

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Crl. Org. No.219-W/2017

Mian Khaliq-ur-Rehman

versus

Syed Ismail Shah, Chairman, PTA & another

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	10.03.2021	Mr. Tariq Zaman Ch., Advocate for applicant. Mian Shafaqat Jan, Advocate for respondents (PTA) along with Khurram Saddiqi, Director (Law), Adil Javed, A.D. (Law), Imtiaz Naqvi, DD (HR) and Hassan Shahzad, MTO (Law), PTA.

Through the captioned criminal original application, Mian Khaliq-ur-Rehman (applicant) seeks initiation of contempt of Court proceedings against the respondents (PTA) for willful defiance of judgment passed by this Court in ICA No.333/2016 and ICA No.353/2016, dated 01.02.2017.

2. Succinctly, the applicant filed W.P. No.1766/2016 before this Court challenging the vires of Regulation 21(4) of the PTA Employees Service Regulations, 2008 and seeking direction to the respondent PTA with respect to promotion matters. The said writ petition was partly accepted by the learned Single Judge in Chambers vide judgment dated 19.05.2016. Feeling aggrieved thereof, the applicant as well as PTA preferred their respective intra court appeals, whereby the appeal filed by applicant was accepted while that of PTA was dismissed vide

consolidated judgment dated 01.02.2017 with the observation that the orders and proceedings of Departmental Promotion Committee (DPC) by fixing or changing the threshold in terms of Regulation 21(4) of the Employees Service Regulations, 2008, are illegal having not been based on merits, as such, the applicant through instant criminal original application claims that the PTA authorities are not complying with the direction of this Court.

3. Learned counsel for applicant contended that only the authority as defined in Section 3(2) of the Pakistan Telecommunication (Re-organization) Act, 1996 is empowered to frame regulations in terms of Section 10(3) of the Act, 1996, per se, such power could not be delegated further to the DPC, as such, the DPC has been given unfettered discretion vide Regulation 21(4) of the Regulations, 2008, which is being used to accommodate the blue eyed boys; that this Court has also appreciated each and every aspect of the case and declared all the orders and proceedings of DPC carried out in terms of Regulation 21(4) of the Regulations illegal vide judgment dated 01.02.2017, but the respondent authorities are adamant not to comply with such direction, which calls for initiation of contempt of Court proceedings.

4. Conversely, learned counsel for respondents contended that the applicant has approached this Court with unclean hands and presented intermingled facts

through the instant vague contempt application; that Regulation 21(4) of the Regulations, 2008 has been revised and substituted with permanent criteria, as such, applicant's concern have already been addressed; that the applicant has misinterpreted the judgment of 01.02.2017 and presented the instant application with malafide intention, which is otherwise unclear about any contempt on the part of PTA.

5. Arguments heard, record perused.

6. Perusal of record reveals that applicant is mainly aggrieved due to respondents' non-compliance of judgment passed by this Court in ICA No.353/2016, dated 21.07.2017. In order to resolve the controversy, we have gone through the operative part of the said judgment, referred in Para-32, whereby it has been held that:

"ICA No.353/2016 (Mian Khaliq ur Rehman versus PTA, etc.) is allowed with the terms that all orders and proceedings by DPC by fixing or changing the threshold Section in terms of 21(4) of Employees Service Regulations 2008, are illegal as the same are not based upon merit under the law."

On the other hand, the respondents have taken the stance in their parawise comments that the applicant had initially assailed the vires of Regulation 21(4) of the PTA Employees Service Regulations, 2008 and, as such, the matter to that extent has been resolved as they have revised the regulations and even the other prayer of the applicant has also been complied with whereby, the PTA

has taken the following stance in their para-wise comments:

"Constitution of Departmental Promotion Committee-I and Department Promotion Committee-II, constituted vide office order No.6-1/2015(HR)/PTA dated 30th March, 2015 and No.6-1/2015(HR)/PTA dated 30th March, 2015 have been de-notified vide de-notification order dated 02.05.2017. This Hon'ble Court's observations have, therefore, been complied with. All/any orders passed and proceedings taken by the DPC have thus been set-aside. (Copy of the order is attached)."

7. Besides the above referred compliance report, the PTA has also changed the criterion after receiving comments and feedback of the employees, as a result whereof the authority has approved the criteria vide gazette notification dated 05.10.2017, whereby Regulation 21(4) has been substituted with permanent criteria, even pursuant to fresh constitution of DPC, recommendation as per revised Regulation 21(4) of the PTA Employees Service Regulations has been given to the Chairman PTA for final decision. It has also been assured that no deputationist or contractual employee is member of fresh DPC as per the claim of applicant. Hence, the judgment in question has been complied with in letter and spirit, however at this stage, the respondents have not submitted any detail qua the fresh DPC, whereby the case of applicant has been considered under the new criteria after its revision. Such aspect falls within the exclusive domain of PTA, who have

to regulate its affairs under the law / regulations and consider the case of applicant afresh in the upcoming DPC.

8. In view of above, no case of contempt is made out, therefore, instant criminal original application is **DISMISSED**.

(FIAZ AHMAD ANJUM JANDRAN)
JUDGE

(MOHSIN AKHTAR KAYANI)
JUDGE

Announced in open Court on: **17th March, 2021.**

JUDGE

JUDGE

Khalid Z.