

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

W.P. No.1489 of 2016
Saeed Ahmad and others
Versus
Chairman O.G.D.C.L. and others

W.P. No.1490 of 2016
Kamran Nawaz and others
Versus
Chairman O.G.D.C.L. and others

W.P. No.1546 of 2016
Syed Muhammad Abbas Shah
Versus
Full Bench, N.I.R.C. and others

W.P. No.2000 of 2016
Khalil-ur-Rehman
Versus
Full Bench, N.I.R.C. and others

Date of Hearing:	11.07.2017
Petitioners by:	Messrs Ch. Muhammad Junaid Akhtar Chohan, Jawad Khan, Abdul Hafeez Amjad, Advocates.
Respondent by:	Messrs Mushtaq Hussain Bhatti, Kashif Ali Malik, Abdul Majeed Chaudhry, and Barrister Pirzada Muhammad Aurangzeb Shah, Advocates and Mr. Haroon Rashid, Chief HRO, O.G.D.C.L.

MIANGUL HASSAN AURANGZEB, J:-Through this common judgment, I propose to decide writ petition Nos.1489/2016, 1490/2016, 1546/2016, and 2000/2016 as they involve common questions of law and fact.

2. Through writ petition No.1489/2016, fourteen petitioners who are employees of the Oil and Gas Company Limited ("O.G.D.C.L.") impugn the following orders:-

- (i) *Consolidated order dated 19.08.2015, passed by the learned Member, National Industrial Relations Commission ("N.I.R.C.") whereby the petitioners' petitions under Sections 31 and 54(e) of the Industrial Relations Act, 2012 ("I.R.A."), were dismissed. In the said petitions filed before the N.I.R.C., the petitioners had prayed for a restraint against O.G.D.C.L. from committing unfair labour practices, and from terminating the petitioners' employment.*
- (ii) *Consolidated order dated 21.04.2016, passed by the learned Full Bench of N.I.R.C. whereby the petitioners' appeals under Section*

58 of the I.R.A., against orders passed by the learned Member, N.I.R.C., were dismissed.

3. Through writ petition No.1490/2016, seven petitioners who are employees of O.G.D.C.L., impugn the following orders:-

- (i) *Consolidated order dated 14.09.2015, passed by the learned Member, N.I.R.C. whereby the petitioners' petitions under Section 54(e) of the I.R.A., were dismissed. In the said petitions before the learned Member N.I.R.C., the petitioners had prayed for a direction to O.G.D.C.L. not to commit any unfair labour practice and not take any adverse action against the petitioners by terminating their employment on farcical charges.*
- (ii) *Consolidated order dated 21.04.2016, passed by the learned Full Bench of N.I.R.C. whereby the petitioners appeals under Section 58 of the I.R.A. against the order dated 14.09.2015, passed by the learned Member, N.I.R.C., were dismissed.*

4. Through writ petition No.1546/2016, the petitioner, Syed Muhammad Abbas Shah, impugns the order dated 19.08.2015, passed by the learned Member N.I.R.C. whereby the petitioner's petition under Section 54(e) of the I.R.A., was dismissed. The petitioner, in his petition before the learned Member, N.I.R.C. had prayed for a direction to O.G.D.C.L. not to commit any unfair labour practice, and not to dismiss, discharge, remove or terminate the petitioner on the basis of fabricated charges. The petitioner also impugns the order dated 21.04.2016, passed by the learned Full Bench, N.I.R.C. whereby the petitioner's appeal under Section 58 of the I.R.A. against the said order dated 19.08.2015, was dismissed.

5. Through writ petition No.2000/2016, the petitioner, Khalil-ur-Rehman, impugns the order dated 09.03.2015, passed by the learned Member N.I.R.C., whereby the petitioner's petition under Section 54(e) of the I.R.A., was dismissed. The petitioner, in his petition before the N.I.R.C. had prayed for a direction to O.G.D.C.L. not to commit any unfair labour practice by taking adverse action against the petitioner on the basis of farcical charges. The petitioner also impugns the order dated 27.10.2015, whereby the petitioner's appeal against the said order dated 09.03.2015, was dismissed by the learned Full Bench of N.I.R.C.

