

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

W.P. No.3844/2017

Muhammad Rasheed

**Versus**

Associated Press of Pakistan Corporation and another

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	28.05.2019	Mr. Kalim Hussain Shah, Advocate for the petitioner. Ch. Muhammad Nawaz, Advocate for the respondents.

Through the instant writ petition, the petitioner, Muhammad Rasheed, impugns (i) order dated 14.10.2015, whereby major penalty of dismissal from service was imposed on him, and (ii) memorandum/order dated 19.04.2016, whereby his departmental appeal against the said order dated 14.10.2015, was turned down.

2. Learned counsel for the petitioner submitted that on 13.03.1996, the petitioner was appointed on regular basis in the Associated Press of Pakistan Corporation ("A.P.P.C."); that at the time of the petitioner's appointment, he had submitted a *madrassah* leaving certificate issued by the Government High School Dhamial, Rawalpindi; that the said certificate shows that the petitioner had failed class 8<sup>th</sup>; that the petitioner was falsely accused of submitting a bogus educational certificate in order to gain employment in A.P.P.C.; that the petitioner had never submitted an educational certificate from the Government High School, Jabber Dervesh, Rawalpindi; that a regular inquiry was not conducted against the petitioner; that a show cause notice was also not issued to the petitioner; that the imposition of a major penalty of dismissal from service has stigmatized the

petitioner and jeopardized his future employment prospects; and that the direction issued to the petitioner to return all the pay and allowances etc. drawn by him during his service in A.P.P.C. is most unreasonable. Learned counsel for the petitioner prayed for the writ petition to be allowed in terms of the relief sought therein.

3. On the other hand, learned counsel for A.P.P.C. submitted that in order to gain employment in A.P.P.C., the petitioner had submitted a *madrassah* leaving certificate issued by Government High School, Jabber Dervesh, Rawalpindi; that this certificate shows that the petitioner had passed class 8<sup>th</sup>; that it was on the basis of the said certificate, the petitioner was given employment in A.P.P.C.; that on the directions of the Federal Government, a process of verification of the educational testimonials of A.P.P.C.'s employees was started; that in the verification process, the said educational certificate submitted by the petitioner was found to be bogus; that consequently, it was decided to dispense with an inquiry in terms of Rule 5(iii) of the Government Servants (Efficiency and Discipline) Rules, 1973; that after affording an opportunity of personal hearing, A.P.P.C., vide office order dated 14.10.2015, imposed a major penalty of dismissal from service on the petitioner with the direction to return all the pay and allowances received by him; that the petitioner's departmental appeal was also dismissed, vide order dated 19.04.2016; and that the petitioner was afforded an opportunity of hearing but he did not come up with any plausible explanation for submitting a fake educational certificate so as to gain employment in A.P.P.C.

Learned counsel for A.P.P.C. prayed for the writ petition to be dismissed.

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

5. The record shows that vide office order dated 13.03.1996, the petitioner was appointed in A.P.P.C. as a Messenger in Grade-VIII on regular basis. A.P.P.C.'s case is that the petitioner had submitted a *madrassah* leaving certificate issued by the Government High School, Jabber Dervesh, Rawalpindi, in order to gain employment in A.P.P.C. The said certificate shows that the petitioner had passed class 8<sup>th</sup>. After taking steps to verify the authenticity of the said certificate, it was found that the said certificate was forged. Consequently, A.P.P.C. dispensed with conducting an inquiry against the petitioner in terms of Rule 5(iii) of the Government Servants (Efficiency and Discipline) Rules, 1973, and issued notice dated 06.10.2015 for personal hearing before the Director (Administration and Finance), A.P.P.C. In the personal hearing, the petitioner was said to be unable to explain his position regarding the submission of a bogus certificate.

6. Vide impugned office order dated 14.10.2015, major penalty of dismissal from service was imposed on the petitioner for committing the act of misconduct by submitting a fake educational testimonials in order to gain employment in A.P.P.C. Furthermore, the petitioner was directed to return all the pay and allowances drawn by him during his service in A.P.P.C.

7. The petitioner filed a departmental appeal against the said order dated 14.10.2015, before the

**Managing Director, A.P.P.C. Vide impugned memorandum dated 19.04.2016, the said departmental appeal was turned down.**

**8. The petitioner's primary defence is that he had not submitted any educational certificate issued by the Government High School, Jabber Dervesh, Rawalpindi, but had submitted a certificate issued by the Government High School Dhamial, Rawalpindi, which shows that the petitioner had failed class 8<sup>th</sup> examination. This being a disputed question of fact cannot be resolved without the recording of evidence which is not permissible in the Constitutional jurisdiction of this Court.**

**9. I have carefully gone through the petitioner's departmental appeal. In the said appeal, the petitioner did not take the position that he had been issued a certificate by the Government High School Dhamial, Rawalpindi. It is not permissible for the petitioner to agitate a ground before this Court which he had not raised in his departmental appeal.**

**10. It is not disputed that vide letter dated 29.09.2015, the Government High School, Jabber Dervesh, Rawalpindi, informed A.P.P.C. that the petitioner's educational certificate (which is annexed at page 16, annex-C of A.P.P.C.'s written comments), was fake.**

**11. There is no denying the fact that the petitioner was afforded an opportunity of personal hearing on 09.10.2015. It is after the personal hearing that the impugned office order dated 14.10.2015, was issued. Additionally, a notice for personal hearing dated 09.03.2016 was issued to the petitioner by the Appellate Authority. The petitioner attended the personal hearing on**

15.03.2016 before the Appellate Authority. Therefore, the petitioner cannot claim that the principles of natural justice were violated in the proceedings leading to the impugned orders dated 14.10.2015 and 19.04.2016.

12. As regards the direction issued by A.P.P.C. to the petitioner to return all the pay and allowances drawn by him during his service with A.P.P.C., I find the same to be unreasonable and unjustified. The petitioner had after all rendered services for A.P.P.C. for almost thirty years prior to the imposition of the major penalty on him. In a similar case (i.e. writ petition No.3580/2016, titled "Mst. Nazia Fazal Vs. Pakistan International Airlines Corporation etc."), this Court, vide judgment dated 05.12.2017, set-aside the direction requiring an employee (accused of submitting a fake educational certificate) to return the salaries drawn during service. The said judgment dated 05.12.2017 was upheld by the Hon'ble Supreme Court vide order dated 08.02.2019 passed in civil petition No.338/2018, titled "Mst. Nazia Fazal Vs. Pakistan International Airlines Corporation etc."

13. In view of the above, this petition is partly allowed in that the impugned office order dated 14.05.2015 only to the extent of directing the petitioner to return all the pay and allowances etc. drawn by him during his service in A.P.P.C., is set-aside. There shall be no order as to costs.

**(MIANGUL HASSAN AURANGZEB)**  
**JUDGE**

Qamar Khan