

**JUDGMENT SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

W.P.No.116 of 2019

Tanveer Riaz Abbasi and another  
Versus  
Full Bench of National Industrial Relations Commission and others

Date of Hearing: 10.07.2020.  
Petitioner by: Mr. Abdul Hafeez Amjad, Advocate,  
Respondents by: Mr. Momin Ali Khan, Advocate for  
P.I.A.C./respondents No.3 & 4.

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**MIANGUL HASSAN AURANGZEB, J:-** Through the instant writ petition, the petitioners, Tanveer Riaz Abbasi and Aamir Jamshed, impugn the order dated 02.01.2019 passed by the learned Full Bench of the National Industrial Relations Commission ("N.I.R.C.") whereby their appeal against the order dated 21.08.2015 passed by the learned Member, N.I.R.C., was dismissed. Vide the said order dated 21.08.2015, the learned Member, N.I.R.C. dismissed the petition filed by the petitioners under Section 54(e) of the Industrial Relations Act, 2012 ("I.R.A."). In the said order, it was observed *inter alia* that P.I.A.C.'s decision to dispense with an inquiry, while proceeding against the petitioners, was illegal and against their fundamental right under Article 10-A of the Constitution. Furthermore, P.I.A.C. was directed to provide a reasonable opportunity of defence to the petitioners in terms of the law laid down by the Hon'ble Supreme Court in the case of "Hafeez Shah Vs. United Bank Limited" (2001 SCMR 931).

2. The facts essential for the disposal of this petition are that on 28.12.2001, P.I.A.C. issued a circular inviting applications from workers, who had been hired through contractors in P.I.A.C. on daily wages basis to determine their suitability for deployment in P.I.A.C. on contract basis against different positions including Passenger Services Assistants. In the said circular, it was clearly mentioned that the candidates for the position of Passenger Services Assistants must possess a graduation degree from a recognized university. In response to the said circular, the

petitioners applied for the position of Passenger Services Assistants. In their application forms, the petitioners mentioned that they were graduates. Vide the letter dated 11.06.2003 issued by the Human Resources Division of P.I.A.C., petitioner No.1 was appointed as Passenger Services Assistant on contract basis for the period of one year with effect from 02.05.2003 to 01.05.2004 whereas vide the letter dated 11.06.2003, petitioner No.2 was also appointed as Passenger Services Assistant with effect from 05.05.2003 to 04.05.2004. It is an admitted position that the duration of the petitioners' employment contracts was extended from time to time. The petitioners' services were regularized pursuant to a decision taken by the Cabinet Sub-Committee on Regularization of Contract / Daily Wages Employees in the Ministries / Divisions / Attached Departments / Autonomous Bodies / Organizations.

3. On 12.03.2014, the University of the Punjab informed P.I.A.C. that petitioner No.1 having Roll No.30167 had failed the subject of English Language in the B.A. Annual Examination of 1999 whereas petitioner No.2's B.Sc. degree bearing Roll No.075631, was bogus.

4. The Employees Leadership Team of P.I.A.C. in its 64<sup>th</sup> meeting held on 28.11.2007 decided to immediately terminate the services of all employees in the Management Cadre (i.e. PG-V and above) including cockpit crew/cabin crew, whose degrees had been found to be bogus. Furthermore, it was decided that as regards the employees in Non-Management Cadre (i.e. PG-IV and below) including cabin crew, whose degrees had been found to be bogus, they would be given a two-year time to submit their degrees/certificates in question to P.I.A.C., and that in case an employee fails to submit the degree/certificate by 31.12.2009, his or her services would be terminated immediately. It is an admitted position that the said deadline was extended to 30.06.2010. The Board of Directors of P.I.A.C. in its 328<sup>th</sup> meeting held on 28.10.2010 further extended the deadline for the submission of the genuine educational certificates to 31.12.2010.