6. The dates and the positions on which the petitioners in all the four writ petitions were appointed in O.G.D.C.L. are set out in "Schedule-A" to this judgment.

7. The facts essential for the disposal of this petition are that on 08.03.2011, the Management Services Wing of the Establishment Division (Government of Pakistan), informed the Secretary, Petroleum and Natural Resources Division, Islamabad that the Prime Minister of Pakistan had directed that measures should be taken to authenticate degrees/certificates of all Federal Government employees of the respective Ministries/Divisions, their Departments, Subordinate Offices and Autonomous Bodies under their administrative control. As a first step, the degrees/certificates of employees of both Federal Government as well as Autonomous/Semi-Autonomous Bodies/Corporations working in BS-17 to BS-22 or equivalent were to be verified by making a reference to the Universities/Institutions concerned which had issued the degrees/certificates. The concerned Secretaries, and Heads of the Departments/Organizations were to satisfy themselves about the genuineness of the degrees/other documents. A certificate along with the list of officers whose degrees/certificates had been verified was to be furnished to the Establishment Division within a period of forty five days.

8. In view of the said direction of the Prime Minister, O.G.D.C.L. started the verification process of the educational certificates/degrees of their employees. Since the educational testimonials of all the petitioners in the said writ petitions were not found to be genuine, O.G.D.C.L. dispensed with an inquiry and issued notices to the petitioners to show cause as to why major penalty of dismissal from service should not be imposed on them. O.G.D.C.L. took the position that the submission of a bogus educational certificates by the petitioners rendered them liable to disciplinary action under the O.G.D.C. (Efficiency and Discipline) Regulations, 1994, and or O.G.D.C.L Service Rules, 2002. The said show cause notices were issued to the petitioners on various dates in the years 2014 and 2015.

9. After the said show cause notices were issued to the petitioners, they filed petitions under Sections 31 and 54 of the I.R.A. before the N.I.R.C. The position taken by most of the petitioners was that the educational certificates which had been

sent for verification by O.G.D.C.L. were not even the required qualification for appointment against the posts on which the petitioners were appointed. In almost all the petitions, it was pleaded that the show cause notices had been issued to the petitioners because of their trade union activities which had irked the Management of O.G.D.C.L.

10. Vide order dated 19.08.2015, the learned Member, N.I.R.C. dismissed all the petitions filed by the petitioners. Vide order dated 21.04.2016, the petitioners' appeals under Section 58 of the I.R.A. were dismissed by the learned Full Bench of the N.I.R.C. The said concurrent orders have been impugned by the petitioners in writ petition Nos.1489/2016, 1490/2016, 1546/2016, and 2000/2016.

11. Messrs Chaudhry Muhammad Junaid Akhtar and Abdul Hafeez Amjad, Advocates, learned counsel for the petitioners submitted that the impugned orders were against the law and facts of the respective cases; that the learned Full Bench, N.I.R.C. did not appreciate that the petitioners had served for considerably long time with O.G.D.C.L.; that the process of the verification of the petitioners' educational certificates/degrees was initiated several years after their appointments; that the issuance of show cause notices to the petitioners was an eye wash, and as a matter of fact O.G.D.C.L. wanted to get rid of the petitioners due to their trade union activities; that the petitioners were being meted out discriminatory treatment by O.G.D.C.L. as some employees with fake degrees had been given lesser punishments, whereas the petitioners had been issued notices to show cause as to why they should not be dismissed from service; that O.G.D.C.L. had adopted a policy of pick and choose by dismissing from service some employees against whom there were allegations of submitting bogus educational certificates, and imposing other penalties like reduction to a lower posts or compulsory retirement from service on other such employees; that the learned Member, and the learned Full Bench of N.I.R.C. did not appreciate that the educational certificates which had been sent by O.G.D.C.L. for verification, were not even required

