

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P.No.305 of 2019

Muhammad Younas

Versus

Full Bench, N.I.R.C. and others

Date of Hearing: 22.07.2020

Petitioner by: Khawaja Muhammad Arif, Advocate

Respondents by: Mr. Momin Ali Khan, Advocate for respondents
No.3 to 5/P.I.A.C.

MIANGUL HASSAN AURANGZEB J.- Through the instant writ petition, the petitioner, Muhammad Younas, impugns the order dated 31.12.2018 passed by the learned Full Bench of the National Industrial Relations Commission (“N.I.R.C.”) whereby his appeal against the order dated 13.10.2015 passed by the learned Member, N.I.R.C., was dismissed as time barred. Vide the said order dated 13.10.2015, the learned Member, N.I.R.C., dismissed the petitioner’s petition under Section 31 of the Industrial Relations Act, 2012 (“the I.R.A.”) challenging the show cause notice dated 03.07.2014 issued to him by the Pakistan International Airlines Corporation (“P.I.A.C.”). Through the said show cause notice dated 03.07.2014, the petitioner was called upon to show cause as to why disciplinary action should not be initiated against him for having committed misconduct by submitting a bogus BSc degree. In the said order dated 13.10.2015, the learned Member, N.I.R.C. directed the management of P.I.A.C. to provide a reasonable opportunity of defence to the petitioner.

FACTUAL BACKGROUND:-

2. The facts essential for the disposal of this petition are that on 08.09.1994, the petitioner applied to P.I.A.C. for his permanent absorption as Passenger Service Assistant. In the said application form, the petitioner mentioned that he was a graduate having B.Sc. degree from the Government College Asghar Mall, Rawalpindi. He also submitted the Bachelors of Science (“B.Sc.”) degree bearing Roll No.3217 issued by the University of the Punjab. Vide the letter dated 14.09.1994 issued by the Administrative Manager Airport Services,

P.I.A.C., the petitioner was permanently absorbed as Passenger Service Assistant at Islamabad.

3. On 23.05.2014, the University of the Punjab informed P.I.A.C. that the petitioner's B.Sc. degree bearing Roll No.3217 was bogus.

4. The Employees Leadership Team of P.I.A.C., in its 64th meeting held on 28.11.2007, had 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 period 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.

5. The Board of Directors of P.I.A.C., in its 328th meeting held on 28.10.2010, further extended the deadline for the submission of the genuine educational certificates to 31.12.2010. The petitioner had produced the detailed marks certificate of his B.A. issued by Al-Khair University (AJK). For the purposes of clarity, the said decision of the P.I.A.C.'s Board of Directors is reproduced herein below:-

"83. Board while providing concession/condonation on humanitarian grounds to only those employees who were terminated on July 01, 2010 on account of non-submission of degrees/certificates upto June 30, 2010 as specified by PIA Board in its 325th Meeting held on April 29, 2010, decided that they may be allowed to submit, upto December 31, 2010, their degrees/certificates issued upto October 31, 2010. Upon doing so, they may be allowed to re-join their duties on the same position/mode of employment that they had before termination. The intervening period from July 01, 2010 till the date of resumption of duties will be treated as leave without pay and without any financial benefits, whatsoever."

6. It may be mentioned that the Board of Directors of P.I.A.C., in the 363th meeting held on 30.12.2014, rescinded the earlier decision taken in the 328th meeting held on 28.10.2010.

7. In 2011, P.I.A.C. again started the process for the verification of the educational testimonials of its employees. This was done after the Ministry of Defence, vide letter dated 16.03.2011, called upon the departments/organizations under the Ministry of Defence, including

P.I.A.C., *“to get degrees/certificates/other documents of their employees (BPS-17 to BPS-22 or equivalent) verified by making a reference to the Universities/Institutions concerned which issued those degrees/certificates.”*

8. The University of Punjab, vide letter dated 23.05.2014, informed P.I.A.C. that the petitioner's B.Sc degree was found to be bogus. Thereafter, the management of P.I.A.C. issued the show cause notice dated 03.07.2014 to the petitioner wherein it was alleged that by submitting a bogus B.Sc. degree, the latter had committed misconduct as defined in Section-II Clause 75(aj) of the P.I.A.C. Employees (Service and Discipline) Regulations, 1985 (**“the 1985 Regulations”**).

9. The petitioner then invoked the jurisdiction of N.I.R.C. by filing a petition under Section 31 of the I.R.A. challenging the said show cause notice. Vide the order dated 13.10.2015, the learned Member, N.I.R.C. dismissed the said petition as time barred.

