

HIGH COURT OF SINDH, BENCH AT SUKKUR

C.P No.D-1392 of 2025

[Ali Nawaz v. Oil and Gas Development Company Ltd and others]

Before:

Justice Zulfiqar Ali Sangi-J

Justice Arbab Ali Hakro-J

Petitioner by : Mr.Jamshed Ahmed Faiz Advocate

Respondents No.1 to 5 by : Mr.Asim Iqbal Advocate

Respondents No.6 to 8 by : Mr. Naveed Ahmed Shah, Deputy Attorney General

Dates of hearing : **23.12.2025**

ORDER

ARBAB ALI HAKRO, J:- This constitutional petition, filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (the “**Constitution**”), calls into question the legality, propriety and jurisdictional soundness of the order dated 03.07.2025 (“**Impugned Order**”) passed by the Full Bench of the National Industrial Relations Commission, Islamabad (“**NIRC**”), whereby the grievance petition of the petitioner earlier allowed by the learned Single Member NIRC Sukkur on 03.01.2025, was set aside, resulting in the affirmation of the petitioner's dismissal from service. The material facts, as gleaned from the record, are summarised hereunder.

2. Petitioner Ali Nawaz was appointed as Helper (Store) in OGDCL on 06.09.2005. Over time, he was promoted to Helper Class-IV. His service record remained satisfactory, and no complaints were ever recorded against him during his initial years. At the time of the appointment, the petitioner submitted various documents, including his CNIC, personal data forms and other employment papers. The petitioner asserts that matriculation was not a requirement for the Helper post and that he never relied on any

matriculation certificate for appointment or promotion. In 2014, after nearly 11 years of service, OGDCL initiated a company-wide verification of educational credentials pursuant to Federal Government directives. During this process, a matriculation certificate bearing No. 259164 (Annual 1996), retrieved from the petitioner's service file, was sent to BISE Sukkur, which declared it to be bogus. The petitioner denies ever submitting this certificate and maintains that his genuine matriculation certificate is No. 379211, Seat No. 124350, which he claims was verified by BISE Sukkur during earlier NIRC proceedings. Based on the allegedly bogus certificate, OGDCL issued a show-cause notice on 18.11.2014, followed by a charge-sheet on 16.11.2016. The petitioner claims that no proper inquiry was conducted, that he was condemned unheard and that the verification was carried out behind his back. The petitioner alleges that the disciplinary proceedings were initiated due to his active trade union activities in the All Pakistan OGDCL Mazdoor Ittehad Union (CBA), particularly his participation in union elections and canvassing.

3. The petitioner challenged the show-cause notice before NIRC multiple times. Earlier petitions were dismissed for non-prosecution or on jurisdictional grounds. Ultimately, after his appeal before the NIRC Full Bench was dismissed on 30.12.2021, OGDCL dismissed him from service on 15.02.2022. The petitioner filed a grievance petition under Section 33 IRA 2012 before the NIRC Sukkur Bench, which was allowed on 03.01.2025, directing reinstatement with back benefits.

4. OGDCL filed an appeal before the NIRC Full Bench, Islamabad, which allowed the appeal on 03.07.2025, set aside the reinstatement order and dismissed the grievance petition primarily on the ground that the petitioner had submitted a bogus matriculation certificate. The petitioner has now invoked the constitutional jurisdiction of this Court under Article 199 of the

Constitution, challenging the NIRC Full Bench Impugned Order and the dismissal order dated 15.02.2022, and seeking reinstatement with full back benefits.

5. Upon notice, Respondents No.1 to 5 entered an appearance and filed their written objections, wherein they vehemently opposed the maintainability of the petition and asserted that the petitioner has approached this Court with unclean hands, having deliberately suppressed and distorted material facts. They contend that the petitioner procured his initial appointment through fraud by submitting a "forged and fabricated matriculation certificate"; upon verification by the Board of Intermediate and Secondary Education, Sukkur, it was categorically declared bogus. According to the respondents, the petitioner's entire employment record, including his application form, CNIC, personal data sheet, verification form and medical documents, consistently reflected his date of birth as 02.05.1977, which also appeared on the disputed certificate. They maintain that the petitioner never disputed these documents until the certificate was found to be fake, and his subsequent attempt to introduce another matriculation certificate bearing a different date of birth is itself indicative of manipulation. The respondents further submit that the verification exercise was undertaken pursuant to Federal Government directives dated 08.03.2011, requiring authentication of educational credentials of all employees of public sector entities. They assert that the petitioner's certificate was retrieved from his own service file and forwarded for verification in the ordinary course of this organisation-wide exercise, without any mala fide or discriminatory intent. They deny the petitioner's allegation of victimisation on account of trade union activities, asserting that disciplinary proceedings were initiated solely due to the petitioner's misconduct involving fraud, deceit, and the submission of forged documents, acts constituting gross misconduct under the Company's Efficiency & Discipline Rules. It is the respondents' stance that a "regular