for their appointment in O.G.D.C.L.; and that since the petitioners' dismissal from service on the allegation of having a bogus degree would stigmatize the petitioners, O.G.D.C.L. could not dispense with a regular inquiry in accordance with the applicable service rules/regulations. Learned counsel for the petitioners prayed for the writ petitions to be allowed and for the impugned orders passed by the learned Member and the learned Full Bench of the N.I.R.C. to be set aside. In making their submission the learned counsel for the petitioners placed reliance on the law laid down in the cases of Province of Punjab Vs. Zulfiqar Ali (2006 SCMR 678), Muhammad Zafar Vs. Administrator, Market Committee (2011 PLC (C.S.) 1239), and Akhtar Ali Vs. Director of Agriculture (Economics and Marketing) (2000 PLC (C.S.) 784).

12. On the other hand, Messrs Mushtaq Hussain Bhatti, Kashif Ali Malik, Abdul Majeed Chaudhary and Pirzada Muhammad Aurangzeb, Advocates, learned counsel for O.G.D.C.L. submitted that the impugned concurrent orders were strictly in accordance with the law and facts of each case; that O.G.D.C.L. had initiated the process of verification of educational degrees/certificates of its employees in accordance with the directions from the Petroleum and Natural Resources Division; that the Management of O.G.D.C.L. had also decided to start the process of the verification of the educational certificates/degrees of all its employees; that the Management of O.G.D.C.L. did not harbour any ill-will or prejudice against any of the petitioners; that the submission of a bogus educational certificates by an employee of O.G.D.C.L. falls within the meaning of misconduct; that O.G.D.C.L. had only initiated the process against the petitioners by issuing show cause notices to them, when they rushed to the N.I.R.C. and obtained stay orders; that the process initiated against the petitioners in the year 2014 has not ended due to interim orders passed by the N.I.R.C. as well as this Court.

13. Furthermore, it was submitted that the purpose of issuing show cause notices to the petitioners is to provide them an opportunity to explain their position; that the show cause notices issued to the petitioners are not verdicts against the petitioners;

that the verification of the petitioners' educational certificates, and the issuance of show cause notices to the petitioners after their educational certificates were found to be bogus or tampered with, does not amount to an unfair labour practice by O.G.D.C.L.; that since the concerned Boards of Intermediate and Secondary Education/Universities had informed O.G.D.C.L. that the petitioners' educational certificates, which were sent by O.G.D.C.L. for verification were bogus, show cause notices were correctly served on the petitioners; that O.G.D.C.L. decided to verify not just those educational certificates which were submitted by employees of O.G.D.C.L. in order to gain employment in O.G.D.C.L., but also those which were submitted by employees of O.G.D.C.L. in order to seek other benefits; that the verification process of the petitioners' educational certificates has been carried out in a fair and transparent manner; that the initiation of the proceedings by the petitioners before the N.I.R.C. was with the motive to frustrate the departmental process; that O.G.D.C.L. has not dispensed with an inquiry, and that pursuant to the order dated 14.09.2015, passed by the learned Member, N.I.R.C a detailed inquiry in each case was conducted; and that it was the right of an employee to get matters like the submission of fake educational testimonials, probed into, and the same cannot turned as an unfair labour practice.

14. Learned counsel for O.G.D.C.L. further submitted that due to the submission of fake degrees, several parliamentarians were disqualified by the Superior Courts. In this regard, we made reference to the cases of Muddasar Qayyum Nahra Vs. Ch. Bilal Ijaz (2011 SCMR), Malik Iqbal Ahmad Langrial Vs. Jamshed Aslam (PLD 2013 SC 179), Mian Najeeb-ud-Din Owsa Vs. Amir Yar Waran (PLD 2013 SC 428), and Muhammad Nasir Mahmood Vs. Federation of Pakistan (PLD 2009 SC 107). Learned counsel also submitted that the submission of bogus academic certificates by a person either to gain employment, or to gain better service benefits is a very serious matter. He submitted that in the case of Anwar Ali Vs. Chief Executive HESCO (WAPDA) (2009 SCMR 1492), the department had imposed the penalty of dismissal from

service on a civil servant for submitting a bogus academic certificate. On appeal, the Service Tribunal converted the penalty of dismissal from service into compulsory retirement. The Hon'ble Supreme Court set aside the conversion of the penalty into compulsory retirement, and observed that the department was free to examine the possibility of getting a criminal case registered against the civil servant. Learned counsel for the O.G.D.C.L. prayed for the writ petitions to be dismissed.

