

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

W.P.No.225 of 2019

Khurram Shahzad

**Versus**

Full Bench of National Industrial Relations Commission and others

**Date of Hearing:** 22.07.2020.

**Petitioner by:** Mr. Abdul Hafeez Amjad, Advocate.

**Respondents by:** Mr. Sadique Akbar Abbasi, Advocate for respondent No.3.

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**MIANGUL HASSAN AURANGZEB, J:-** Through the instant writ petition, the petitioner, Khurram Shahzad, impugns the order dated 02.01.2019 passed by the learned Full Bench of National Industrial Relations Commission (“N.I.R.C.”), whereby his appeal against the order dated 12.02.2018 passed by the learned Member, N.I.R.C., was dismissed. Vide the said order dated 12.02.2018, the learned Member, N.I.R.C. dismissed the petitioner’s grievance petition challenging his dismissal from service vide Pakistan International Airlines Corporation’s (“P.I.A.C.”) letter dated 26.06.2015.

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 engaged 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 Service Assistant. In the said circular, it was clearly mentioned that the candidates for the position of Passenger Service Assistant must possess a graduation degree from a recognized university. In response to the said circular, the petitioner applied for the position of Passenger Services Assistant. In his application form, the petitioner mentioned that he had been awarded a B.A. degree in the second division from the University of the Punjab in 1997. He also submitted a B.A. degree bearing Roll No.013943 issued by the University of the Punjab.

3. Vide the letter dated 11.06.2003 issued by the Human Resources Division of P.I.A.C., the petitioner was appointed as

Passenger Service Assistant on contract basis for a period of one year with effect from 01.05.2003 to 30.04.2004. It is an admitted position that the duration of the petitioner's employment contract was extended from time to time. The petitioner's 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. Vide letter dated 29.08.2008, the petitioner was permanently absorbed in P.I.A.C. with effect from 01.07.2008.

4. Vide letter dated 12.02.2014, the University of the Punjab informed P.I.A.C. that the petitioner had failed his B.A. Annual Examination in 1997. Consequently, on 09.04.2014, P.I.A.C. issued a notice to the petitioner to show cause as to why disciplinary action should not be taken against him for having committed misconduct. There is nothing on the record to show that the petitioner had submitted a reply to the said notice. Vide letter dated 26.06.2015, P.I.A.C. dismissed the petitioner from service.

5. On 30.06.2015, the petitioner issued a grievance notice to P.I.A.C., and on 28.07.2015, he filed a grievance petition under Section 33 of the Industrial Relations Act, 2012 ("the 2012 Act") before N.I.R.C. assailing the order, whereby he was dismissed from service. This petition was dismissed by the learned Member, N.I.R.C. vide order dated 12.02.2018, against which the petitioner preferred an appeal before the learned Full Bench, N.I.R.C. Vide interim order dated 27.07.2018, the learned Full Bench, N.I.R.C. suspended the operation of the order dated 26.06.2015, whereby the petitioner was dismissed from service. In compliance with the said interim order, P.I.A.C. permitted the petitioner to rejoin his duties on 31.08.2018. Vide order dated 02.01.2019, the learned Full Bench, N.I.R.C. dismissed the petitioner's appeal.

6. The said concurrent orders dated 12.02.2018 and 02.01.2019 passed by the learned Member and the learned Full Bench, N.I.R.C., respectively were assailed by the petitioner in the instant writ petition, which was filed on 19.01.2019.

7. During the pendency of the instant petition, P.I.A.C., on 15.03.2019, issued a notice of inquiry to the petitioner. The petitioner was required to appear before the Inquiry Officer on 19.03.2019. The petitioner appeared before the Inquiry Officer on 19.03.2019. The petitioner opted to cross-examine the prosecution's witnesses that had appeared against him. The petitioner denied having submitted a B.A. degree in which he had failed. The Inquiry Officer, in his report, found that the allegations against the petitioner in the show cause notice had been proved, and that he had been found guilty of the charge against him. Presently, the petitioner is working.

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

8. Learned counsel for the petitioner, after narrating the facts leading to the filing of the instant petition, submitted that at no material stage did the petitioner submit any bogus educational certificate either to gain employment in P.I.A.C. or to gain any service benefit; 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 his dismissal from service; that since the petitioner was a workman, the only remedy available to him was to have invoked the jurisdiction of N.I.R.C.; that since the petitioner was alleged to have secured appointment in P.I.A.C. on the basis of a bogus B.A. degree, it was essential for P.I.A.C. to have conducted a regular inquiry against the petitioner in accordance with the provisions of the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 ("the 1968 Ordinance"); that the petitioner could not have been proceeded against under the non-statutory P.I.A.C. Employees (Service and Discipline) Regulations, 1985 ("the 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 an 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 33 of the I.R.A.

9. 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 testimonial; 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 certificate if their services were beneficial to P.I.A.C.; 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.:-**

10. On the other hand, learned counsel for P.I.A.C. submitted that since the petitioner had been found to have committed misconduct by submitting a bogus B.A. 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.

11. Furthermore, he submitted that the University of the Punjab had confirmed, vide letter dated 12.02.2014 that the petitioner had totally failed his B.A. Annual Examination in 1997; that the said letter has neither been challenged by the petitioner nor has the same been recalled at any stage; that without the qualification of B.A., the petitioner's appointment as Passenger Service Assistant was wholly unlawful; 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 15.03.2019; that the petitioner participated in the inquiry and cross-examined the witnesses against him; that the inquiry officer, in his

report, had found the petitioner guilty of committing misconduct; and that the petitioner is still in service and a final order in the inquiry would be passed after the disposal of this petition. Learned counsel for P.I.A.C. prayed for the writ petition to be dismissed.

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

13. The facts leading to the filing of the instant petition have been set out in sufficient detail in paragraphs 2 to 7 above, and need not be recapitulated.

14. There is no denying the fact that in his application dated 30.05.2002 for appointment as Passenger Service Assistant, the petitioner had written that he had passed his B.A. in the second division in the year 1997 from the University of the Punjab. Vide letter dated 12.02.2014, the University of the Punjab informed P.I.A.C. that the petitioner, having Roll No.013943 had totally failed his B.A. annual Examination in 1997. The petitioner has neither challenged the said letter nor has the said letter been withdrawn at any stage. The petitioner had knowledge of the said letter since 2014 when the show cause notice was issued to him. Instead of submitting a reply to the said notice, the petitioner embroiled P.I.A.C. in lengthy litigation.

15. Even though the petitioner was dismissed from service on 26.06.2015, he continued serving P.I.A.C. due to the injunctive orders passed by the learned Member and the learned Full Bench, N.I.R.C. Learned counsel for P.I.A.C. confirmed that the petitioner is still in service.

16. The petitioner's primary grievance was that he could not have been dismissed from service without a regular inquiry having been conducted against him. As mentioned above, after the petitioner was dismissed from service, and after he had rejoined his duties due to the injunctive orders passed in his favour, a notice of inquiry had been issued to the petitioner on 15.03.2019. The petitioner has participated in the said inquiry and has cross-examined the witnesses that had appeared against him. The petitioner's stance was that he had never submitted a bogus educational certificate in order to gain employment in P.I.A.C.

17. I find the petitioner's complaints with respect to the inquiry proceedings conducted against him to be premature at this stage. 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. In the case of Saeed Ahmad Vs. Chairman O.G.D.C.L. (2020 PLC 27), 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."*

18. 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.

19. 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.”*

20. 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 \_\_\_\_\_/2020**

**(JUDGE)**