JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

W.P. NO. 3194 OF 2022

PAKISTAN TELECOM MOBILE LIMITED (UFONE) ETC.,

VS

THE LEARNED FULL BENCH, NIRC, ISLAMABAD ETC.,

Petitioners by	**:**	**Ms. Nida Faheem Advocate, proxy counsel for the Petitioners in the instant Petition as well as in connected Writ Petitions No. 3195 to 3198-2022.** **Mr. Nauman Ahmed, Manager Legal, (PTML).**
Respondents by	**:**	**Mr. Muhammad Arif Khawaja, Advocate for Private Respondents in the instant Petition as well as in connected Writ Petitions No. 3195 to 3198-2022.**
Date of hearing	**:**	**15.04.2025**

MUHAMMAD AZAM KHAN, J.

1. Through this single Judgment, I intend to dispose of five Writ Petitions i.e. Writ Petition Nos. 3194 to 3198-2022, as they have all been filed by Pakistan Telecom Mobile Limited , Ufone, etc. (**"Petitioners")** against the same Order dated 12.04.2022 (**"Impugned Order I")** passed by learned Full Bench of the National Industrial Relations Commission, Islamabad ("**NIRC"**) whereby Appeals No. 12A(16)/2021**,** 12A(17)/2021, 12A(18)/2021**,** 12A(19)/2021, and 12A(20)/2021 filed by the Petitioners/Appellants against the consolidated Order dated 28.12.2020 **("Impugned Order II")** passed by the learned Single Bench, NIRC Islamabad, have been dismissed.

2. The brief facts of the case are that all the Private Respondents were appointed to different posts to render services for the Petitioners' establishment. The Petitioners' establishment did not regularize their services despite the submission of their application. Thereafter, all the Private Respondents filed Grievance Petitions before the NIRC on 19.04.2013 seeking their regularization in

service, and after the institution of those petitions, the learned Single Bench, NIRC issued a restraining order regarding the services of the Respondents. The Petitioners filed written replies and thereafter, evidence of the Respondents was recorded on 22.07.2014. and subsequently, the Petitioners filed affidavits of their witnesses on 19.11.2014 and thereafter the *lis* remained pending for cross-examination of the witnesses. Finally, on 13.12.2019, the then learned Single Bench, NIRC closed the cross-examination of the Petitioners' witnesses. When it was brought to the notice of the learned Single Bench, NIRC that the Respondents had been terminated/rescinded vide Order dated 10.09.2018, the Grievance Petitions, having become infructuous, were dismissed vide Order dated 26.02.2020. Being aggrieved by the said order, the Respondents preferred appeal before the learned Full Bench, NIRC, which was accepted, and the Grievance Petitions were remanded to the learned Single Bench, NIRC with the direction to decide the Contempt Petition No.7(77)/2018 first and then to decide the remaining Contempt Petitions as well as the Grievance Petitions strictly in accordance with the law. The learned Single Bench, NIRC, after hearing arguments of both parties, disposed of the Grievance Petitions along with Applications/Complaints vide consolidated Order dated 28.12.2020. Feeling aggrieved of the above-mentioned consolidated order, the Petitioners filed Appeals before the learned Full Bench, NIRC. However, the learned Full Bench also dismissed all appeals vide the Impugned Order dated 12.04.2022 and upheld the order passed by the learned Single Bench, NIRC. Feeling aggrieved by the Impugned Order, the Petitioners have filed the instant Writ Petitions.

3. Ms. Nida Faheem Advocate, learned proxy counsel on behalf of the Petitioners stated that they will rely on the grounds mentioned in their Petition and the arguments advanced by the learned counsel on behalf of PTML in connecting Writ Petitions Nos. 2460 to 2464-2022, 3378 to 3383-2022, and 3395 to 3399-2022.

4. On the other hand, the learned counsel representing the Private Respondents in all the connected Petitions vehemently opposed the contentions raised in the Petition by contending that the Petitioners have failed to point out any illegality in the Impugned Order; that the learned Single Bench, NIRC has rightly allowed the Grievance Petitions of the Respondents by keeping in view the facts and evidence

available on record, while learned Full Bench, NIRC has rightly dismissed the Appeals filed by the Petitioners against said order of the learned Single Bench, NIRC. In the last, the learned counsel prayed for the dismissal of all the Petitions.

5. I have heard the learned counsel for the parties and perused the record with their able assistance.

6. The main controversy between the parties was whether the termination/rescinding Order dated 10.09.2018 was issued during the stay/injunctive order issued by the learned Single Bench, NIRC or not. On perusal of the record, the learned Single Bench, NIRC, granted a stay order on 20.05.2013 in the following manner:

> *"Learned counsel for the parties present. Before me it has been maintained that orders of this court with regard allowing the petitioners to remain in service have since been completed with. The petitioners are still on the rolls of the respondents. Petitioners, however, complained that they were not being allowed to perform duty. I am afraid to practice, if invoked will cause tremendous loss to the company itself. I therefore, direct that the petitioners shall be deemed in service till disposal of their main petitions. They shall be allowed to perform their duties and shall be paid salaries according to their entitlement regularly. This direction has given satisfaction to the petitioners. They are no more interested to pass either the contempt application or the CMA. This boar these applications are dismissed with the clear understanding that the respondent shall abide by the above commitment made before me."*

7. It is evident from the bare reading of the above-said order that the stay order was operational till disposal of the main petitions, and the termination/rescinding order dated 10.09.2018 was issued during the subsistence of the stay order. This fact has been incorporated by the then learned Single Bench, NIRC, in his Order dated 18.09.2018, passed in Contempt Petition No.7(77)/2018, which is reproduced as under:

> *"Prima facie there appears force in the arguments advanced by the learned counsel for the complainant because the interim stay was granted in the main grievance petition which has not been vacated and moreover, under a compromise the respondents have taken the petitioners on duty. The expedience of the complainant has already been recorded in the main petition and now proceedings are being adjourned for respondents evidence. In these circumstances, the impugned termination order dated 10.09.2018 is suspended till next date and proceedings be adjourned to 04-10-2018 for filing written reply by the respondents."*

8. Thus, it appears that the learned Single Bench, NIRC, has rightly observed that during the stay order, which was issued on 20.05.2013, and was effective till the final disposal of those petitions, the rescinding/termination Order dated 10.09.2018 could not be issued during that period, and as such, the same was held illegal and unlawful. On appeal by the Petitioners, the decision of the Single Bench, NIRC, was maintained vide the Impugned Order dated 12.04.2022.

9. For the foregoing reasons, this Court finds no illegality or irregularity in the Impugned Orders issued by the learned Single Bench and the learned Full Bench of NIRC Resultantly, the present Writ Petitions being devoid of any merit are hereby **dismissed**, with no order as to costs.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the open on this _____ day of April 2025.

JUDGE

//Sajid//*