15. 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 petition have been set out in sufficient detail in paragraphs No. 7 to 10 above, and need not be recapitulated.

16. An interesting feature in all the writ petitions is that none of the petitioners in their petitions have pleaded that the educational testimonials submitted by any of them, either at the stage of their employment in O.G.D.C.L., or subsequently, were genuine. Soon after O.G.D.C.L. issued notices to the petitioners to show cause as to why major penalty of dismissal from service should not be imposed on them on account of misconduct i.e. the submission of bogus educational certificates to O.G.D.C.L. either for gaining employment or to obtain other service benefits, the petitioners invoked the jurisdiction of the N.I.R.C., complaining of an unfair labour practice being committed by O.G.D.C.L. The vital question that needs to be determined in these proceedings is whether the mere issuance of a show cause notice amounts to an unfair labour practice giving cause to an employee to approach the N.I.R.C.

17. Section 31(d) of the I.R.A. prohibits an employer or a trade union of employees or persons acting on their behalf from *inter alia* dismissing, discharging, removing from employment or transferring or threatening to dismiss, discharge or remove from employment or transfer a workman or injure or threatening to injure him in respect of his employment by reason that the workman: (i) is or proposes to become, or seeks to persuade any other person to become, a member or officer of a trade union; or (ii) participates in the promotion, formation or activities of a trade

union. Additionally Section 31(c) of the I.R.A. prohibits discrimination against any person in regard to any employment, promotion, condition of employment or working condition on the ground that such person is, or is not, a member or officer of a trade union. Under Section 54(e) of the I.R.A. one of the functions of the N.I.R.C. is to deal with cases of unfair labour practices specified in *inter-alia* Section 31 of the I.R.A.

18. One of the functions of the N.I.R.C. is to deal with cases of unfair labour practices specified in Sections 31 and 32 on the part of the employers, workers, trade unions or either of them or persons acting on their behalf. Therefore, for the N.I.R.C to assume jurisdiction with respect to cases of unfair labour practices, they must squarely fall within the four corners of Sections 31 and 32 of the I.R.A. In the case at hand, O.G.D.C.L. is not threatening to dismiss, discharge or remove from employment or transfer any of the petitioners for the reason that they were participating in the promotion, formation or activities of a trade union. It is also not the petitioners' case that show cause notices were issued to them because they were proposing to become or persuading any other person to become a member or an officer of a trade union. The petitioners can hardly claim to be discriminated against due to the issuance of show cause notices to them or the initiation of an inquiry against them on the ground that the petitioners are members or officers of a trade union. The petitioners have not identified any instance at their hand (regarding their trade union activities) which could have irked O.G.D.C.L. or cause them to issue show cause notices to the petitioners. The mere fact that the petitioners happen to be members or officers of a trade union would not give them a cause under Sections 31(c) and (d) of the I.R.A. to invoke the jurisdiction of the N.I.R.C. simply because an inquiry or disciplinary proceedings had been initiated against them on the ground that they were alleged to have submitted bogus educational certificates and thereby committed an act of misconduct. Assuming that the petitioners assert that their educational certificates submitted to O.G.D.C.L. were genuine, and assuming

that they are correct in this assertion of theirs, even then, in my view their case does not fall within the ambit of an unfair labour practice. In the case of Muzaffar Ali Vs. Chairman N.I.R.C. (1991 PLC 876), a security officer in the employment of P.I.A. had submitted a report to the District Manager of P.I.A. at Lahore regarding the alleged misconduct of some other employees of P.I.A. at Lahore. On the basis of said report, the employees were proceeded against, and were dismissed from service. One of such dismissed employees filed an application before the N.I.R.C. The question before the Hon'ble Lahore High Court was, whether the grievance agitated by the petitioner before the N.I.R.C. amounted to an unfair labour practice in terms of Section 15 of the Industrial Relations Ordinance, 1969. The provisions of Section 15(1) of the Industrial Relations Ordinance, 1969 were in *pari materia* to Section 31(c) and (d) of the I.R.A. The Hon'ble Lahore High Court held as follows:-

