

# IN THE HIGH COURT OF SINDH AT KARACHI

Present:  
**Muhammad Junaid Ghaffar, J.**  
**Agha Faisal, J.**

C P D 7216 of 2021 : Mactor International Limited vs.  
Full Bench NIRC & Others

C P D 7217 of 2021 : Mactor International Limited vs.  
Full Bench NIRC & Others

C P D 7218 of 2021 : Mactor International Limited vs.  
Full Bench NIRC & Others

For the Petitioners : Mr. Ali Nawaz Khuhawar, Advocate

For the Respondents : Mr. Rahatullah, Advocate

Date/s of hearing : 07.12.2022

Date of announcement : 07.12.2022

## ORDER

**Agha Faisal, J.** The facts common *inter se* are that the contesting respondents were charged for misconduct, however, dismissed on account of absenteeism. The grievance petitions were allowed by the learned Single bench NIRC and the respective orders were maintained in appeal by the learned Full Bench NIRC, hence, these petitions.

2. The original orders state that while the respective charges were insubordination / failure to act upon lawful orders, however, the dismissal was predicated upon supposed unsanctioned absence, alien to the charge sheet. It was also observed that the record was devoid of documentation evidencing the disciplinary proceedings and even delivery receipts, to show service upon the respondents, had not been adduced. The NIRC concluded that victimization of the respondents, on the basis of lawful trade union activities, stood demonstrated, therefore, the respondents were reinstated with back benefits. The learned Full Bench NIRC also appreciated the facts / evidence and concurred with the order under appeal. It is considered imperative to observe that the facts / events as denoted by the respective orders has not been denied by the petitioner's counsel.

3. Article 199 of the Constitution contemplates the discretionary<sup>1</sup> writ jurisdiction of this Court and the said discretion may be exercised in the absence of an adequate remedy. In the present matter *admittedly* there existed an adequate remedy, however, the same was duly availed / exhausted. The petitioner's counsel remained unable to articulate before us today as to why the impugned findings could not be rested on the law / record relied upon. It merits no reiteration that writ jurisdiction is not yet another forum of appeal and is restricted *inter alia* to appreciate whether any manifest illegality is apparent from the order impugned. It is trite law<sup>2</sup> that where the fora had exercised its discretion in one way and that the discretion had been judicially exercised on sound principles, interference in such discretion would not be merited unless the same was contrary to law or usage having the force of law. It is our considered view that no manifest illegality has been identified in the order impugned and further that no defect has been pointed out in so far as the exercise of jurisdiction is concerned.

4. In view hereof, we are constrained to observe that no case has been set forth to entertain these matters in the writ jurisdiction of this Court, hence, these petitions, along with pending application/s, were dismissed vide our short order announced in Court earlier today upon conclusion of the hearing. These are the reasons for our short order.

JUDGE

JUDGE

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<sup>1</sup> Per *Ijaz Ul Ahsan J.* in *Syed Iqbal Hussain Shah Gillani vs. PBC & Others* reported as 2021 SCMR 425; *Muhammad Fiaz Khan vs. Ajmer Khan & Another* reported as 2010 SCMR 105.

<sup>2</sup> Per *Faqir Muhammad Khokhar J.* in *Naheed Nusrat Hashmi vs. Secretary Education (Elementary) Punjab* reported as PLD 2006 Supreme Court 1124; *Naseer Ahmed Siddiqui vs. Aftab Alam* reported as PLD 2013 Supreme Court 323.