5. In order to avail the benefit under the said concession, petitioner No.1 produced a B.A. degree issued on 12.05.2014 by Al-Khair University (AJK) whereas petitioner No.2 produced the

detailed marks certificate for Bachelors of Arts issued by the said University on 19.04.2011.

6. On 09.04.2014, P.I.A.C. issued notices to the petitioners calling upon them to show cause as to why disciplinary action should not be taken against them for committing misconduct by violating Regulation 75 Clause (aj) of the P.I.A.C. Employees (Service and Discipline) Regulations, 1985 ("the 1985 Regulations").

7. On 04.04.2014, the petitioners along with two other employees of P.I.A.C. filed a petition under Section 54(e) of the I.R.A. before the N.I.R.C. The said petition was dismissed as withdrawn vide the order dated 23.06.2015. In the said order, it was recorded that the petitioners reserve their right to seek their legal remedy, if need be. After this, on 24.06.2015 the petitioners along with four other employees of P.I.A.C. filed yet another petition under Section 54(e) of the I.R.A. seeking exactly the same relief as the one sought by them in the earlier petition. Vide the interim order dated 26.06.2015, the learned Member, N.I.R.C. restrained the P.I.A.C. from passing *"any final adverse order qua the services of the petitioners"*. Vide the order dated 21.08.2015 the learned Member, N.I.R.C. dismissed the petitioners' said petition.

8. The said order dated 21.08.2015 was assailed by the petitioners in an appeal under Section 58 of the I.R.A. before the learned Full Bench of N.I.R.C. During the pendency of the said appeal, the petitioners were dismissed from service vide the orders dated 01.09.2015. Vide the interim order dated 07.09.2015, the petitioners' dismissal order was suspended by the learned Full Bench of N.I.R.C. Since there was no restraint against P.I.A.C. from conducting an inquiry against the petitioners, P.I.A.C. issued notices inquiry to them. The inquiry was conducted in accordance with the provisions of Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 ("the 1968 Ordinance"). The petitioners had participated in the inquiry proceedings against them. Petitioner No.1 had not availed the opportunity of cross-examining the witness against him. As regards petitioner No.1, the inquiry officer in his report dated 07.12.2018, concluded that the allegation of submitting a bogus B.A. degree against the said petitioner, had been proved.

As regards petitioner No.2, he had not availed the opportunity to cross-examine the witness against him. Vide the inquiry report dated 10.10.2018, the inquiry officer concluded that the charge of submitting a bogus B.Sc. degree against petitioner No.2 had also been proved.

9. Vide the order dated 02.01.2019, the petitioners' appeal was dismissed by the learned Full Bench of N.I.R.C. The said concurrent orders passed by the learned Member and the learned Full Bench of N.I.R.C., have been assailed by the petitioners in the instant writ petition.

**CONTENTIONS OF THE LEARNED COUNSEL FOR THE PETITIONERS:-**

10. Learned counsel for the petitioners, after narrating the facts leading to the filing of the instant petition, submitted that the petitioners had not submitted bogus educational certificates in order to gain employment in P.I.A.C.; that the letter dated 12.03.2014 from University of Punjab to the P.I.A.C. shows that petitioner No.1 had failed in English language; that failing in one subject of the B.A. examination cannot be equated with submitting a fake B.A. degree; that the management of P.I.A.C. had granted a grace period of two years to its employees to come up with genuine educational certificates; that after the said decision, petitioner No.1 did his graduation from Al-Khair University, and the B.A. certificate was issued to him on 12.05.2014; that petitioner No.2 also did his graduation from Al-Khair University and on 19.04.2011, the detailed marks certificate was issued to petitioner No.2; and that the said University has duly verified petitioner No.2's detailed marks certificate as well as the issuance of the said B.A. certificate to petitioner No.1.