“A perusal of the allegations made in the complaint filed by respondent No. 2 shows that the allegations, even if correct, do not attract any of the clauses of section 15, nor was a case of unfair labour practice made out. The petitioners were acting in lawful performance of their duties and it was in that connection that they made the reports and held inquiries. The assumption of jurisdiction on the ground that the allegations were not correct, or the show-cause notices and the inquiry were defective, was clearly uncalled for as none of the acts complained of amounted to unfair labour practices. It is thus evident that respondent No. 1 acted in excess of his lawful authority in assuming jurisdiction and issuing impugned notices to the petitioners.” (Emphasis added)

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. I fully agree with the observation of the learned Member, N.I.R.C. that the object of a show cause notice is to provide an opportunity to the person to whom it is addressed to explain his position and to defend himself against the allegation that is leveled against him. It is well settled that mere issuance of a show cause notice does not amount to an adverse action. Although in the case at hand the N.I.R.C. has dismissed the petitioners' petitions against the show cause notices issued by O.G.D.C.L., it is also well settled that a writ petition against a show cause notice is not maintainable unless such a notice has been issued without lawful authority, is wholly without jurisdiction, *coram non judice* or is based on *mala fides*. In the case of Naweed Akhtar Cheema Vs. Chairperson, TEVETA (2011 PLC (C.S.) 803), it has been held as follows:-

"8. Issuance of show-cause notice does not mean that the case will be invariably decided against the petitioner and there is always a possibility that the same may be decided in favour of the petitioner. Laying challenge to a show-cause notice is therefore no different than filing a petition on the basis of an apprehension or a speculation. Such a petition is premature and not ripe for adjudication. "Just as a case can be brought too late, and thereby be moot, it can be brought too early, and not yet be ripe for adjudication...until the controversy has become concrete and focused, it is difficult for the Court to evaluate the practical merits of the position of each party. The basic rationale behind the ripeness doctrine is "to prevent the courts through avoidance of premature adjudication, from entangling themselves in abstract disagreements over administrative policies, and also to protect the agencies from judicial interference until an administrative decision has been formalized and its effects felt in a concrete way by the challenging parties."

20. I cannot bring myself to agree with the contention of the learned counsel for the petitioners that the mere issuance of a show cause notice amounts to an unfair labour trade practice. It has consistently been held by the superior Courts that the initiation of inquiry proceedings for a just cause would not amount to an unfair labour practice. In the case of Searle Pakistan Limited Vs. Full Bench, National Industrial Relations Commission (2002 PLC 87), it was *inter alia* held that an employer in initiating proceedings against an employee on the basis of an inquiry report, was not guilty of committing an unfair labour practice as

defined in Section 15 of the Industrial Relations Ordinance, 1969. Furthermore, in the case of Muhammad Aslam Khan Vs. M/s International Industries Ltd. (2007 PLC 350), it has been held by the Hon'ble High Court of Sindh as follows:-

“5. The contention raised on behalf of the applicant/worker, at the moment, could not be appreciated. It will be for the applicant to prove that the charge-sheet issued to him and subsequent proceedings were initiated with ulterior motives. Indeed, it will require recording of evidence. However, at this juncture it can be said with certainty that initiating disciplinary proceedings against a worker on account of misconduct is a legal right of the employer. An employer cannot be restrained from exercising his right unless extraordinary exceptional circumstances are placed before the Court. In the present circumstances, restraining the employer from initiating disciplinary action against his employee will tantamount to pre-empting his decision which cannot be the scheme of the law as it may give rise to anarchy. Labour laws provide adequately efficacious remedy to a worker against wrongful, illegal and arbitrary dismissal, as after adjudication he can be reinstated and/or compensated. Thus, there is no question of irreparable loss. Similarly, protection has been provided to the workers and employers against the acts of unfair labour practice. A worker can approach an appropriate forum to seek remedy against victimization on account of trade union activities.”
(Emphasis added)

