

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

C. P. No. D – 7067 of 2015
a/w C. P. No. D – 7066 of 2015

DATE: **ORDER WITH SIGNATURE(S) OF JUDGE(S).**

Present:
Mr. Muhammad Faisal Kamal Alam, J.
Ms. Sana Akram Minhas, J.

Priority

1. For order on office objection
2. For hearing of Misc. No.4206/2024
3. For hearing of Misc. No.35211/2015
4. For hearing of Main Case

23.10.2025

Mr. Muhammad Atiq Qureshi, Advocate for the Petitioners
[in both Petitions].

Mr. Abdul Jalil A. Zubedi, Assistant A.G. Sindh.

ORDER

Due to commonality, by this common Order, both these Petitions are decided.

2. All the Petitioners, in both these Petitions, were employed in Respondent No.2 – Establishment, in its Weaving Department and they were verbally terminated on 17.06.1999 [as averred in the pleadings]; addressed Grievance Notices but when their grievance was not redressed, they filed their cases before the learned Labour Court, which were opposed and contested by Respondent No.2-Establishment.

3. The evidence was led by both, Petitioners and Respondents, and the learned Labour Court extended the relief to the Petitioner of back benefits from 17.06.1999 till the date of Decision, that is, 03.12.2005 in addition to compensation of fifteen months' last drawn salary. On Appeal, it was overturned through the impugned Judgment [dated 08.09.2015].

4. Learned counsel for the Petitioners has referred to the record and states that the termination was in violation of Section 12(3) of the Standing Order Ordinance, 1968, and it has been falsely claimed by the Respondent No.2 - Establishment that the Petitioners were not its employees but of a

Contractor Muhammad Aslam, that is why the Grievance Notices are also addressed to the latter. Learned counsel has relied upon the following Judgments in support of his arguments_

- i. **Judgment dated 11.02.2021** of the Hon'ble Supreme Court
[*Secretary, Government of the Punjab, Health Department, Lahore versus Inspector General of Police, Punjab, Lahore etc.*]; and
- ii. **2002 S C M R 1064**
[*General Manager/Circle Executive Muslim Commercial Bank Limited and another versus Mehmood Ahmed Butt and others*].

5. On the last date of hearing, the Partner of Respondent No.2, namely, Muhammad Javed, appeared and requested for some time, which was granted, but today despite date and time fixed matter, no one has appeared.

6. Arguments heard and record perused.

7. Since the Judgment of the learned Appellate Tribunal has overturned the Order of the learned Labour Court without discussing the evidence, therefore, we have also perused the testimonies that whether any misreading or non-reading of the evidence is done by the learned Appellate Tribunal or not. The impugned Judgment has set aside the findings of back benefits and increased the compensation from fifteen months' last drawn salaries to thirty months.

8. In all the Grievance Applications / Petitions, so also in the Affidavit-in-Evidence, it is specifically mentioned that Petitioners were not employed in all these years. Except for Petitioner No.2 – Jansher Khan, the Respondent's side never cross-examined the other Petitioners on this crucial aspect of the case. Even in their Affidavit-in-Evidence, Respondent has not asserted this fact that Petitioner were gainfully employed somewhere else, and not entitled for back benefits. As far as the testimony of Jansher Khan is concerned, in his cross-examination, he while denying the suggestion, stated that he was jobless since termination and his younger brother is maintaining him. This answer does not disprove the assertion of the said Employee / Petitioner No.2; consequently, the above assertion of Petitioners was proved.

9. The impugned Judgment is not sustainable, *firstly*, on the ground that the Appellate Tribunal being the Court of ultimate facts did not

consider the evidence nor there is any appraisal or re-appraisal and, therefore, jurisdiction is exercised illegally; *secondly*, the proven fact about the back benefits cannot be upset in the manner as is done in the impugned Judgment.

10. The request of Petitioners' counsel that the Petitioners be given back benefits up to the date of impugned Judgment, that is, 08.09.2015, cannot be accepted *firstly*, in view of the finding of learned Labour Court and *secondly*, such benefit would be undue financial advantage for the Petitioners, considering the fact that total length of employment of some of the Petitioners are not more than one and half years.

11. In view of the above, both these Petitions are accepted only to the extent that the Order of the learned Labour Court is restored to the extent of awarding back benefits [*supra*] from 17.06.1999 till 03.12.2005; however, compensation shall not be given to the Petitioners, but it is directed that they will be entitled to the service dues, if any, depending on their length of service. The impugned Appellate Orders [in both Petitions] are set aside.

12. The amount deposited with the learned Nazir of this Court can be released to the Petitioners along with accrued profit in view of the above Order.

13. Consequently, both these Petitions are disposed of along with all pending application(s), if any, but with no order as to costs.

Judge

Judge

Riaz / P.S.