11. Furthermore, it was submitted that in the judgments reported as Pakistan International Airlines Corporation Vs. Tanweer-ur-Rehman & others (PLD 2010 SC 676), Nighat Yasmin Vs. Pakistan International Airlines Corporation (2004 SCMR 1820), Anisa Rehman Vs. P.I.A.C. (1994 SCMR 2232), and Zafar Iqbal Vs. Pakistan International Airlines (2011 PLC (C.S.) 259) the 1985 Regulations had been declared as non-statutory; that since P.I.A.C. did not have

any statutory rules, the petitioners could not have filed a writ petition before the High Court against P.I.A.C.'s decision to proceed against the petitioners; that the only remedy available to the petitioners was to have invoked the jurisdiction of N.I.R.C.; that since the petitioners were alleged to have secured appointment in P.I.A.C. on the basis of bogus educational certificates, it was essential for P.I.A.C. to have conducted a regular inquiry against the petitioners in accordance with the provisions of the 1968 Ordinance; that the petitioners could not have been proceeded against under the non-statutory 1985 Regulations; that in the order dated 21.08.2015, passed by the learned Member, N.I.R.C. it was held that a regular inquiry under the provisions of the 1968 Ordinance cannot be dispensed with where the allegation against the employee is that he had submitted a bogus degree in order to secure an employment; that the learned Member and the learned Full Bench, N.I.R.C. erred by not appreciating that the petitioners' services were regularized after the verification of their educational testimonials; that at no material stage, had the petitioners submitted fake or bogus educational certificates to P.I.A.C.; that the petitioners were condemned unheard since they were not afforded an adequate opportunity by the inquiry officer to defend themselves; that the petitioners were victimized by the management of P.I.A.C. on account of being active members of a trade union; that the petitioners could not have been proceeded against after they had submitted genuine degrees and marks certificates from a recognized university within the extended grace period fixed by the Board of Directors of P.I.A.C. in its 328<sup>th</sup> meeting; that after the petitioners had been regularized, the allegation against them regarding the submission of bogus degrees had become a closed chapter; that P.I.A.C. subjected the petitioners to double jeopardy by proceeding against them after they had been permitted to rejoin their duties after suspension of their dismissal from service; and that the petitioners had not submitted any bogus educational certificates in order to gain employment in P.I.A.C. Learned counsel for the petitioners prayed for the writ petition to be allowed and for the

concurrent orders passed by the learned Member and the learned Full Bench, N.I.R.C. to be set-aside.

**CONTENTIONS OF THE LEARNED COUNSEL FOR P.I.A.C.:-**

12. On the other hand learned counsel for P.I.A.C. submitted that the petitioners had failed to comply with the mandatory requirement of serving a grievance notice on P.I.A.C. before filing a petition before N.I.R.C.; that since the petitioners were found to have committed misconduct by submitting bogus educational certificates in order to gain employment in P.I.A.C., they do not deserve any indulgence in the Constitutional jurisdiction of this Court; that P.I.A.C. has not violated any law in proceeding against the petitioners; and that the concurrent orders passed by the learned Member, N.I.R.C. and the learned Full Bench of N.I.R.C. do not suffer from any illegality or jurisdictional error.

13. Furthermore, he submitted that the letter dated 12.03.2014 from the University of the Punjab, whereby P.I.A.C. was informed that petitioner No.1 had failed in English language in his B.A. examination and that petitioner No.2's B.Sc. certificate bearing Roll No.075631 was bogus, has not been recalled at any stage; that in 2011, P.I.A.C. started the process of the verification of its employees' educational certificates after directives had been issued in that regard by the Federal Government; that the petitioners did not submit any reply to the show cause notices dated 09.04.2014; that the petitioners had filed a petition before the N.I.R.C. and obtained interim relief; that the petitioners have abused the process of the Court in an attempt to perpetuate an illegality; that the notices of inquiry under the provisions of the 1968 Ordinance were issued to the petitioners during the pendency of their appeal before the learned Full Bench of N.I.R.C.; and that the inquiry officers, in their reports dated 07.12.2018 and 10.10.2018, has found the petitioners guilty of committing misconduct but due to the injunctive order passed by this Court, a final order has not been passed by P.I.A.C. Learned counsel for P.I.A.C. prayed for the writ petition to be dismissed.

