

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
**C.P. No. D-5229 of 2016**

*[Mehmood Salahuddin V. Sindh Labour Appellate Tribunal and another]*

**C.P. No. D-4435 of 2016**

*[M/s. Pakistan Security Printing Corporation (Pvt.) Ltd. V. Mehmood Salahuddin and others]*

Date	Order with signature of Judge(s)
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**Before:**

Mr. Justice Adnan-ul-Karim Memon  
Mr. Justice Zulfiqar Ali Sangi

For hearing of Main Case.

**Date of hearing and Order: 11.03.2026**

M/s. Ch. Azhar Ellahi and Mohsin, Advocates for  
Petitioner in C.P. No.D-5229 of 2016.

Mr. Sardar Sultan Jahangir Khan, Advocate for  
Petitioner in C.P. No.D-4435/2016.

Ms. Wajiha Mahdi, D.A.G.

Mr. Abdul Jaleel Zubedi, A.A.G.

Mr. Shahzad Ahmed, Manager HR, Pakistan  
Security Printing Corporation (Pvt.) Limited.

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**ORDER**

**Adnan-ul-Karim Memon, J.** – Both the above Constitution Petitions under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, arise out of the same dispute relating to the judgment of the Labour Court and the Sindh Labour Appellate Tribunal.

2. In C.P. No. In D-5229 of 2016, learned counsel for the petitioner contends that, although the petitioner was reinstated, he was unlawfully deprived of back benefits. It is argued that the denial of back benefits is contrary to the settled principles laid down by the superior courts, as the petitioner remained unemployed for no fault of his own. The petitioner, therefore, seeks the setting aside of that portion of the impugned judgment and prays that the respondents be directed to pay 100% back benefits for the entire period of unemployment, along with any other relief deemed appropriate by this Court.

3. Conversely, in C.P. No. D-4435 of 2016, learned counsel for the petitioner/ employer assails the very judgments passed by the Labour Court and the Sindh Labour Appellate Tribunal, contending that the findings recorded therein are unsustainable in law. It is prayed that the impugned judgments be set aside and the grievance petitions filed by the employee be dismissed.

4. It is the case the petitioner/employee that he was employed as Supervisor (Electrical) and was performing duties of a skilled and manual nature, thereby falling within the definition of a workman under the relevant labour laws. He submitted that although the petitioner was initially terminated on allegations of habitual late attendance, the Federal Service Tribunal set aside the termination and directed reinstatement with a fresh inquiry, while leaving the question of back benefits subject to the outcome of the inquiry. He submitted that after the de novo inquiry, the management unjustifiably denied the petitioner back benefits and subsequently dismissed him from service on the basis of another charge relating to alleged unauthorized procurement of documents.

5. According to the petitioner's counsel, the documents relied upon were neither confidential nor secret and were necessary for the petitioner's defence in the inquiry proceedings. It was therefore contended that the dismissal order was illegal and amounted to victimization. He further submitted that the Labour Court, after examining the evidence, rightly held that the inquiries were not conducted in accordance with law and ordered reinstatement with full back benefits. However, the Labour Appellate Tribunal erred in modifying the judgment by depriving the petitioner of back benefits for the period from 26-06-2001 to 29-04-2004 and granting only 25% back benefits for the period from 17-06-2005 to 19-05-2015. Counsel argued that once termination is held unlawful, grant of back benefits is a natural consequence of reinstatement, and denial thereof amounts to rewarding the employer for its illegal action. He further contended that the Tribunal wrongly presumed gainful employment merely because the petitioner performed Hajj and Umrah, despite the employer's own witness admitting that no evidence had been produced to show that the petitioner was employed elsewhere. He prayed to allow the employees petition and dismiss the petition filed by the employee/company.