inquiry” was conducted by an independent Inquiry Officer, before whom the petitioner appeared, recorded his statement and was afforded full opportunity to defend himself. The Inquiry Officer found him guilty, and, upon considering the inquiry report and the petitioner's personal hearing, the competent authority dismissed him from service on 15.02.2022. They submit that the petitioner thereafter filed multiple frivolous petitions before the NIRC, obtained interim relief through concealment, but ultimately failed on merits, culminating in the reasoned order of the NIRC Full Bench dated 03.07.2025, which rightly set aside the Single Member's order and dismissed the grievance petition. They therefore pray for dismissal of the writ petition with costs, asserting that the impugned order of the NIRC Full Bench is lawful, well-reasoned and warrants no interference in constitutional jurisdiction.

6. At the very outset, learned counsel for the petitioner contended that the impugned order of the NIRC Full Bench suffers from misreading and non-reading of the record, as the petitioner is an admitted permanent workman whose services could not be terminated except strictly in accordance with Standing Order 15(4). It was argued that no lawful inquiry was ever conducted, that the petitioner was condemned unheard, and that the alleged matriculation certificate (No. 259164) was neither submitted by him nor required for his appointment or promotion. Counsel maintained that the petitioner's genuine certificate (No. 379211) had already been verified by BISE Sukkur, yet the Full Bench ignored this material aspect. It was further submitted that the disciplinary proceedings were actuated by mala fide due to the petitioner's active trade-union role, amounting to unfair labour practice. Learned counsel supported the well-reasoned order of the Single Member NIRC directing reinstatement and prayed for restoration of the same.

7. Conversely, learned counsel for OGDCL supported the impugned order and submitted that the petitioner secured employment through fraud by submitting a forged SSC, which BISE Sukkur declared bogus. All documents submitted at the time of appointment, including the CNIC, application form, and personal data sheet, recorded the petitioner's date of birth as 02.05.1977, consistent with the disputed certificate. Counsel argued that the petitioner disowned the certificate only after it was found to be fake and later produced another certificate with a different date of birth, demonstrating manipulation. It was asserted that a regular inquiry was conducted under the Company's E&D Rules, the petitioner was heard, and the penalty of dismissal was lawfully imposed.

8. Learned DAG supported the stance of the official respondents and submitted that the NIRC Full Bench exercised its statutory jurisdiction properly and its factual findings cannot be disturbed in constitutional review. He emphasized that public employment obtained through the use of forged documents is void ab initio, and that the State is duty-bound to ensure integrity in service matters. He accordingly prayed for dismissal of the petition.

9. We have heard learned counsel for the parties and have meticulously examined the entire record, including the documents produced by the respondent-company. The matter, though presented as a dispute over the authenticity of a matriculation certificate, in truth raises broader questions concerning the integrity of public employment, the evidentiary threshold for establishing fraud and the extent to which this Court may interfere with the factual determinations of a specialized statutory tribunal.

10. At the outset, it is imperative to delineate the limits of this Court's jurisdiction under Article 199 of the Constitution. The NIRC is a specialized adjudicatory forum, vested with exclusive competence to determine

industrial disputes. Its factual findings are ordinarily accorded deference unless they are shown to be perverse, tainted by mala fide or rendered in derogation of statutory command.

11. This Court does not function as a Court of appeal over the NIRC. The judicial review jurisdiction is supervisory, not appellate. The maxim *judicis est judicare secundum allegata et probata*. It is the proper role of a judge to decide according to the allegations and the evidence. Under this maxim, a party can recover only according to its claim as stated and proved. A party cannot be allowed to prove facts inconsistent with its case as stated in the pleadings. It must be decided with reference to the allegations upon which he has himself rested it. Unless the Impugned Order is vitiated by misreading, non-reading, a jurisdictional defect, or a violation of fundamental rights, interference is unwarranted.

