

IN THE HIGH COURT OF SINDH AT KARACHI

Present:
Irfan Saadat Khan, J.
Agha Faisal, J.

CP D 7713 of 2019 : Allied Bank Limited vs.
Khudadad Sher & Another

For the Petitioner : Mr. Shaukat Ali Chaudhry, Advocate

For the Respondents : Mr. Sardar Shabrez Khan, Advocate

Date/s of hearing : 02.12.2021

Date of announcement : 02.12.2021

JUDGMENT

Agha Faisal, J. The present petition assails an order of the Full Bench of the National Industrial Relations Commission dated 11.10.2019 (“Impugned Order”) and the earlier order of the Single member Bench of the National Industrial Relations Commission dated 06.03.2018 (“Earlier Order”) on the primary premise that the facts and circumstances were not appreciated in their proper perspective by the respective fora.

2. At the very onset petitioner’s counsel was confronted with regard to the grounds for maintaining the petition as the efficacious fora of adjudication was duly provided under the law and admittedly exhausted by the petitioner. Petitioner’s counsel did not endeavor to identify *inter alia* any jurisdictional defect, manifest illegality and / or abuse of process in respect of the Impugned Order. The counsel was further unable to demonstrate that the grounds of challenge taken with respect to the Earlier Order were not adequately addressed in the Impugned Order.

3. It is noted that the Earlier Order had conducted an appraisal of documentary evidence and rendered its findings post an exhaustive deliberation, manifest from the order. In appeal, the learned Full Bench appraised the grounds of challenge and assessed, per evaluation of the evidence, that the findings arrived at per the Earlier Order were in accordance with the law. The petitioner seeks to agitate issues of a factual nature, requiring appreciation of conflicting claims and documentation. While such an exercise is amenable for adjudication before the statutory hierarchy, it is now settled law that entertaining of a fact finding exercise, requiring appreciation of evidence and adjudication of conflicting claims, is discouraged in the exercise

of writ jurisdiction of this Court¹. Even otherwise, upon exhaustion of the final stage of appeal, the petitioner's attempt to treat the writ jurisdiction as yet another statutory appellate forum could not be appreciated.

4. It is our deliberated view that while the petitioner was aggrieved vide the Earlier Order, its objections / grounds of challenge thereto were adequately considered and addressed in the Impugned Order. Upon exhaustion of the statutory hierarchy of appeal, nothing has been articulated to merit the exercise of the writ jurisdiction of this Court.

5. In view of the reasoning and rationale herein contained, we are of the considered view that the present petition is demonstrably devoid of merit, hence, this petition, along with pending application/s, was dismissed vide short order announced in Court earlier today. These are the reasons for our short order.

JUDGE
(02.12.2021)

JUDGE
(02.12.2021)

¹ 2016 CLC 1; 2015 PLC 45; 2015 CLD 257; 2011 SCMR 1990; 2001 SCMR 574; PLD 2001 Supreme Court 415.