14. I have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able

assistance. The facts leading to the filing of the instant writ petition have been set out in sufficient detail in paragraphs 02 to 09 above and need not be recapitulated.

15. The petitioners are seeking the issuance of a writ of *Certiorari* under Article 199(1)(a)(ii) of the Constitution with respect to the impugned orders passed by the learned Member and the learned Full Bench of N.I.R.C. *Certiorari* is an order which brings up to the High Court a decision of an inferior Court or Tribunal for it to be quashed. A decision of an inferior Court or Tribunal may be quashed by issuing a writ of *certiorari* where that Court or Tribunal acted without jurisdiction, or exceeded its jurisdiction, or failed to comply with the rules of natural justice in a case where those rules are applicable, or where there was an error of law on the face of the record, or a decision is unreasonable in the *Wednesbury* sense. However, this Court will not, in exercise of writ jurisdiction, act as a Court of appeal from the Court or the Tribunal concerned. This Court cannot substitute its decision for the one taken by the inferior Court or Tribunal. Where this Court quashes a decision, it has the power to remand the matter to the Court, Tribunal or the authority concerned with a direction to reconsider it and to reach a decision in accordance with the judgment given by this Court while deciding a writ of *certiorari*. In the case of Chief Constable of North Wales Police Vs. Evans [1982] 3 All ER 141, Lord Hailsham L.C. held that it is important to remember in every case that the purpose of the remedy of judicial review is to ensure that the individual is given fair treatment by the authority to which he has been subjected and that it is no part of that purpose to substitute the opinion of the judiciary or of individual judges for that of the authority constituted by law to decide the matters in question. Additionally, in the said case, Lord Brightman held that if the Court were to attempt itself the task entrusted to that Court or Tribunal or authority by the law, the Court would, under the guise of preventing the abuse of power, be guilty itself of usurping power.

16. Bearing the above referred principles in mind, what this Court needs to determine is whether the concurrent orders of the learned Member and the learned Full Bench, N.I.R.C. were such as would justify the issuance of a writ of *certiorari*. These Tribunals had concurrently dismissed the petitioners' challenge to the notices dated 09.04.2014

issued by P.I.A.C. calling upon the petitioners to show cause as to why disciplinary action should not be taken against them for committing misconduct by violating Regulation 75 Clause (aj) of the 1985 Regulations. The said clause is reproduced herein below:-

*“75(aj): Giving false information regarding name, age, father’s name, educational or professional qualification, previous service or experience or anything relating to record of service at the time of joining of the service or at any other time during service of the corporation.”*

17. The said show cause notices were issued to the petitioners after the University of the Punjab, vide letter dated 12.03.2014, informed P.I.A.C. that petitioner No.1 having Roll No.30167 had failed in the subject of English Language in the B.A. Annual Examination of 1999, whereas petitioner No.2’s B.Sc. degree bearing Roll No.075631, was bogus. In the said show cause notices issued to the petitioners separately, it was clearly mentioned that petitioner No.1 had failed his B.A. while petitioner No.2’s B.Sc. degree was found “bogus”. The petitioners did not submit reply to the said show cause notices. Instead, they filed a petition under Section 54(e) of the I.R.A. wherein it was pleaded *inter alia* that the charges leveled against them are false and baseless and that the petitioners personally got their degrees verified from the university on 11.06.2015.

18. It ought to be borne in mind that the proceedings before the learned Member and the learned Full Bench, N.I.R.C. had been pending for more than four years. Nothing was brought on record by the petitioners to show that in this four-year period, they had applied to the University of the Punjab to verify that their B.A./B.Sc. degrees bearing Roll Nos. 30167 and 075631 had indeed been issued to the petitioners. Such omissions on the part of the petitioners cast a serious doubt on their assertion that the said educational testimonials were genuine.

