11.2019 to the following effect:-

Reference your counsel's letter dated 30.10.19 read with order dated 12.01.2016 passed by the learned single bench of NIRC upheld by the Honorable Islamabad High Court, dated 23.10.2018 announced on 29.10.2018 and subsequent orders dated 28.10.2019 & 01.11.2019 passed by learned single bench of NIRC, you are hereby reinstated into APP service with immediate effect and until

further orders subject to the outcome of de-novo inquiry and final order in C.P.L.A No.4835/2018.

02. This issues with the approval of the competent authority, Associated Press of Pakistan Corporation.

6. The petitioner is mainly aggrieved with the above mentioned order as well as charge sheet dated 21.11.2019, whereby he has been confronted with the allegation that he submitted bogus Matric certificate while obtaining his job.

7. I have gone through the record and given anxious thought to the order passed by this Court in W.P No.4258/2016 as well as proceedings initiated by respondent department. There is no cavil to the proposition that this Court has not restrained the APPC from initiating fresh inquiry qua the submission of bogus Matric certificate by the petitioner and the charge sheet challenged by petitioner dated 21.11.2019 is one of procedural requirement in the said departmental proceedings and there is no final order, which could be challenged before this Court in constitutional jurisdiction as the respondent department has complied with the direction passed in W.P. No.4258/2016, hence, right of petitioner has been infringed through the impugned charge sheet rather he has to answer the statement of allegation and all other proceedings conducted by the respondent department. The petitioner has failed to point out any illegality. The petitioner's reinstatement is conditional which is subject

to final order in CPLA No.4835/2018 or subject to outcome of de-novo inquiry whichever is earlier, therefore, instant writ petition is meritless and the same is hereby *dismissed in limine*.

(MOHSIN AKHTAR KAYANI)
JUDGE

Zahid