JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

I.C.A. No.344 of 2015
Muhammad Sohail Khan
Versus
Federation of Pakistan through Secretary, Ministry of Information, Broadcasting and National Heritage and others

I.C.A. No.346 of 2015
Muhammad Farooq Khan and others
Versus
Federation of Pakistan through Secretary, Ministry of Information, Broadcasting and National Heritage and others

Date of Hearing:	24.04.2017
Appellants by:	Mr. Fateh Khan Niazi, Advocate.
Respondents by: .	Mr. Israr-ul-Haq Malik, learned A.A-G., Ms. Shahida Parveen Sukhera, Advocate for respondents No.2 and 3.

MIANGUL HASSAN AURANGZEB, J:- Since Intra Court Appeals No.344/2015 and 346/2015, involve common questions of law and fact, we propose to dispose them of through this common judgment. Through the said appeals, the appellants, impugn the judgment dated 25.06.2015, passed by the learned Single Judge-in-Chambers, whereby, the appellants' Writ Petition No.4721/2013 titled 'Muhammad Farooq Khan etc. Vs. Federation of Pakistan etc.' and Writ Petition No.943/2015, titled 'Muhammad Sohail Khan vs. Federation of Pakistan, etc.' were dismissed.

2. The facts essential for the disposal of these intra court appeals, are that Pakistan Broadcasting Corporation ("P.B.C."), invited interested employees, who meet the required criteria, to apply for appointments against posts including Broadcast Technician in P.B.C. The prescribed qualification for the post of Broadcast Technician was Metric (Science Group in 2nd Division) plus Diploma / Certificate of one year course in Electronic / Electrical / Diesel / Air-conditioning, from a Government or Government recognized Vocational of Training Institution. The appellants, who had already been working on contract basis at

P.B.C. applied for the posts of Broadcast Technician. The appellants claimed to have undertaken courses of Radio Electronics and Radio Mechanics from a Government recognized Training Institute and produced certificates in that regard. On 30.04.2012, the appellants were offered regular appointments as Broadcast Technicians in the P.B.C. One of the conditions of the said offer was that the appellants were required to have their educational certificates verified by the concerned authorities and furnish the verification to the Deputy Controller (Personnel) P.B.C. within a period of three months, failing which the said offer could be withdrawn without further notice.

3. The appellants claim that they had the required education qualification for appointment against the posts of Broadcast Technician since they had completed two-year training course in Radio Mechanic/Electronic from the Rawal Technical Training Centre, Rawalpindi, which they claim is recognized by the Punjab Board of Technical Education, Lahore ("P.B.T.E.") under the provisions of the Punjab Board of Technical Education (Amendment) Act, 1977.

4. Apparently, an application was filed before the Human Rights Cell of the Hon'ble Supreme Court, alleging that the appellants (herein) were recruited in the P.B.C. on political considerations and on the basis of fake certificates. On 10.05.2013, this application was forwarded by the Human Rights Cell of the Hon'ble Supreme Court to the Director General P.B.C., who was required to submit a report. Vide letter dated 17.09.2013, the P.B.C. asked the Secretary, P.B.T.E. to clarify whether the "Rawal Technical Training Centre" had been recognized as a "Vocational" or a "Training Institute", and whether the certificates issued by the said Training Centre, had any authenticity. The P.B.T.E. was also asked whether two years training in the field of "Radio Mechanics" was equivalent to one year's course in "Radio & TV Electronics". Vide letters dated 01.10.2013 and 31.03.2014, the P.B.T.E. informed the P.B.C. that Rawal Technical Training Centre, Rawalpindi, had remained affiliated with P.B.T.E. up to 30.06.2011 for one year courses of

Civil Surveyor and Quantity Surveyor, and up to 30.06.2014 for two year courses of Metric Tech. Furthermore, the P.B.C. was informed that the P.B.T.E. verifies only those documents which are issued by the P.B.T.E. and that the certificates in question were not issued by P.B.T.E.

5. Vide order dated 20.11.2013, P.B.C. terminated the appellants' services in accordance with clauses in their regularization letters dated 30.04.2012. In the said order, it was expressly mentioned that the appellants had failed to provide verified copies of their Diplomas / Certificates from the concerned Board of Technical Education. The amount drawn by the appellants as pay and allowance, since their regular appointments, was to be recovered from them.