19. It is not disputed that in terms of P.I.A.C.’s circular dated 28.12.2001, an applicant for the appointment against the post of Passenger Service Assistant on contract basis was required to have the qualification of graduation from a recognized university. Petitioner No.1, in his application form dated 28.06.2002, claimed to be a graduate having been awarded a second division B.A. degree in the year 1999 by the University of the Punjab. Whereas petitioner No.2, in his application form dated 28.06.2002, claimed to be a graduate having been awarded a first



division B.Sc. degree in the year 1998 through Government Science College Lahore (an affiliate college of the University of the Punjab). After the University of the Punjab in its letter dated 12.03.2014 informed P.I.A.C. that petitioner No.1 having Roll No.30167 had failed in the subject of English Language in the B.A. Annual Examination of 1999 whereas petitioner No.2's B.Sc. degree bearing Roll No.075631 was bogus, P.I.A.C. was fully justified in issuing the show cause notices dated 09.04.2014 to the petitioners.

20. After being informed by the University of the Punjab that the petitioners' graduation degrees were found failed/bogus, it was nothing but just and reasonable for P.I.A.C. to have issued the show cause notices dated 09.04.2014 to the petitioners. The issuance of the said show cause notices in such circumstances cannot be termed as an unfair labour practice. In the case of Saeed Ahmad Vs. Chairman O.G.D.C.L. (2020 PLC 27), this Court had the occasion to hold as follows:-

*"23. The Management of any Organization is well within its rights to issue such a circular, and to verify the authenticity and genuineness of the educational testimonials of all its employees whether such testimonials were submitted by the employees in order to gain employment or subsequently in order to gain service benefits. In the event after such a verification process it is found that the educational certificates submitted by the employee to the employer, were not genuine, the employer can proceed departmentally against such an employee. The initiation of such a departmental/disciplinary process by an employer against an employee can hardly be termed as an unfair labour practice. Even the N.I.R.C. innumerable cases have taken the view that initiation of disciplinary proceedings is a routine matter for an industrial or a commercial establishment and it does not lead to any presumption of unfair labour practice. An employer is duty bound to initiate disciplinary proceedings in cases of delinquencies because the maintenance of discipline is the sole responsibility of the employer. Even if there is an illegality or an irregularity in the charge sheet or a show cause notice or an explanation letter, it would come within the ambit of an unfair labour practice. The N.I.R.C. has also consistently held that if an action is taken against a defaulting worker on account of his misconduct, he cannot take shelter under the trade union activities."*

21. Another crucial feature of this case is that if the petitioners are to be believed that the University of the Punjab had issued a B.A./B.Sc. degrees to petitioners No.1 and 2 on 30.12.2000 and 31.03.1999, respectively, why did the petitioners produce degree or the detailed marks certificate dated 12.05.2014 and 19.04.2011 for their B.A. from Al-Khair University (AJK)? No explanation was presented by the learned counsel for the petitioners for not producing the petitioners' original or the duplicate B.A./B.Sc. degrees issued by the University of the Punjab

on 30.12.2000 and 31.03.1999, respectively. After all, the petitioners had initially obtained employment on the basis of the B.A./B.Sc. certificates issued by the University of the Punjab.

22. No benefit can be gained by the employees of P.I.A.C., who had secured appointments in P.I.A.C. for themselves on the basis of forged educational certificates or lack of the requisite qualifications, by the decision taken either by the Board of Directors or the Employees Leadership Team of P.I.A.C. to grant two years to such employees to come up with genuine educational certificates. This is because this Court in its order dated 12.06.2015 passed in writ petition No.4064/2014 titled "Mansoor Khan Vs. Pakistan International Airlines" deprecated the practice adopted by P.I.A.C. of allowing employees who had submitted forged degrees/certificates to re-join their service, and termed it as an illegality. This Court had also issued directions to P.I.A.C. to initiate departmental proceedings against the employees who had been accommodated by illegal exercise of power. For the purposes of clarity, paragraphs 5 and 6 of the order dated 12.06.2015 are reproduced herein below:-

