

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C. P. NO. D-2335 / 2022

Date

Order with signature of Judge

FRESH CASE

- 1) For orders on CMA No. 21106/2022.
- 2) For orders on office objection No. 18.
- 3) For orders on CMA No. 10540/2022.
- 4) For hearing of main case.

29.08.2022.

Mr. Abdul Rauf, Advocate for Petitioner.

- 1) Granted.
- 2 to 4) Through this Petition, the Petitioner has impugned order dated 25.01.2022 passed by a Full Bench of National Industrial Relations Commission (“NIRC”) and order dated 20.04.2021 passed by a Single Bench of NIRC.

Learned Counsel for the Petitioner submits that both the forums below have reinstated the Petitioner into service of Respondents No. 2 & 3; however, back benefits have not been granted on the ground that the Petitioner could not establish that he was jobless during the period of his termination. He submits that evidence was led by the Petitioner and no question was asked from him as to this fact; hence, the Petitioner is entitled for back benefits as well.

We have heard the Petitioner’s Counsel and perused the record. At the very outset, he was confronted as to how a finding of fact recorded by two forums below constituted by and under a law can be substituted by this Court while exercising Jurisdiction under Article 199 of the Constitution and to that the Counsel for Petitioner has not been able to satisfy us. It is a matter of record that the two forums below have categorically held that the Petitioner has not been able to establish that during the period of his termination he was jobless, whereas, we have even gone through the evidence of the Petitioner and it transpires that in his cross-examination he himself has stated that he has no knowledge as to what has been written in the pleadings and his affidavit in evidence. The Court could not go behind concurrent findings of fact unless it can be shown that the finding is on the face of it against the evidence or so

patently improbable, or perverse that to accept it could amount to perpetuating a grave miscarriage of justice, or if there has been any misapplication of principle relating to appreciation of evidence or finally, if the finding could be demonstrated to be physically impossible¹. In the present case no exceptional circumstances exists.

Therefore, we are of the view that no case for indulgence is made out as to the above findings of facts; hence this Petition being conceived is hereby dismissed in limine with pending applications.

J U D G E

J U D G E

Arshad/

¹ Federation of Pakistan v Ali Hussain (PLD 1967 SC 249) & Muhammad Shafi v. Sultan (2007 SCMR 1602)