10. Against the said order, the petitioner preferred an appeal before the learned Full Bench of N.I.R.C. On 03.12.2015, the petitioner had been dismissed from service. However, in compliance with the injunctive order dated 25.11.2015 passed by learned Full Bench N.I.R.C. the said dismissal order was suspended on 18.12.2015. Thereafter, on 18.09.2018 a notice of inquiry was issued to the petitioner. Through the said notice, the petitioner was informed that the inquiry was to be conducted under the provisions of the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 (**“the 1968 Ordinance”**) read with the 1985 Regulations. The purpose of the inquiry was to inquire into the allegations/charges levelled against the petitioner in the show cause notice dated 03.07.2014. The petitioner was called upon to appear and defend himself before the inquiry officer on 25.09.2018 and to produce documentary evidence in his defence. During the inquiry proceedings the petitioner did not avail the opportunity to cross-examine the prosecution witness. He also declined to give any statement in his defence. The inquiry officer, in his report dated 25.09.2018, found the petitioner guilty of the allegations levelled against him.

11. Vide the order dated 31.12.2018, the petitioner's appeal before the learned Full Bench, N.I.R.C. against the order dated 13.10.2015 passed by the learned Member, N.I.R.C., was dismissed. The said concurrent orders have been assailed by the petitioner in the instant petition. After the filing of the instant petition, the management of P.I.A.C., on 07.03.2019, issued a notice of personal hearing to the petitioner.

CONTENTIONS OF THE LEARNED COUNSEL FOR THE PETITIONER:-

12. Learned counsel for the petitioner, after narrating the facts leading to the filing of the instant petition, submitted that in the judgments reported as Pakistan International Airlines Corporation Vs. Tanweer-ul-Islam (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 petitioner could not have filed a writ petition before the High Court against the show cause notice issued to him; that the only remedy available to the petitioner was to have invoked the jurisdiction of N.I.R.C.; that the petitioner had submitted a genuine provisional certificate from a recognized university within the extended grace period fixed by the Board of Directors of P.I.A.C. in its 328th meeting that since the petitioner was alleged to have secured appointment in P.I.A.C. on the basis of a bogus educational certificate, it was essential for P.I.A.C. to have conducted a regular inquiry against the petitioner in accordance with the provisions of the 1968 Ordinance; that the petitioner could not have been proceeded against under the non-statutory 1985 Regulations; that in the order dated 21.08.2015 passed in the case titled "*Tanveer Riaz Abbasi etc. Vs. Pakistan International Airlines Corporation, etc.*," the learned Member, N.I.R.C. had 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 employment; and that the learned Member, N.I.R.C. did not take the import of the said order dated 21.08.2015 into

account while dismissing the petitioner's petition under Section 31 of the I.R.A.

13. Furthermore, it was submitted that the learned Member and the learned Full Bench of N.I.R.C. erred by not appreciating that the petitioner's services were regularized after the verification of his educational testimonials; that the petitioner was victimized by the management of P.I.A.C. on account of being an active member of a trade union; 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.; that the petitioner was condemned unheard since he was not afforded an adequate opportunity by the inquiry officer to defend himself; and that the petitioner had not submitted any bogus educational certificate in order to gain employment in P.I.A.C. Learned counsel for the petitioner 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.:-

14. On the other hand, learned counsel for P.I.A.C. submitted that the petitioner 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 petitioner was found to have committed misconduct by submitting bogus educational degree in order to gain employment in P.I.A.C., he does not deserve any indulgence in the Constitutional jurisdiction of this Court; that P.I.A.C. has not violated any law by conducting an inquiry against the petitioner; and that the concurrent orders passed by the learned Member and the learned Full Bench of N.I.R.C. do not suffer from any illegality or jurisdictional error.

15. Furthermore, he submitted that the letter dated 23.05.2014 from the University of the Punjab whereby the petitioner's B.Sc. degree had found to be 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 in that process the University

of the Punjab, vide letter dated 23.05.2014, had informed P.I.A.C. that the petitioner's B.Sc. degree was bogus; that the petitioner instead of replying to the show cause notice dated 03.07.2014 filed a petition before N.I.R.C. and obtained interim relief; that the petitioner has abused the process of the Court in an attempt to perpetuate an illegality; that a notice of inquiry under the provisions of the 1968 Ordinance was issued to the petitioner on 18.09.2018; that during the inquiry, the petitioner chose not to record his statement or to cross-examine the prosecution witness against him; and that the inquiry officer, in his report dated 25.09.2018, has found the petitioner guilty of committing misconduct. Learned counsel for P.I.A.C. prayed for the writ petition to be dismissed.

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

17. The facts leading to the filing of the instant petition have been set out in sufficient detail in paragraphs 2 to 12 above, and need not be recapitulated.

18. The petitioner is 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.

19. 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 petitioner's challenge to the notice dated 03.07.2014 issued by P.I.A.C. calling upon the petitioner to show cause as to why disciplinary action should not be taken against him for committing misconduct by violating Section II Clause 75(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."