6. On the other hand, learned counsel for the respondent-company argued that the petitioner was not a "workman" as he was employed in a supervisory capacity in an establishment declared as an essential service and therefore the proceedings before the Labour Court were not maintainable. He further submitted that the employee had a history of misconduct and had been served with numerous warning and show-cause notices during service. According to him, the employee had admitted the charge of habitual late attendance and had even sought leniency, after which his services were terminated. Counsel for the respondent-company further argued that, in compliance with the direction of the Federal Service Tribunal, a fresh inquiry was conducted in accordance with law and the petitioner was afforded full opportunity to defend himself. The inquiry officers found him guilty of the charges, including unauthorized removal of official documents, which justified his dismissal from service. He also contended that the grievance petitions before the

Labour Court were not maintainable as the petitioner had failed to serve a statutory grievance notice and had not complied with earlier judicial directions regarding the abatement of his appeals before the Tribunal. It was further argued that the petitioner/employee could not claim back benefits for the entire period when he admittedly had not performed any work and was financially active, as reflected from his NTN registration, maintenance of vehicles, and foreign travel including Hajj and Umrah. According to the respondent's counsel, the Labour Appellate Tribunal had already taken a balanced view by awarding 25% back benefits, and therefore no interference was/is warranted. He prayed to dismiss the employee's petition.

7. We have heard the learned counsel for the parties at length and have also perused the material available on record with their assistance.

8. At the outset, it may be noted that both the Constitution Petitions arise out of the same dispute and challenge different parts of the same judgment passed by the Labour Court and modified by the Sindh Labour Appellate Tribunal.

9. The controversy essentially revolves around two questions: (i) whether the petitioner/employee was rightly held to be a workman and entitled to reinstatement, and (ii) whether the Tribunal was justified in restricting the back benefits.

10. With regard to the objection of maintainability raised by the employer, we find that the same does not merit acceptance. It is a settled principle that the status of a "workman" is determined by the nature of duties performed and not by the designation assigned to the employee. In this regard, it is well settled that supervisory designations do not exclude an employee from the category of workman if the dominant nature of duties is manual, technical or clerical. From the record it appears that the employer did not effectively rebut the assertion that the employee was performing manual and technical duties; therefore, the Labour Court rightly assumed jurisdiction.

11. Similarly, the objection regarding non-applicability of labour laws due to the establishment being an essential service is also unsustainable. The law is well settled that mere declaration of an establishment under the Essential Services legislation does not oust the jurisdiction of labour fora unless specific rules governing service conditions are framed under the statute.

12. Coming to the merits of the disciplinary proceedings, the Labour Court recorded a finding that the dismissal order was not sustainable in law, particularly in relation to the allegation of unauthorized procurement of documents, which were admittedly not confidential. Such a finding is essentially a finding of fact based on evidence, and ordinarily does not call for interference in constitutional jurisdiction

unless shown to be perverse or suffering from jurisdictional defect. The employer has not been able to demonstrate that the said findings were arbitrary or contrary to the record. Consequently, the direction regarding reinstatement does not warrant interference.

13. The remaining controversy pertains to the grant of back benefits. It is indeed settled law that where termination of service is declared unlawful, reinstatement with back benefits is ordinarily the normal rule, though the grant of back wages is not automatic and depends upon the facts and circumstances of each case. It is now well settled principle of law in service matters that back benefits are a natural consequence of wrongful termination, but the courts may exercise discretion to restrict the quantum where circumstances justify such a limitation.

14. In the present case, the Sindh Labour Appellate Tribunal considered the entire record and observed that the employee had admitted late attendance during the earlier period, and therefore denied back benefits for the period from 26-06-2001 to 29-04-2004. With regard to the subsequent period from 17-06-2005 to 19-05-2015, the Tribunal awarded 25% back benefits while taking into account the overall circumstances of the case. The Tribunal, being the final fact-finding forum in labour matters, is competent to mould relief equitably. It is well established that this Court, while exercising constitutional jurisdiction under Article 199 of the Constitution, does not sit as a court of appeal over such findings unless they are shown to be patently illegal or perverse.

15. After examining the impugned judgment, we do not find that the discretion exercised by the Tribunal suffers from any jurisdictional defect, misreading of evidence, or violation of law warranting interference in constitutional jurisdiction. The Tribunal has attempted to strike a balance between the competing claims of the parties and has granted partial back benefits in the circumstances of the case.

16. Consequently, C.P. No. D-5229 of 2016 filed by the employee seeking full back benefits is dismissed, while C.P. No. D-4435 of 2016 filed by the employer challenging the reinstatement and partial back benefits is also dismissed. The impugned judgment dated 26.05.2016 passed by the Sindh Labour Appellate Tribunal is maintained.

17. Both petitions stand disposed of in the above terms, along with all pending applications, if any. However, with no order as to costs.

JUDGE

JUDGE