

**IN THE HIGH COURT OF SINDH,
AT KARACHI**

Present:

Ahmed Ali M. Shaikh, CJ
and Yousuf Ali Sayeed, J

C. P. No. D-7417 of 2018

Sabir Hussain Khan & others-----Petitioners

Versus

Federation of Pakistan & others-----Respondents

C. P. No. D-3583 of 2018

Muhammad Tariq & others-----Petitioners

Versus

Federation of Pakistan & others-----Respondents

Mr. Usman Farooque, Advocate for the Petitioners
in both the Petitions.

Jawwad A. Sarwana, Advocate for the Sindh
Employees Social Security Institution, and Faisal
Siddiqui, along with Shakoh Zulqarnain,
Advocates, for the Pakistan Institute of Labour
Economic Research, in both the Petitions.

Kazi Abdul Hameed Siddiqui, DAG. Muhammad
Jawwad Dero, Additional Advocate General, Sindh.

Date of hearing : 07.12.2022.

ORDER

YOUSUF ALI SAYEED, J. - On 11.09.2012, a massive fire engulfed a garments factory situated in the Baldia Town area of Karachi, resulting in the death of 259 workers and injury to 55 others.

2. In the wake of that tragedy, the Pakistan Institute of Labour Education and Research ("**PILER**"), along with other organizations and individuals, filed Constitutional Petition Number 3318 of 2012 before this Court, seeking directions for a judicial inquiry to be conducted, as well as for settlement of compensation, enforcement of labour laws, and the lodging of a criminal case against the factory owners.

3. During the course of those proceedings, KiK Textilien und Non-food GmbH ("**KIK**"), a German based company which was the major buyer of the products made in the factory, entered into an agreement with PILER on 21.12.2012, in terms of which a sum of US\$ 1 Million was provided by way of immediate relief compensation to the affected workers and families. The amount was distributed through a Commission formed by this Court vide an Order dated 29.01.2013 made in the aforementioned Petition, headed by a former Judge of the Honourable Supreme Court. Additionally, such further compensation as was received from philanthropists and certain Governmental sources was also distributed amongst the legal heirs of the victims in the same manner.

4. That Petition was disposed of vide an Order dated 16.03.2016, reflecting that the legal heirs of all the victims had been paid such monetary compensation for the losses suffered by them due to the aforementioned tragedy.

5. On 08.09.2016, KIK entered into an agreement for payment of an additional sum of US\$ 5.15 Million as long-term compensation to the the legal heirs and dependents of those killed in the disaster on account of loss of earnings, and for medical and allied care, and rehabilitation costs to the injured survivors. On 09.09.2016, the Arrangement for the settlement of the funding gap for the compensation to be delivered to the victims of the fire at the Ali Enterprises in Baldia was also reached between KIK, Clean Clothes Campaign, Industrial Global Union and the International Labour Organization (the “**ILO**”). Subsequently, on 21.03.2018, a Memorandum of Understanding (“**MOU**”) was signed between Government of Sindh, represented by Sindh Labour & Human Resource Department and ILO, regarding implementation of the Arrangement for settlement of the funding gap for the compensation to be delivered to the victims of the fire. In light of the MOU, disbursements in the form of a lifetime pension scheme commenced through the Sindh Employees Social Security Institution (“**SESSI**”), monitored by an Oversight Committee headed by the ILO, and including PILER as well as representatives of the Ali Enterprises Factory Fire Affectees Association as constituent members.

6. The Petitioners, who profess to be the guardian(s)/legal heir(s) of some of the victims, claim that they have not been properly informed regarding those arrangements, and to be aggrieved by the fact that the amount paid by KIK is to be invested for purpose of the pension scheme rather than distributed amongst them and other affectees. The crux of their contentions is set out in Paragraphs 10 and 11 of their pleadings, which read as follows:

“10. That a form has been issued from SESSI (Respondent No.4) and the legal heirs of the victims are being advised to sign the said form. As per said form the whole amount received is not being distributed to the effected families but it seems that the amount shall be invested by the SESSI, (Respondent No.4) in their account and from the interest they will pay a meager amount as monthly pension. **Copy of the Form is annexed herewith as ‘D’.**”

11. That earlier during the proceedings in C.P. 3818/2012 the amount received at initial stage was distributed amongst the legal heirs, by the Nazir of this Hon’ble Court. The petitioners have serious reservations on the system designed by the Respondents for disbursement of the amount presently received and they seek disbursement of amount as a whole to the petitioners and all other legal heirs/effectees of fire victims.”

7. As such, they have brought the captioned Petitions, seeking details of the Agreement with KIK and the funds received on account of compensation or any other account for payment to the legal heirs of the Baldia Town Factory Fire and disbursements made in that regard, and for the entire amount received from KIK to be disbursed to them and the legal heirs of other victims up front as per the shares earlier determined in C.P. No. 3818/2012, rather than as a continuing pension scheme.

8. Learned counsel for the Petitioners submitted that the monthly pension amounts were small compared to the amount that each set of legal heirs would stand to receive if the overall sum of US\$5.15 Million was ratably distributed outrightly between the legal heirs of the victims, and argued that immediate distribution was in their best interest.

9. Conversely, learned counsel appearing on behalf of PILER and SESSI pointed out that the pension scheme had been privately and voluntarily endowed and submitted that SESSI was obliged to act in conformity with the scheme formulated for distribution of amounts in the form of a pension as per a clear formula and was not in a position to make or arbitrarily change the disbursement mechanism. They argued that as the scheme was voluntary and bereft of any underlying statutory basis/cover, the Petitions were therefore not maintainable.

10. On consideration of the matter, it transpires that the MOU and other documents setting out the details of the funds received from KIK and the methodology of disbursement has been placed on record, hence that anxiety of the Petitioners has already been addressed. Furthermore, it is apparent from the documents and Petitioners own pleadings, as reproduced herein above, that their claim is non-statutory, and when queried in the matter, learned counsel appearing on their behalf was unable to present any argument to the contrary so as show how the claim could be addressed under Article 199 of the Constitution, or how the terms of disbursement could be compulsorily altered in the manner sought.

11. Under the given circumstances, the Petitions are found to be misconceived, and stand dismissed accordingly.

JUDGE

CHIEF JUSTICE