

Order Sheet
**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD**

CP No. D- 1351 of 2022
CP No. D- 1352 of 2022
CP No. D- 1353 of 2022
CP No. D- 1354 of 2022
CP No. D- 1355 of 2022

Before:-
Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Irshad Ali Shah

Mr. Jamshed Ahmed Abbasi, Advocate for Petitioner(s)
Mr. Awais Aziz Arain, Advocate for respondent No.1

Date of Hearing : 18.05.2022
Date of Announcement : 18.05.2022

ORDER

MUHAMMAD SHAFI SIDDIQUI, J.- This is a bunch of five petitions arising out of the concurrent findings of two courts below one being Labour Court Hyderabad and the other being Sindh Labour Appellate Tribunal. Since common questions are involved; therefore, these cases could be disposed off by a common order. Even the Tribunal disposed off all such connected appeals by a common order impugned in these petitions.

2. The respondent(s) filed grievance petition after issuing grievance notice to the petitioner which was not responded as no reply effectively served upon respondents within or beyond statutory period. The respondent(s) then filed their respective grievance application(s) before Labour Court Hyderabad which were allowed and the termination order was declared to be illegal and these respondents were held entitled not only for reinstatement but liable to be compensated respectively as adjudged separately. Aggrieved of this order of 12th October 2021 of

the Labour Court Hyderabad, the petitioner approached the Labour Appellate Tribunal which appeals were disposed of maintaining the compensation, the reinstatement however was declined by the tribunal as it was not likely to prove productive or viable both for appellants and respondents whereas for the compensation, as granted by the Labour Court, the tribunal justified it by its own reasons.

3. The only point raised, in view of the concurrent findings of facts of two forums below is / was that the grievance applications before Labour Court was barred by time. Learned counsel for the appellant has not objected to the quantum as adjudged by the Labour Court followed by Tribunal. Neither the respondents challenged the reversal findings of reinstatement.

4. We have heard the learned counsel for the appellant and the respondents and learned A.A.G. and perused the material available on record.

5. The question of limitation was not raised by petitioner in their arguments before Labour Court whereas it was dealt with specifically by the Tribunal and concluded by sound reasoning. The grievance notice under Section 34 of the Sindh Industrial Relations Act 2013 (SIRA) was issued vide courier receipt dated 26.7.2019 (effectively served a day later) which should be responded within 15 days. From the crucial day i.e. after expiry of statutory period of 15 days, required for reply of grievance notice, the grievance application is required to be filed within 60 days under Section 34 of the SIRA. In response to a grievance notice a reply claimed to have been made by the petitioner through a courier but it was admittedly not served as they were returned unserved as being refused. The petitioner was unable to answer the query as to who refused these responses through a

courier; hence effectively no reply was served. Counsel for petitioner submits that there is apparently a delay of 4 days in approaching the Labour Court through a grievance application. The 15 days time should commence with effect from service of grievance notice. Most likely this grievance notice was served on the next day of its issuance i.e. 27.7.2019. Most likely the 15 days would be completed on 11th of August 2019 and if 60 days are counted then perhaps it is apparently barred by 4 days only as the grievance applications were filed on 15th of October 2019. 11th August and 15th October are excluded. Apparently this grievance application was barred by 4 days which was condoned by the Tribunal while exercising its discretion within the frame of SIRA 2013 as required under Section 77 of the ibid Act. The Tribunal exercised its discretion while condoning the delay under Section 5 of the Limitation Act on account of length of service rendered by these respondents.

6. Since the discretion was exercised by the Tribunal in condoning the delay within frame of SIRA Act 2013, we cannot replace our discretion with that of the Tribunal as this petition is neither statutory nor efficacious remedy. We are not sitting in appeal against order of appellate labour tribunal. The petitioners have already exhausted the remedy of appeal before Appellate Tribunal.

7. This being a situation, comprehensive order was passed by the Tribunal deciding the Appeals of petitioners being devoid of merit except with the understanding that the reinstatement shall serve no purpose. The petitions as such are dismissed.

JUDGE

JUDGE