*"5. The petitioner on the basis of similar relief granted to others requested for issuing direction to replace the degree of the petitioner. Admittedly, the petitioner was employed in the year 2008 whereas degree he wants to replace was obtained in the month of January, 2014. The petitioner moved such application which was turned down. He has also claimed relief on the basis of discriminative conduct. It is explicitly clear from the record referred by the learned counsel for the petitioner that those who submitted forged degrees/certificates were allowed to re-join PIA service. Two wrongs or many wrongs cannot create a reason for another wrong. If some one has been favoured, it does not mean that on the same pattern the petitioner must be accommodated considering it as a discrimination. The very requirement of the article 25 of the Constitution of the Islamic Republic of Pakistan, 1973 relates to legality of such process or relief claimed on the basis whereof. If any order or favour is provided to anybody based upon illegality, the petitioner cannot claim such a relief as justifiable or equality. Hence the petition being meritless is dismissed.*

*6. The above conduct, which is continuing since many years by the authorities of respondents appear to be an offence. Office is directed to refer all those letters to the Chairman PIA with specific direction to initiate departmental proceedings against the officials/officers those accommodated and were accommodated by exercising their powers illegally. The matter pertains to conduct of public servants which is committed conjointly are required be referred to the concerned agency for registration of criminal case. The Chairman PIA may look into the matter personally, who is also required to issue direction to the respective departments for verification of degrees of all concerned officials/officers. Criminal cases as defined by section 5(2) of the*

*Prevention of Corruption Act which is scheduled offence is required to be registered against all the responsible officials/officers."*

23. The fact that the petitioners obtained the prescribed qualification of graduation for appointment as a Passenger Services Assistant several years after their appointment does not improve their case in any way. The vital question that needs to be determined is whether the petitioners had the prescribed qualification of graduation at the time when they were appointed as a Passenger Services Assistants on 11.06.2003. If they did not have the said prescribed qualification, their appointment would be rendered *non-est*. The unlawful nature of such appointments cannot be rectified or cured by obtaining the required qualifications after the appointment. Reference in this regard may be made to the following case law:-

- (i) The Hon'ble Supreme Court in the judgment passed in Suo Motu Case No.13/2016 - Action against illegalities, contraventions and violations in appointments within NAB (2017 SCMR 838), held *inter alia* as follows:-

*"27. The contention that a person can obtain the requisite qualifications subsequently, that is after he had already joined the service of NAB is unsustainable. If this concept or principle is accepted it would render meaningless the stipulated qualification for a particular job."*

- (ii) In the case of International Islamic University Vs. Dr. Shamim Tariq (2018 PLC (C.S.) Note 201), I had the occasion to hold as follows:-

*"13. Now, it is well settled that a person who does not have the prescribed qualifications for appointment to a particular post, cannot be appointed to such a post. Such qualifications can be prescribed in the advertisement issued by the appointing authority or in the relevant rules of the establishment where the appointment is to be made. In the event, the candidate obtains the prescribed qualifications after his/her appointment would not make the appointment valid."*

- (iii) In the case of Muhammad Muneer Malik Vs. Allama Iqbal Open University (2016 PLC (C.S.) 896), this Court has held as follows:-

*"14. It is, therefore, axiomatic that the eligibility criterion and conditions, once unambiguously mentioned in an advertisement published in the Press, cannot be ignored, altered or deviated from during the selection process, particularly after the deadline for the submission of applications has expired. Appointments made in violation of the principles of transparency and fairness are illegal and not sustainable in law."*