21. As regards the contention of the learned counsel for the petitioners that employment was not gained by the petitioners by submitting the bogus degrees in question because no academic qualifications were required by O.G.D.C.L. for appointing the petitioners, suffice it to say that the Hon'ble' Supreme Court in the case of Deputy District Officer (Revenue), Qasoor Vs. Muhammad Munir Sajid (2013 SCMR 279), has held that the conduct of an employee submitting a fake educational certificate at the time of his employment knowing it will boost his chances for selection, was not entitled to be considered for selection. In that case, the department had imposed the penalty of dismissal from service on the respondent/employee for submitting a fake F.A. certificate at the time of his employment. The Punjab Service Tribunal set aside the penalty of dismissal from service on the ground that since the basic educational qualification required for the respondent's appointment was matriculation, and not F.A., the respondent could not be dismissed for submitting a fake F.A. certificate. The Hon'ble Supreme Court set aside the decision of the Punjab Service Tribunal and restored the penalty of dismissal from

service imposed on the respondent by the department. Paragraphs-4 and 5 of the said report are reproduced herein below:-

“4. The learned counsel for the respondent was not in a position to dispute that the F.A. certificate produced by the respondent was fake. The respondent, who was present in-person, when confronted about the genuineness of the certificate, admitted that he had not passed F.A. examination but alleged that the certificate was included in his testimonial by another candidate to spoil his chances of selection. We do not see any sense in this argument as to why would a competing candidate furnish a fake certificate, which if not detected would give an edge to the respondent. Furthermore this was not his case during the inquiry or before the Tribunal where he asserted that the certificate was genuine. There can be no two opinions that the certificate was indeed forged.

5. The Tribunal holding that the respondent was even otherwise eligible for selection on the basis of Matric certificate and thus his F.A. was not relevant has lost sight of the fact that this would have entitled the respondent to additional marks, which in fact he was granted. The main question here is the conduct of the respondent by producing a fake F.A. certificate in his testimonials, knowing well that it boosted his chances, disintitiled him to be even considered for selection.”

22. On 03.12.2013, the Management of O.G.D.C.L. issued the following circular, which was distributed to all the employees, including the petitioners:-

“Management has taken a serious note of cases where fake degrees/certificates have been submitted to acquire employment/benefits, etc. associated with service at a later stage.

02. To eliminate the practice, management has decided that irrespective of the fact that false degree/educational certificates, etc. are submitted to the Company at the time of induction i.e., Joining the service of the Company or at a later stage to seek some other benefits, etc., the employees found guilty of submission of fake degrees/certificates should be terminated from the service of the Company.”

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 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.

24. The respondents have brought on record documents to show that the educational certificates of each of the petitioners were sent by O.G.D.C.L. to the relevant Board of Intermediate and Secondary Education or the relevant university for verification as to their genuineness. After being informed as to the fictitiousness of these educational certificates, O.G.D.C.L. issued show cause notices to the petitioners. In these show cause notices, O.G.D.C.L. also expressed its intention of dispensing with the inquiry. Learned counsel for the O.G.D.C.L. placed reliance on Rule No.124 of the Oil and Gas Development Company Limited Employees Service Rules, 2002 ("the 2002 Rules") in support of their contention that if the competent authority/authorized officer decides that it is not necessary to have an inquiry conducted through an officer or an inquiry committee, he shall (1) by order in writing inform the accused of the action proposed to be taken in regard to him and the grounds of the action; and (2) give him a reasonable opportunity of showing cause against that action, provided that no such opportunity shall be given where the competent authority is satisfied that in the interest of the security of Pakistan or any other part thereof it is not expedient to give such an opportunity. Learned counsel further submitted that regardless of Rule 124 of the 2002 Rules, O.G.D.C.L. had decided

to conduct a regular inquiry against all the petitioners. In the impugned order dated 19.08.2015, passed by the learned Member, N.I.R.C., the following observations were made:-

