

**JUDGMENT SHEET.**  
**ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

Writ Petition No.4729 of 2016

Hassan Jilani

*Versus*

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

Petitioner by:	Mr. Muhammad Akhtar Anjum, Advocate.
Respondents by:	Mr. Ali Nawaz Kharal, Advocate. Raheel Zafar S.M. (Manager Legal), PTCL.
Date of hearing:	09.03.2021.

**Tariq Mehmood Jahangiri, J:** The petitioner has filed the  
instant writ petition with the following prayer:-

*“Under the circumstances, it is therefore respectfully  
prayed that instant writ petition may kindly be accepted  
/ allowed and impugned orders dated 21.11.2016 and  
31.08.2015 passed by learned Full Bench NIRC and  
Single Bench NIRC may kindly be set aside  
consequently dismissal order dated 08.07.2014 may  
also be set aside and respondents may graciously be  
instated into service with all back benefits.*

*It is further prayed that during the pendency of writ  
petition respondent may kindly be restrained from  
dispossessing the petitioner from Quarter No. 14, Block  
D-29, G-8/4, Islamabad.*

*Any other relief which this Honorable Court may deem  
fit in the circumstances of the case may also be granted.*

02. Brief facts of the case are that the petitioner was serving  
as Engineering Supervisor in Pakistan Telecommunication

Company Limited (PTCL). He absented himself from duty w.e.f 25.05.2013, consequently a Show Cause Notice dated 17.07.2013 was issued to him. The petitioner joined his duty on 06.08.2013 and again absented himself from duty w.e.f. 07.08.2013 to 05.03.2014. Thereafter vide office order dated 10.03.2014 major penalty of *“Reduction to initial stage of time scale for a period of five year”* was imposed upon him. Moreover, the unauthorized absence period from 25.05.2013 to 06.08.2013 & intervening period from 07.08.2013 to 05.03.2014, was treated as Leave Without Pay.

03. That another Show Cause Notice was issued to the petitioner on 12.04.2014 for unauthorized absence from duty w.e.f. 21.03.2014. The petitioner submitted reply to the said notice and consequently he was dismissed from service w.e.f. 25.05.2013 vide letter dated 08.07.2014. The petitioner filed a grievance petition before the N.I.R.C. and the same was withdrawn on 18.12.2014 with the permission to file fresh petition. On the same day i.e. 18.12.2014, the petitioner filed fresh petition, wherein dismissal order dated 08.07.2014 was challenged. The petitioner has not challenged order dated 10.03.2014, whereby he was awarded major penalty of reduction to initial stage of time scale for a period of 05 years. The petitioner has not enclosed the copies of grievance notice and departmental appeal against order dated 08.07.2014 alongwith his grievance petition filed before the N.I.R.C. The petitioner has filed the grievance petition before the N.I.R.C. which was barred by time within the meaning of sub-section 4 read with section 33(i) of Industrial Relation Act, 2012. The petitioner neither filed any petition for condonation of delay nor

advanced any reason for delay in filing the petition during the course of arguments. So the learned Single Bench of N.I.R.C. vide order dated 31.08.2015 has dismissed the grievance petition on the ground that it was filed beyond the prescribed period of limitation.

04. The decision of learned Single Bench of N.I.R.C., was upheld by Full Bench of N.I.R.C., vide order dated 21.11.2016, wherein it is mentioned that the petitioner filed grievance petition challenging his dismissal order dated 17.07.2013, the same was dismissed as withdrawn vide order dated 18.12.2014. The petitioner filed grievance petition on the same day under rule 19 of NIRC (P&F) Regulations, 1973. The CPC is applicable to the proceedings before the N.I.R.C. under the Industrial Relation Act, 2012. Under Order xxiii Rule (2) CPC the limitation is not affected if second suit is filed with permission of the Court after withdrawal of the earlier. In the grievance petition which was filed on 18.12.2014, dismissal order dated 08.07.2014 has been challenged, therefore, as per section 33(1) of IRA 2012, the grievance petition was barred by time, and the same was not proceedable, hence order of the single bench was upheld and appeal filed by the petitioner under section 58 of Industrial Relations Act 2012 was dismissed.

05. Learned counsel for the petitioner contends that both the orders passed by learned Single Bench and Full Bench of N.I.R.C. are against law and facts. The learned single Bench has not recorded any evidence and decided the controversial question of limitation, which is mixed question of law and facts. He has further contended that merits of the case were not

noticed by the learned Single Bench of N.I.R.C and the case has been dismissed arbitrarily on technical grounds.

06. On the other hand learned counsel for the respondents contends that scope of writ jurisdiction is very limited. It is well established that the grievance petition was badly barred by time and no plausible justification for delay in filing the petition was advanced by the learned counsel for the petitioner. Petitioner has also not challenged order dated 10.03.2014, whereby major penalty of reduction to initial stage of time scale for a period of five year was imposed against him.

07. Arguments heard and record perused with the able assistance of both the learned counsel for the parties.

08. The petitioner seeks issuance of a writ of *certiorari* with respect to the concurrent orders passed by the learned Single Bench and the learned Full Bench of N.I.R.C. It is well settled that *certiorari* is only available to quash a decision for an error of law. It will also be issued for correcting errors of jurisdiction when an inferior Court or a tribunal acts without jurisdiction or in excess of its jurisdiction, or fails to exercise its jurisdiction or where the Court or a tribunal acts illegally in exercise of its undoubted jurisdiction and it decides a matter in violation of the principle of natural justice. The High Court issuing a writ of *certiorari* acts in exercise of supervisory and not appellate jurisdiction. The High Court in exercise of its writ jurisdiction will not review the findings of fact reached by the inferior Court or a tribunal.

09. It has been held by the Hon'ble Supreme Court in case titled as **"Chief Executive MEPCO V. Muhammad Fazil (2019 SCMR 919)"** that ***"Where the Court or the Tribunal had***

*jurisdiction and it determined specific question of fact or even law, unless patent legal defect or material irregularity was pointed out, such determination could not ordinarily be interfered with by the High Court while exercising jurisdiction under Article 199 of the Constitution of Islamic Republic of Pakistan”.*

10. The learned counsel for the petitioner made no submission on the point as to how the concurrent orders passed by the learned Member and the learned Full Bench of N.I.R.C. were the consequence of an error of law or without jurisdiction or in excess of jurisdiction.

11. It has become common for the learned counsel to argue the petitions seeking issuance of writs of *certiorari* as if they are arguing the appeals. This practice must be stopped as the same is not in consonance with the well settled principles for hearing and deciding petitions seeking the issuance of writs of *certiorari*.

12. Finding no jurisdictional infirmity in the concurrent orders passed by the learned Member and the learned Full Bench of N.I.R.C., the instant petition is dismissed being meritless.

(TARIQ MEHMOOD JAHANGIRI)  
JUDGE

Announced in Open Court on 15.03.2021.

JUDGE