6. On 27.11.2013, P.B.C. submitted a report to Hon'ble Supreme Court to the effect that the appellants' services had been terminated.

7. The appellants had initially been appointed in P.B.C. on contract basis. The appellants' claim that their services were regularized pursuant to the decision taken by the Cabinet Sub-Committee ("C.S.C.") on regularization of contract / daily wages employees in its meeting held on 15.12.2011. The office memorandum dated 15.03.2012, issued by the Establishment Division, shows that in the said meeting, the C.S.C. agreed to regularize 661 employees of the P.B.C. In the said office memorandum, it was expressly mentioned that the regularization was "subject to the fulfillment of recruitment criterion".

8. Apparently, the appellants had filed representations / appeals before the Secretary, Ministry of Information, Broadcasting and National Heritage ("I.B. & N.H.") (respondent No.1), against the termination of their employments. The appellants' representations/appeals are not available on the record. Vide order dated 17.02.2014, the appellants' services were restored. However, in the said order, it was mentioned that the verification process by the government agencies/departments was to take place and a decision would be taken. Subsequently, vide order dated 17.10.2014, the order

dated 17.02.2014, (whereby, the appellants' service were restored) was withdrawn.

9. Vide respondent No.1's letter dated 24.11.2014, the Director General P.B.C. was called upon to restore the appellants' services. In the said letter, it was observed that P.B.C.'s letter dated 17.10.2014, had been issued without the approval and the consent of the respondent No.1. Furthermore, vide letter dated 20.02.2015, respondent No.1 asked the Director General P.B.C. as to why respondent No.1's decision dated 24.11.2014, regarding the restoration of the appellants' services, had not been implemented.

10. On 31.03.2015, Writ Petition No.943/2015, was instituted by the appellant (Muhammad Sohail Khan) seeking *inter-alia* the implementation of respondent No.1's letter dated 24.11.2014 and 20.02.2015. On 20.12.2013, the appellants (namely, Muhammad Farooq Khan, Muhammad Rohtas Khan, and Muhammad Haroon Khan) filed Writ Petition No.4721/2013, challenging the orders dated 20.11.2013, and 12.12.2013, whereby their services were terminated.

11. As mentioned above, vide judgment dated 25.06.2015, the said writ petitions were dismissed. It was *inter alia* held by the learned Single Judge-in-Chambers, that the appellants had not filed an appeal against the termination of their services in accordance with Regulation No.11 of the Pakistan Broadcasting Corporation Employees (Efficiency and Discipline) Regulations, 1979. ("the 1979 Regulations"). Regulation No.1 of the said 1979 Regulations provided a right of appeal to the Director (Administration and Public Affairs). Since the Secretary, Ministry of I.B. & N.H. was not the competent appellate authority, his orders, on the appellants' representations / appeals, were without lawful authority and in violation of the said Regulations. The said judgment dated 25.06.2015, has been impugned in the instant intra court appeals.

12. Learned counsel for the appellants submitted that the appellants possessed the required educational qualifications for appointment against the posts of Broadcast Technicians on

regular basis; that the appellants had not submitted a forged certificate from the Rawal Technical Training Centre; that the said Centre was duly recognized by the P.B.T.E.; that the appellants' services had been regularized by the C.S.C. on regularization; that the P.B.C. could not stop the pay and allowances to the appellants after their regularization; that the Secretary, Ministry of I.B. & N.H. was the competent appellate authority, therefore, P.B.C. was bound to implement his orders dated 24.11.2014 and 20.02.2015. Learned counsel for the appellants prayed for the intra court appeals to be allowed, and for the impugned judgment dated 25.06.2015, to be set aside.

13. On the other hand, Ms. Shahida Parveen Sukhera, learned counsel for P.B.C., submitted that the impugned judgment dated 25.06.2015, was strictly in accordance with the law; that the Secretary, Ministry of I.B & N.H. was not the competent appellate authority to hear appeals/representations against the termination of the appellants' services; that according to the letters dated 01.10.2013, and 31.03.2014, the Rawal Technical Training Centre had remained affiliated with P.B.T.E. for only two courses, which the appellants have admittedly not undertaken; that for the courses which the appellants claimed to have undertaken at the Rawal Technical Training Centre, there was no affiliation or recognition with the P.B.T.E; and that the appellants' termination of service were strictly in terms of their letters of appointment dated 30.04.2012. Learned counsel for P.B.C. prayed for the intra court appeals to be dismissed. The learned Assistant Attorney-General adopted the arguments of the learned counsel for P.B.C.

