

respective suits and had been working and serving the EPZA as probationers/daily wagers. The Appellants contend that, as employees of the EPZA, they are not liable to undertake the screening/subjective test to be conducted by the NTS, as resolved by the EPZA in its 109th Meeting, purportedly held on 24.12.2014. Such actions on the part of the EPZA for conducting the test of the Appellants through NTS for their permanent appointment in the EPZA were impugned by the Appellants by filing suits. The injunctive relief prayed for by the Appellants in the interim applications, which are the subject matter of the Impugned Order, sought a restraining order. However, the learned Single Judge dismissed the applications for interim injunctive relief. The present High Court appeals were filed assailing the Impugned Order.

4. Mr. Mohsin Kadir Shahwani, learned counsel for the Appellants in all HCAs, submitted that the conditions imposed by EPZA for conducting the NTS test in its Board Meeting cannot be given effect retrospectively. The decision to conduct the NTS test taken by the EPZA has deprived the Appellants of their vested rights, as they have been serving the EPZA for a decade. He further submitted that the learned Single Judge, in the Impugned Order, has not appreciated that the Appellant Zeeshan Mughal was recruited through the proper course and procedure and was never a daily wager. The learned Single Judge did not consider the actual aspect and rendered the Impugned Order, which ought not to be sustained. He further submitted that the condition of undertaking an NTS test was never mentioned in the appointment letter of Appellant Zeeshan; therefore, he is not required to undertake such a test. He also submitted that the EPZA Employees Services Rules do not mention the condition of publication for the appointment of daily wagers. However, the learned Single Judge haphazardly rendered the Impugned Order without considering the statutory provisions of the EPZA Employees Services Rules. Per Rule 7(a)(vii), for the appointment of a post of BPS-6, a publication is required to be issued. The Appellants in HCA 46/2022 are daily wagers; therefore, the condition of either publication or the NTS test does not arise. By way of illustration, learned counsel referred to the 109th Meeting of the EPZA, wherein the condition of the test was imposed for fresh hiring. However, the Appellants' probation period has been completed with successive ACRs issued by the EPZA. The Impugned Order does not disclose any fact established in the suits by the Appellants; hence, the Impugned Order ought not to be sustained. He placed reliance on the precedents reported as **2019 CLC 362, PLD 1977 S.C. 182, 2000 CLC 1722, PLD 1996 Karachi 365 and 1996 SCMR 1217.**

5. In response to the arguments advanced by the learned counsel for the Appellants, Mr. Sanaullah Noor Ghori, learned counsel for the EPZA, submitted that the Impugned Order is in due accordance with the law. Per learned counsel, the condition of the NTS test is an internal policy matter of the EPZA which cannot

be assailed. He further contended that several candidates undertook the NTS test and, having qualified for the same, were appointed by the EPZA. However, the present Appellants avoid appearing in the NTS test, and if any permission is accorded to the Appellants, it would be considered discriminatory. While concluding his submissions, learned counsel submitted that the appointment of the Appellants is under enquiry being conducted by the FIA as the same does not meet the requisite criteria. He placed reliance on the precedents reported as **1990 SCMR 1321, PLD 2006 S.C. 697, 2014 CLC 600, 2021 MLD 453, 2021 SCMR 1230 and 2024 PLC(CS) 979.**

6. Learned counsel for Respondent No.5/NTS adopted the arguments advanced by the learned counsel for the EPZA.

7. We have heard the learned counsel and perused the record, including the Impugned Order. It is a matter of record that when the learned Single Judge passed the Impugned Order, no Counter Affidavits/Objections were filed by the opposite party against the Injunction applications. The main contention of the learned counsel for the Appellants is that in the 109th Meeting of the EPZA, the condition of the test was imposed for fresh hiring, while the Appellants' probation period had already been completed with successive ACRs issued by the EPZA. He referred to the Termination Letters of the Appellants, issued by the EPZA in May, June, and July 2013, respectively. These letters state that the probation period of the Appellants was terminated on satisfactory performance under the rules. He also referred to the 109th Board Meeting of EPZA dated 24.12.2014, which states that fresh hiring, whenever conducted, shall be made through a written screening test by NTS, and all those employees who are still on probation will have their probation period terminated after being declared successful by NTS in the said written test.

8. When declining the Injunction Applications vide the Impugned Order, the learned Single Judge has not considered or discussed the aforementioned documents. Additionally, no Counter Affidavits/Objections were filed by the respondents against the Injunction Applications at that time. Consequently, it was not possible to ascertain whether the appellants had established all three mandatory ingredients in their favour, i.e., *prima facie case, balance of convenience, and apprehension of irreparable loss or legal injury*. The absence of Counter Affidavits/Objections from the respondents deprived the court of a comprehensive understanding of the matter, thereby necessitating a reconsideration of the Injunction Applications in light of the relevant documents and after providing an opportunity for both parties to present their arguments.

9. In view of the aforementioned facts, we consider that the matter necessitates a thorough examination of the above documents. Therefore, in the interest of substantial justice in the instant matter, we deem it appropriate to remand the case to the learned Single Judge for a fresh adjudication of the

Injunction Applications. This should be done after providing an opportunity for hearing to both parties and inviting Counter Affidavits/Objections from the respondents in light of the documents discussed above or any other relevant documents that the parties may wish to present if deemed necessary for the proper disposal of the matter in accordance with the law. Consequently, the present Appeals stand **allowed** by setting aside the Impugned Order of the learned Single Judge dated 17.01.2022. These High Court Appeals are hereby disposed of along with the pending application(s) in the aforementioned manner.

JUDGE

JUDGE