“7. Before parting with the order, I would like to say that it has been strenuously argued by the learned counsel for the petitioners that the respondent management while issuing show cause notice to the petitioners has dispensed with holding of an inquiry which is illegal and against the fundamental rights as guaranteed under the law. The procedure being followed is obviously not in consonance with the fundamental right guaranteed under Article 10A of the constitution of Islamic Republic of Pakistan which guarantees a fundamental right of fair trial and due process. Further the status of the petitioners is admittedly of workmen employed in the respondent establishment. It is held in 2001 SCMR 931 that provisions of Section 15 of West Pakistan Commercial and Employment (Standing Orders) Ordinance 1968 are mandatory and their non observance would vitiate the proceedings. Though a certificate or confirmation by an educational institution may have a strong persuasive force but an error on the part of the educational institutions cannot be ruled out if its authenticity is challenged or the allegation is denied, hence to ensure that fundamental right of fair trial and due process is protected, the management of respondent corporation is directed to provide reasonable opportunity of defence to the petitioners in the light of the show cause notice and after hearing in terms of aforesaid provisions of law to pass an appropriate order in accordance with law and relevant regulations. Files to records.”

25. Since O.G.D.C.L. did not impugn the said observations of the learned Member N.I.R.C in appeal, the same have attained finality. I appreciate the submission of the learned counsel for O.G.D.C.L. that an inquiry was conducted in the cases of each of the petitioners.

26. The learned counsel for the petitioners have brought on record Office Memoranda of O.G.D.C.L. whereby different penalties ranging from “dismissal from service” to “compulsory retirement from service” to “reduction to a lower post” had been imposed on employees on the ground of possessing or submitting bogus educational qualifications. The submission of fake academic qualifications to an employer is indeed an act of misconduct but the same does not have variables or different standards. The imposition of different penalties on employees against whom there is the same charge does not appear to be proper. The Management of O.G.D.C.L. must not discriminate.

27. In view of the foregoing discussion, these writ petitions are found to be devoid of merit. Accordingly, they are dismissed with no order as to costs.

(MIANGUL HASSAN AURANGZEB)
JUDGE

ANNOUNCED IN AN OPEN COURT ON _____/2017

(JUDGE)

APPROVED FOR REPORTING

Ahtesham Majid*

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Schedule-A

S. No.	Name	Designation	Date of Appointment
1.	Saeed Ahmad	Well Attendant	July, 1994
2.	Qazi Abid Mehmood	Production Attendant	1977
3.	Tariq Mehmood	Well Attendant	01.08.1996
4.	Naeem Shahzad	LDC/Typist	01.06.1995
5.	Kaloo Khan	Helper	1988
6.	Gul Tasib Hussain	Helper	1999
7.	Naeem Akhtar	Sample Catcher	1989
8.	Muhammad Aslam	Misc: Helper	1987
9.	Abdul Rauf	Dispatcher	15.08.1994
10.	Mehram Khan	Recording Helper	10.11.1988
11.	Mumtaz Ahmad	Helper	13.09.1989
12.	Saleem Masih	Sanitary Worker	1988
13.	Safeer Hussain	Well Attendant	13.07.1996
14.	Akhlaq Ahmad	Naib Qasid	1992
15.	Kamran Nawaz	Well Attendant	27.09.1994
16.	Adeel Hussain	Helper (COMM)	06.10.1995
17.	Yasir Rauf Qureshi	Lab. Attendant	16.03.1995
18.	Muhammad Shabbir	Dispatcher	1986
19.	Fayyaz Hussain	Telephone Lineman	1990
20.	Muhammad Suleman	Well Attendant	14.11.1995
21.	Bakhtiar Gul	Laboratory Tester	1996
22.	Syed Muhammad Abbas Shah	Cook	24.11.1990
23.	Khalil-ur-Rehman	Ferro Printer	01.07.1988

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