

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

CP D 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546,
2547, 2548, 2549, 2550, 2551 & 2552 of 2023

Date	Order with signature of Judge(s)
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1. For order on Misc. No. 12246 of 2023
2. For order on Misc. No. 12247 of 2023
3. For hearing of main case

30.05.2023

Mr. Ghulam Murtaza Saryo, advocate for the petitioners.

Briefly stated, the petitioners claim to have been reinstated in service in compliance of an order¹ of the Supreme Court. The petitioners filed complaints before the Sindh Labour Court V at Karachi accusing the respondents / officers thereof for not extending back benefits thereto on the averment that the same had been allowed by the Supreme Court. The learned Court dismissed the complaints and observed that no back benefits had been allowed by the Supreme Court; and consequently the accused were acquitted. The appeals there against were dismissed by the learned Sindh Labour Appellate Tribunal Karachi, vide judgment dated 16.02.2023, wherein it was reiterated that no back benefits were awarded by the Supreme Court and even otherwise the appeals were not maintainable as under section 47(3) of the Sindh Industrial Relations Act 2013 an appeal lies against a conviction / sentence, however, not against an order of acquittal. The respective judgments have been assailed before the writ jurisdiction of this Court.

The petitioners' counsel insisted that back benefits had been awarded by the Supreme Court, however, totally failed to substantiate the assertion from the copy of the order² of the Supreme Court placed on the record. It was then argued that since back benefits had been claimed by the petitioners in their respective grievance petitions, therefore, they *ought to be deemed to have been allowed by the Supreme Court*. No original grievance petition is placed on file and even otherwise the order of the Supreme Court cannot be given any other meaning than has been clearly illumined therein.

It is pertinent to denote that the adjudication process has already been exhausted by the petitioners; all the way up to the Supreme Court. The present grievance ostensibly arises from orders of acquittal rendered by the learned Labour Court. Petitioners' counsel graciously conceded that the appeals had been rightly non-suited on the provision of law relied upon by the learned Tribunal. However, it was insisted that the writ jurisdiction of this Court may be invoked to give an interpretation to a Supreme Court order that could not be demonstrated to be apparent therefrom. Respectfully, we find ourselves unable to accord any sanction to such a claim.

It is settled law that the ambit of a writ petition is not that of a forum of appeal, nor does it automatically become such a forum in instances where no further appeal is provided³, and is restricted *inter alia* to appreciate whether any

¹ Civil Appeal 1725 of 2007 and connected matters; Judgment dated 18.05.2010.

² Civil Appeal 1725 of 2007 and connected matters; Judgment dated 18.05.2010.

³ Per *Ijaz ul Ahsan J in Gul Taiz Khan Marwat vs. Registrar Peshawar High Court* reported as PLD 2021 Supreme Court 391.

manifest illegality is apparent from the order impugned. It is trite law⁴ 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. The impugned judgments are well reasoned and the learned counsel has been unable to demonstrate any manifest infirmity therein or that they could not have been rested upon the rationale relied upon.

Article 199 of the Constitution contemplates the discretionary⁵ writ jurisdiction of this Court and the said discretion may be exercised in the absence of an adequate remedy. In the present matter the alternate remedy has already been invoked and exhausted and no case is made out for entertaining this matter in writ jurisdiction.

In view hereof, these petitions are found to be *prima facie* misconceived, hence, while granting the applications for urgency, the petitions and listed applications are hereby dismissed in *limine*. The office may place a copy hereof in each connected file.

J U D G E
J U D G E

⁴ 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*.

⁵ Per *Ijaz UI 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*.