20. The said show cause notice was issued to the petitioner after the University of the Punjab, vide letter dated 23.05.2014, informed P.I.A.C. that his B.Sc. degree was bogus and not issued by the said University. In the said show cause notice, it was clearly mentioned that the petitioner's B.Sc. degree, bearing Roll No.3217, had been found to be bogus. The petitioner did not submit a reply to the said show cause notice. Instead, he filed a petition under Section 31 of the I.R.A. wherein it was pleaded *inter-alia* that he had never submitted the alleged degree and that process for verification of degrees was meant for officers of grade 17 to 22.

21. 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 years. Nothing was brought on record by the petitioner to show that in this period, he had applied to the University of the Punjab to verify that B.Sc. degree bearing Roll No.3217 had indeed been issued to the petitioner.

22. It is not disputed that the petitioner in his application form dated 08.09.1994 claimed to be a graduate having been awarded a B.Sc. degree in the year 1988 by the University of the Punjab. After the University of the Punjab, vide its letter dated 23.05.2014, informed P.I.A.C. that the petitioner's B.Sc. degree was bogus, P.I.A.C. was fully justified in issuing the show cause notice dated 03.07.2014 to the petitioner.

23. P.I.A.C. cannot be said to have acted without lawful authority by carrying out a process for the verification of its employees' educational certificates especially if such certificates were relied upon by the employees in order to gain employment or any other service benefit in P.I.A.C. Additionally, after being informed by the University of the Punjab that the petitioner's B.Sc. degree was bogus, it was nothing but just and reasonable for P.I.A.C. to have issued the show cause notice dated 03.07.2014 to the petitioner. The issuance of the said show cause notice 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. in numerable 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.”

24. Another crucial feature of this case is that if the petitioner is to be believed that the University of the Punjab had issued a B.Sc. degree to in the year 1988, why did the petitioner produce the detailed marks certificate for his B.A. from Al-Khair University (AJK) issued in the year 2008. No explanation was presented by the learned counsel for the petitioner for not producing the petitioner’s original or the duplicate B.Sc. degree issued by the University of the Punjab in the year 1988. After all, the petitioner had initially obtained employment on the basis of the B.Sc. degree issued by the University of the Punjab.

25. 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 jointly 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."

26. The fact that the petitioner obtained the prescribed qualification of graduation for appointment as Passenger Service Assistant several years after his appointment does not improve his case in any way. The vital question that needs to be determined is whether the petitioner had the prescribed qualification of graduation at the time when he was appointed as a Passenger Service Assistant. If he did not have the said prescribed qualification, his appointment would be rendered *non-est*. The unlawful nature of such appointment 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. Shugafra 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.

27. Whether the petitioner gained employment in P.I.A.C. on the basis of the bogus educational certificate is to be determined not by this Court but in the inquiry proceedings pursuant to the show cause notice dated 03.07.2014. By embroiling P.I.A.C. in lengthy litigation, the petitioner had been able to avoid such proceedings thus far i.e. almost six years.

28. As regards the contention of the learned counsel for the petitioner that during the inquiry proceedings, the petitioner was not

afforded an adequate opportunity to defend himself, I find the said contention to be premature. The documents brought on record show that the petitioner had been issued a notice on 18.09.2018 to appear before the inquiry officer on 25.09.2018. The petitioner joined the inquiry but refused to give a statement or to cross-examine the witness that had appeared against him. Till date, the inquiry proceedings against the petitioner have not culminated in a final order. Once the final order is passed, the petitioner would be at liberty to assail the same in accordance with the law before the appropriate forum. I find the petitioner's 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."

29. 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.

30. As for the contention of the learned counsel for the petitioner 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.”

31. Although learned Full Bench N.I.R.C., vide the impugned judgment dated 31.12.2018, dismissed the petitioner's appeal on the ground of limitation but the learned counsel for the petitioner did not make any submission on this aspect of the case. That being so, there is no occasion for interference with the order of the learned Full Bench, N.I.R.C. It is well settled that a Court or a Tribunal is bound to notice and consider the question of limitation irrespective of the fact whether or not it was agitated by the respondent. The question of limitation could not be waived, and even if waived could be taken up again by a party waiving it, and even by the Court itself. Law to this effect has

been laid down in the judgments reported as 2007 SCMR 621, 2006 SCMR 170, 2003 SCMR 1815, and PLD 1985 SC 153.

32. 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 petitioner would sub-serve the interests of justice. Accordingly, it is ordered that the petitioner shall bear P.I.A.C.'s costs throughout. Should the petitioner be aggrieved by the final order that may be passed in the inquiry proceedings, he may avail the remedies provided by law against such an order.

**(MIANGUL HASSAN AURANGZEB)
JUDGE**

ANNOUNCED IN AN OPEN COURT ON 24-8- /2020

(JUDGE)

*Qamar Khan**