

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

CP D 1565 of 2023

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Order with signature of Judge(s)

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1. For order on Misc. No.7800/2023
2. For order on Misc. No.7801/2023
3. For order on Misc. No.7802/2023
4. For hearing of main case

**27.03.2023**

Mr. Ashraf Hussain Rizvi, advocate for the petitioner

1. Granted. 2. Granted, subject to all just exceptions. 3 & 4. The petitioner has assailed the order of the learned Sindh Labour Appellate Tribunal dated 20.02.2023 ("Impugned Order").

Briefly stated, the learned Labour Court had closed the side of the applicant there before, hence, had deprived him of the opportunity cross examining the petitioner's witness. Eventually, the matter came before the learned Tribunal and it was pleased to observe that it would be just and proper to allow an opportunity to the respondent to cross examine the witness so that the matter be decided on merits, therefore, had set aside the orders impugned and permitted the requisite cross examination before the learned Labour Court.

At the very onset, the learned counsel was queried as to how the petitioner was aggrieved by the Impugned Order as no manifest detriment would be caused thereto by disposal of the relevant proceedings on merit. No cogent justification could be articulated before us and even the authority relied upon was distinguishable on the pertinent facts and circumstances.

The ambit of a constitutional petition is not that of a subsequent forum of statutory appeal and is restricted *inter alia* to appreciate whether any manifest illegality is apparent from the judgment impugned. It is trite law<sup>1</sup> that where the fora of subordinate jurisdiction had exercised its discretion in one way and that discretion had been judicially exercised on sound principles the supervisory forum would not interfere with that discretion, unless same was contrary to law or usage having the force of law. No such infirmity could be identified before us.

Even otherwise Article 199 of the Constitution contemplates the discretionary<sup>2</sup> writ jurisdiction of this Court and the said discretion *may* be exercised in the absence of an adequate remedy. In the present matter no case has been set forth before us for invocation of the writ jurisdiction. In view hereof, this petition, and listed application, are hereby dismissed in *limine*.

J U D G E

J U D G E

Amjad/PA

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<sup>1</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*.

<sup>2</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*.