

# IN THE HIGH COURT OF SINDH AT KARACHI

SUIT NO. 1954/2014

Syed Muhammad Mehdi Raza Rizvi

Versus

Pakistan International Airline Corporation

Date of hearing: 6<sup>th</sup> October, 2015  
Plaintiff: Through Mr. Muhammad Ali Lakhani  
Advocate  
Defendant: Through Mr. Amir Malik Advocate

## J U D G M E N T

**Muhammad Shafi Siddiqui, J.-** Learned Counsel for the parties have relied upon the order passed on 11.12.2014 in terms whereof the parties were agreed for the disposal of suit without recording evidence on the basis of material available on record and following three issues were framed:

- i. Whether the suit is maintainable?
- ii. Whether termination order dated 04.2.2014 is still in field in view of the subsequent orders and observations passed by the High Authority who issued termination order?
- iii. What should the decree be?

My findings on the above issues with reasons are as under:-

### **FINDINGS**

Issue No.1	-----	Affirmative
Issue No.2	-----	Negative
Issue No.3	-----	Suit is decreed as under

### **REASONS**

#### **ISSUE NO.1**

1. While arguing the issue of maintainability learned Counsel for defendant has pointed out that there is no cause of action available to

the plaintiff as no valid intermediate certificate entitling him to be employed on the basis of publication was placed on record. He has further relied upon Section 21 of the Specific Relief Act and submits that since service rules are not enforceable as there is relationship of master and servant therefore the plaintiff is not entitled for the relief as prayed except damages in case he would be able to establish the case of illegal termination.

2. Insofar as this preliminary issue is concerned, I have heard the learned Counsels. Plaintiff has claimed for entitlement of benefit incurred on the basis of minutes of meeting dated 10.3.2014 and if at all he has not been paid such benefits it would amount to discrimination, hence it cannot be said that no cause of action accrued in favour of plaintiff. Moreover in the reported judgment in case of Azhar v. Province of Sindh reported in SBLR 2015 SC 15, the test has been prescribed in para 158 of the judgment in terms whereof suits filed by the employees of statutory bodies having statutory rules or Government servants relating to terms and conditions inclusive of disciplinary proceedings be heard by a Division Bench. This is not a case which is effected by such principal. On such score in my view the suit is maintainable for claiming such benefits.

### **ISSUE NO.2**

3. Insofar as the issue No.2 is concerned it relates to the alleged termination order dated 04.2.2014 and as to whether it is still in the field. Learned Counsel for the plaintiff has taken me to letter dated 10<sup>th</sup> February, 2014 addressed to Managing Director. The Managing Director endorsed his remarks for the Director Human Resources, Administration & Coordination that he heard the plaintiff and termination letter is to be disregarded as plaintiff was given personal hearing. On a query as to how the Managing Director is vested with such powers, Counsel for plaintiff

has relied upon minutes of meeting which have been filed today with a statement whereby the Managing Director was authorized by the PIAC Board to do all the acts, deeds and things that may be necessary. Learned Counsel submits that there was further at the end of this document verification that all deeds, acts and things lawfully done by the Managing Director shall be considered to be done by PIAC Board. On the strength of this authorization of the Board, Counsel submits that such hearing was deemed to be done by the Board itself. Learned Counsel submits that only issue that is prevailing is a result card of 04.09.2010 which was claimed to be bogus. Counsel submits that after hearing by Managing Director and/or Board it was past & closed transaction. He without prejudice further argued that at the time of examination, on account of certain issues on certain examination centres, the result of Intermediate for the year 2010 was withheld and the exams were subsequently held in the year 2011 as supplementary. The plaintiff is one of the candidates who were coerced to appear in the supplementary exams because of the administrative order of the Board of Intermediate. Learned Counsel has further relied upon the verification of the educational documents which confirms that the Intermediate certificate was genuine and correct. The result card of 04.09.2010 available at page 115 certainly was withheld for the reasons shown above but that is not the document which was based for ousting the plaintiff in presence of subsequent verified document which are in pursuance of annual exams for the year 2010. After the conclusion of 2010 exams the situation may have been developed as mentioned above that the result was withheld but the issue is other than that. Counsel for the plaintiff has further relied upon the investigation as made by the Board of Intermediate & Secondary Education as reflected in letter dated 10.3.2014 annexure A-1/II at page 141 which clarifies the fact of 2010 Intermediate examination. In said letter PIAC Human Resources was further advised to resubmit the application for verification of

“certificates” of Syed Muhammad Mehdi Raza/plaintiff which clearly shows that the certificates were genuine hence in view of such investigation they considered that the termination be withdrawn.

4. Mr. Amir Malik learned Counsel for defendant has vehemently opposed the contention and submits that the plaintiff could not have applied on the basis of result card dated 04.9.2010 and hence this document was not verified by the Board of Intermediate & Secondary Education. Though the plaintiff’s contentions were considered by the Managing Director but the contention of the counsel was that this document which is placed as result card of 2010 was not considered by Managing Director. He denied that such delegation of power provides authority to the Managing Director to reinstate the plaintiff in presence of result card. He however has not denied the documents and contents of letter dated 10.2.2014 and endorsement made thereon by Managing Director.

5. I have heard the learned Counsel and perused the record. There is no cavil to this proposition that none of the document placed on record was denied by either of the party including those filed today which resulted in admission of all documents available on record.

6. The observation of the Managing Director in this regard is very crucial. Mr. Amir Malik has seriously relied upon the result card of 2010. The subsequent letter of 10.3.2015 clarifies that on further investigation it transpired when plaintiff produced a letter of the Board of Intermediate & Secondary Education which confirms the fact of 2010 examination as on account of certain discrepancies the results were withheld and were subsequently held in 2011. Therefore there is no question of result card of 2010 being bogus or otherwise and nothing would turn on that basis as he appeared in 2011 exams which were held in lieu of examinations held in the year 2010.

7. This may not be relevant to resolve the present controversy. The impugned termination letter only talks about “fake Intermediate certificate” on the basis of which plaintiff was terminated. Such letter is available as annexure A-1/6. Such Intermediate Certificate was already held to be genuine by the Board of Intermediate.

8. The PIAC Board through Managing Director has already reinstated the plaintiff after hearing hence the order of termination is not in the field. Neither it was challenged by defendant in any forum nor the PIAC Board has resiled from such decision. I need not to go into such controversy in detail insofar as exam card 2010 is concerned as it was not basis of termination. He was terminated on the assumption of fake Intermediate certificate which assumption was found to be incorrect as per record.

9. In my view insofar as the issue No.2 is concerned the termination order dated 04.2.2014 is not in the field in presence of decision based on delegation of powers through minutes of the Board of PIAC as well as the observation and order made by the Managing Director. The issue No.2 is answered in negative.

**ISSUE NO.3.**

10. Accordingly insofar as the issue No.3 is concerned, the suit is decreed to the extent of prayer clauses (i), (ii) and (iii) however nothing about seniority is being observed here.

11. The suit is decreed in the above terms.

Judge