14. We have heard the contentions of the learned counsel for the contesting parties, and have perused the record with their able assistance. The facts leading to the filing of these intra court appeals, have been set out in sufficient detail in paragraphs 2 to 11 above, and need not be recapitulated.

15. It is an admitted position that the prescribed qualification for the post of a Broadcast Technician at P.B.C. was as follows:-

> ***"Metric (Science Group in 2nd Division) plus Diploma / Certificate of one year course in Electronics / Electrical / Diesel / Air-conditioning, from a government or government recognized vocational of training institution"***

16. At the time of their appointment, the appellants had submitted certificates from Rawal Technical Training Centre certifying that the appellants had completed their two-year training in Radio Mechanic and Radio Electronic from the said Centre. All these certificates, save one, were issued by the said Centre to the appellants on 31.12.2000. The certificate to appellant No.3 (Muhammad Haroon Khan) in I.C.A.No.346/2015, was issued by the said Centre on 31.12.2002. Subsequently, through an un-dated letter, the said Centre verified that the appellants had remained students at the said Centre in the courses of Radio Electronic and Radio Mechanic.

17. The registration certificates of Rawal Technical Training Centre with the P.B.T.E. (annexed with the writ petitions) show that the said Centre was registered with P.B.T.E. as a Technical Training Centre. The said Centre's recognition by P.B.T.E. is stated to be valid up to 30.06.1985. The certificate of recognition issued by the P.B.T.E. to the said Centre is with respect to six trades i.e. Motor-winding, Radio Service, Air-conditioning, Pipe Fitting, Tailoring, and Electrician. As mentioned above, this recognition was valid up to 30.06.1985. The letters dated 01.10.2013 and 31.03.2014 from the P.B.C. to P.B.T.E. show that the said Centre remained affiliated with P.B.T.E. up to 30.06.2011 for one year courses of Civil Surveyor and Quantity Surveyor, and up to 30.06.2014 for two-year courses of Metric Tech. Admittedly, the courses of Civil Surveyor and Quantity Surveyor or Metric Tech, were not the qualifications for appointment against the posts of Broadcast Technician at P.B.C. As regards, the trades of Radio Electronics and Radio Mechanics, the said Centre had no valid affiliation or recognition with P.B.T.E. Therefore, the certificates of completion of two-year courses in Radio Electronics and Radio Mechanics submitted by the appellants at the time of their appointment were not valid.

18. The mere fact that the appellants' services were regularized by the C.S.C. for regularization, does not come to the appellants' aid. The said regularization was expressly subject to the fulfillment of the recruitment criterion. As the appellants did not fulfill the recruitment criterion for the post of Broadcast Technician at P.B.C., their services were correctly terminated.

19. The appellants' regularization letters dated 30.04.2012, show that they were appointed as Broadcast Technician in P.B.C. in BS-3. Regulation No.11 of the 1979 Regulations, shows that the appellate authority for the employees in BS-1 to BS-3 is Director (Administration and Public Affairs), and not the Secretary, Ministry of I.B.& N.H. Therefore, we do not find any legal infirmity in the findings of the learned Single Judge-in-Chambers that the Secretary, Ministry of I.B.&N.H's letters dated 24.11.2014, and 20.02.2015, regarding the restoration of the appellants' services, were without lawful authority.

20. In view of the above, these appeals are dismissed with no order as to costs. However, the appellants may prefer an appeal to the competent authority under Regulation No.11 of the 1979 Regulations. In the event, such an appeal is filed, the appellate authority is expected to decide the same strictly in accordance with law after affording an opportunity of hearing to the appellants uninfluenced by the observations made in this judgment.

(AAMER FAROOQ)
JUDGE

(MIANGUL HASSAN AURANGZEB)
JUDGE

ANNOUNCED IN AN OPEN COURT ON _____/2017

(JUDGE) **(JUDGE)**

Sanaullah*

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