12. The Core Factual Matrix, whether the petitioner submitted a bogus Secondary School Certificate (SSC). The fulcrum of the controversy is whether the petitioner furnished a bogus Secondary School Certificate (SSC No. 259164, Annual 1996) at the time of his appointment. The record, when viewed holistically, leaves little room for ambiguity.

13. The petitioner's application for employment, his CNIC, his personal data form, his medical record and the disputed SSC all record his date of birth as 02.05.1977. The employer did not unilaterally insert these documents; they emanate from the petitioner himself.

14. During a company-wide verification exercise, mandated by the Federal Government vide letter dated 08.03.2011, the petitioner's SSC was forwarded to the Board of Intermediate and Secondary Education, Sukkur. The Board, through its verification letter dated 18.08.2014, unequivocally declared the certificate "manipulated/tempered / bogus."

15. The petitioner's subsequent production of another SSC bearing a different date of birth (01.05.1980) is not exculpatory; rather, it reinforces the inference drawn by the NIRC Full Bench that the petitioner attempted to "manage" a second certificate after the first was exposed. The maxim *fraus omnia vitiate*, fraud vitiates everything, applies with full vigor. Once fraud is established, the entire edifice of employment collapses, for no right can be founded upon a tainted foundation.

16. Standing Order 15(4), whether procedural safeguards were violated. The petitioner's principal legal contention is that Standing Order 15(4) was violated. The provision requires (i) written intimation of misconduct within one month of its discovery; (ii) opportunity to explain, and (iii) institution of an independent inquiry.

17. As to the one-month requirement, the employer received BISE's verification on 18.08.2014 and issued a show-cause notice on 18.11.2014. While this exceeds one month, the allegation here is '*fraud*', which is a continuing wrong. The jurisprudence of our superior courts recognizes that procedural timelines cannot be invoked as a sanctuary for fraudulent conduct. The requirement is therefore directory, not mandatory, in cases involving deceit.

18. Regarding the opportunity to explain, the petitioner was afforded a detailed show-cause notice, a personal hearing on 11.06.2015, a charge-sheet dated 16.11.2015 and the opportunity to file a written reply. This satisfies the statutory requirement.

19. As to the independent inquiry, the record demonstrates that an Inquiry Officer was appointed, evidence was considered, and a written inquiry report was prepared. The inquiry may not have been elaborate, but where the misconduct is established through documentary evidence

emanating from the issuing authority, the law does not require a trial-type inquiry. Substantial compliance suffices.

20. The maxim *lex non cogit ad impossibilia*, the law does not compel the impossible, applies. Once the issuing authority declares a certificate to be bogus, the employer is not required to undertake any forensic exercises beyond that authoritative determination.

21. The Petitioner's defence is an afterthought; the contemporaneous record contradicts his assertion that he never submitted the disputed SSC. The certificate was found in his service file; its particulars match his other documents, and his later production of a different SSC with a different date of birth is inherently suspected. The NIRC Full Bench rightly held that the petitioner's defence was an afterthought, lacking credibility and unsupported by any cogent evidence.

22. The petitioner's plea that he was victimized due to trade union activity is devoid of evidentiary support. The verification exercise was nationwide, uniformly applied and mandated by the Federal Government. No nexus between union activity and disciplinary action has been established. The maxim *onus probandi incumbit ei qui dicit*, the burden lies on him who asserts, squarely applies. The petitioner has failed to discharge this burden.

23. The Full Bench relied on binding Supreme Court precedents holding that submission of fake degrees disentitles an employee to equitable relief. It correctly applied the doctrine that fraud vitiates employment, properly appreciated the documentary evidence and identified that the Single Member had failed to address the core issue of fraud. The Impugned Order is reasoned, coherent and legally sustainable. No misreading, non-reading or jurisdictional defect has been demonstrated.

24. Jurisdiction under Article 199 of the Constitution is discretionary and equitable. A person who enters service on the basis of a bogus certificate cannot invoke constitutional equity.

25. For the reasons recorded above, we are of the considered view that the finding of fraud recorded by the NIRC Full Bench is supported by unimpeachable documentary evidence; the procedural requirements of Standing Order 15(4) were substantially complied with; the petitioner's defence is implausible and unsupported; no case of mala fide or victimisation is made out and the Impugned Order does not suffer from any legal infirmity warranting interference.

26. Accordingly, the constitutional petition is **dismissed**. The Impugned Order dated 03.07.2025, passed by the NIRC Full Bench, is maintained. There shall be no order as to costs.

JUDGE

JUDGE

Sajjad Ali Jessar