- (iv) In the case of Muhammad Waqas Gul Vs. Water and Power

- Development Authority (2015 PLC (C.S.) 144), the Hon'ble Lahore High Court dismissed the writ petition filed by the petitioners who did not have the prescribed qualifications of advertised posts on the date when the advertisement was published and on the last date for submitting applications. The mere fact that the petitioners had obtained the requisite qualifications after their appointment could not save their writ petitions from being dismissed.
- (v) In the case of Mst. Shugafta Vs. Chairman, Federal Public Service Commission, Islamabad (2015 PLC (C.S.) 819), the Division Bench of the Hon'ble Balochistan High Court held that it was the prerogative of the government to prescribe the requisite qualification for a particular post. Furthermore, it was held that the eligibility of a candidate is to be determined in accordance with the advertisement for the post keeping in view the stipulated requirements. A petitioner, who did not have the requisite qualifications prescribed in the advertisement for appointment against a certain post was held not to be eligible, and therefore could not be termed as an 'aggrieved person'.
- (vi) In the case of Mitha Khan Umrani Vs. Federation of Pakistan (2014 PLC (C.S.) 571), the Division Bench of the Hon'ble Balochistan High Court quoted with approval the judgment passed in C.P.No.738/2012 titled "Shazia Vs. Government of Balochistan," wherein it was held that eligibility of a candidate had to be determined in accordance with the advertisement for the post, the service rules governing the appointment and any instructions backed by the law and rules framed thereunder. Furthermore, it was held that a non-qualified person cannot be appointed to a particular post and that appointment could not be made in violation of the requisite qualification.
- (vii) In the case of Abdul Latif Vs. Government of Punjab (2003 PLC (C.S.) 975), writ petitions filed by the petitioners who admittedly lacked the required qualifications for the advertised posts were dismissed by the Hon'ble Lahore High Court. In paragraphs 9 and 10 of the said report, it was held as follows:-

*"9. The petitioners admittedly do not possess Degree of M.A. or M.Sc. Petitioner No.3, possesses B.A. Degree while the remaining petitioners possess B.Sc. Degree. Although they do possess the*

*requisite professional Degree viz M.A.Ed. but requirement for the post applied by them was also that of an Academic Degree of M.A., M.Sc. which they admittedly do not possess; hence they cannot be deemed to possess the requisite qualification for the post applied for by them i.e. S.S. Educators, basic qualification for which was M.A. or M.Sc. with Additional Qualification of a Professional Degree.*

*10. Direction in writ jurisdiction cannot be, therefore, issued to the respondents to consider the petitioners' qualification fit for the post they have applied for and to interview them."*

(viii) In the case of District Collector Vs. M. Tripura Sundari Devi, (1990 (3) SCC 655), the Indian Supreme Court held that when the advertisement mentions a particular qualification and an appointment is made in disregard thereof, it is not a matter only between the appointing authority and the appointee concerned, but the aggrieved are those who had similar or even better qualifications than the appointee.

24. Whether the petitioners gained employment in P.I.A.C. on the basis of the bogus educational certificates is to be determined not by this Court but in the inquiry proceedings pursuant to the show cause notices dated 09.04.2014. By embroiling P.I.A.C. in lengthy litigation, the petitioners had been able to avoid such proceedings thus far i.e. almost six years.

25. As regards the contention of the learned counsel for the petitioners that during the inquiry proceedings, the petitioners were not afforded an adequate opportunity to defend themselves, I find the said contention to be premature. Documents have been brought on record which show that petitioner No.1 had been issued notice on 19.11.2018 to appear before the Inquiry Officer on 27.11.2018, while petitioner No.2 had been issued notice on 01.10.2018 to appear before the Inquiry Officer on 04.10.2018. Both the petitioners participated in the inquiry proceedings. The record is evident of the fact that the petitioners had not availed the opportunity of cross-examining the witnesses. It appears that inquiry officers vide their reports dated 07.12.2018 and 10.10.2018 found the petitioners guilty of the charges levelled against them. However, according to the respondents, the inquiry proceedings against the petitioners have not culminated in a final order. Once the final order is passed, the petitioners would be at liberty to assail the same in accordance with the law before the appropriate forum. I find the petitioners' complaint regarding the inquiry proceedings made at this stage to be premature. In the case of

**Saeed Ahmad Vs. Chairman O.G.D.C.L.(supra)**, this Court has held as follows:-

*“19. Framing of charges, conducting enquiry, issuing show-cause notice and taking action after enquiry are the various stages of continuous process of disciplinary proceedings. Disciplinary proceedings once initiated must reach the finality, culminating in imposing punishment or exonerating the delinquent. Testing each stage of the proceeding as to whether they are in conformity with the norms as laid down would be an unwarranted judicial interference in the domain of disciplinary authority by the N.I.R.C. Compliance of the norms laid down under the disciplinary rules can be examined when the process culminates in a penal action causing injury to the delinquent. Non-observance of norms at various stages may vitiate the ultimate action of imposition of a penalty or exoneration, as the case may be.”*

26. Additionally, in the case of **Muhammad Aslam Khan Vs. International Industries Limited (2007 PLC 350)**, it was held by the Hon'ble High Court of Sindh that it could be said with certainty that initiating disciplinary proceedings against a worker on account of misconduct is a legal right of the employer and that the employer cannot be restrained from exercising his right unless extraordinary exceptional circumstances are placed before the Court. Furthermore, it was held that the labour laws provide an adequately efficacious remedy to a worker against wrongful, illegal and arbitrary dismissal, and after adjudication he can be reinstated and/or compensated.

27. As for the contention of the learned counsel for the petitioners that in the order dated 04.12.2015 passed by this Court in writ petition No.3258/2015, it was observed that P.I.A.C. could re-employ the employees who had submitted bogus educational certificates if their services were beneficial to P.I.A.C., suffice it to say that said contention is based on a selective reading of the said order. In the said order, this Court had held in no uncertain terms that the services of the employees whose educational certificates had been found to be fake could neither be continued nor could their services be regularized. Furthermore, it was held that such employees could not have been given an opportunity to rectify the illegality of submitting fake educational certificates in order to gain employment in P.I.A.C. It was also directed that the salaries of the employees who were appointed on the basis of fake educational certificates should be recovered from them. For the purposes of clarity, paragraphs 10 to 12 of the said order are reproduced herein below:-

*“10. However, the authority may by exercising its discretionary powers, if vested in it, under the rules or any other law may re-employ those*

*persons whose certificates were found fake on scrutiny and verification but neither services of those employees can be regularized or continued nor the authority has power to provide them opportunity to rectify such illegality existing in the field. Providing such opportunity to any of the employees is beyond the powers of such authority, hence, not exercisable and cannot be covered as legal under the garb of any stretch of imagination.*

*11. In view of above discussion, this petition is disposed of with the directions to the authorities to review all those cases and same be treated in accordance with law. The authorities may re-employ them if their services are beneficial to the department but such practice of regularizing services based upon illegal foundation cannot be continued.*

*12. On the contrary, the authorities or members of the Board who initiated such decision, have committed serious criminal misconduct which should be dealt in accordance with law. The salaries drawn by the employees, appointed on the basis of fake certificates should be recovered from them. The officers who are involved in granting such relaxation by taking a lenient view are clearly liable for such act which is deemed to be an offence provided under the law."*

28. For what has been said above, I find no substance in this petition, which is hereby dismissed. Having regard to the factual circumstances of this case, I am of the opinion that imposition of costs on the petitioners would sub-serve the interests of justice. Accordingly, it is ordered that the petitioners shall bear P.I.A.C.'s costs throughout. Should the petitioners be aggrieved by the final order that may be passed in the inquiry proceedings, they may avail the remedies provided by law against such an order.

**(MIANGUL HASSAN AURANGZEB)  
JUDGE**

**ANNOUNCED IN AN OPEN COURT ON 24-08- /2020**

**(JUDGE)**

M.A. Beig\*