

IN THE HIGH COURT OF SINDH AT KARACHI
C.P.No.D-5209 OF 2024

Date Order with Signature of Judge

PRESENT:

MR. JUSTICE AQEEL AHMED ABBASI, CJ

MR. JUSTICE ABDUL MOBEEN LAKHO, J

***Pakistan Steel MillsVs.....Syed Haider Ali Rizvi
Corporation Limited. & others***

Date of Hearing 31-10-2023.

Mr.J.K. Jiskani, Advocate for the Petitioner.

ORDER

ABDUL MOBEEN LAKHO, J. Through instant petition, the petitioner has challenged the impugned order dated 09.10.2023, passed by Respondent No.2 (Full Bench NIRC, Karachi) in Appeal No.12A(69)2022-K, whereby, the order dated 02.03.2022 passed by Respondent No.3 (Member NIRC, Karachi) dismissing the restoration application of the Respondent No.1 (herein) has been set-aside and grievance petition of the Respondent No.1 has also been restored to its original position.

2. Brief facts of the case as narrated in the memo of petition is that the Respondent No.1 in the year 2012 filed Grievance Petition No.1/2012 before Sindh Labour Court for grant of benefits of Pay Group VII and re-fixation of his salary, but after promulgation of Industrial Relation Act, 2012 the jurisdiction of Labour Court for corporation employees at trans-provincial level entrusted to NIRC (National Industrial Relations Commission). On 11.09.2014 the Labour Court No.4, Karachi transferred the grievance petition of the Respondent No.1 to Respondent No.3 and according to the petitioner's counsel, the respondent No.1 stood retired from service on 22.10.2014 and during 2014 to 2021, the respondent No.1 dragged his case without concluding the proceedings and

finally on 22.02.2021 the case was called thrice, but neither respondent No.1 nor his counsel appeared, therefore, the Respondent No.3 dismissed the grievance petition of the Respondent No.1 for non-prosecution, thereafter, the Respondent No.1 filed an application for recalling the order dated 22.02.2021, which was also dismissed vide order dated 02.03.2022 by Respondent No.3 on the ground that no substance was found to allow the application, hence, application for recalling the order stands dismissed, against which the Respondent No.1 preferred an appeal under Section 58 of IRA, 2012, which was allowed by Respondent No.2 vide impugned order dated 09.10.2023 resulting in the grievance petition of the Respondent No.1 restored to its original position.

3. Learned counsel for the petitioner argued that the impugned order has been passed by respondent No.2 without considering the factual position, which is not in accordance with law, therefore, liable to be set-aside. He further argued that the petitioner raised the question before the NIRC that why the Respondent No.1 waited for 30 days for filing restoration application and could not file the such application on the same day i.e. on 22.02.2021 to fulfill the requirement of Order 9 Rule 9 CPC to satisfy the NIRC for recalling the order. Learned counsel for the petitioner while praying to set-aside the impugned order dated 09.10.2023, has cited following case law in support of his contention:-

- (1) PLD 2021 S.C. 761 (*Rai Muhammad Riaz (decd) through L.Rs. & others v. Ejaz Ahmed and others*).
- (2) PLD 1995 Lahore 15 (*Muhammad Din v. Muhammad Amin*)
- (3) 2006 SCMR 733 (*Babu Muhammad Munir v. S.A. Hameed & others*)
- (4) 1986 CLC 1119 (*Habib Bux v. Zahoor-ul-Hasan*)

4. Heard learned counsel for the petitioner and perused the record as well as case law. It appears that the Respondent No.1, who was worker of the petitioner filed a grievance petition in the year 2012 for re-fixation of his salary in Pay Group VII, came to know that on 22.02.2021 his grievance petition has been dismissed for non-prosecution, thereafter, knowing that his application for

restoration of grievance petition also dismissed filed an appeal before Respondent No.2, who after hearing both the parties and considering the legal and factual position of the matter, passed a speaking order and restoring the grievance petition to its original position. However, the petitioner in spite of the above fact and in order to drag the matter for a long time filed instant petition, which is not only vexatious against the Respondent No.1, but also not worthy of the Court's precious time. More than 10 years have passed to decide the case of a worker (Respondent No.1) whether he is entitled for re-fixation of his salary in Pay Group VII or not. It is unfortunate that instead of contesting the matter before NIRC, the petitioner has filed instant petition with the prayer to declare such impugned order restoring the grievance petition is illegal. The Supreme Court has observed in the case of *Zakir Mehmood v. Secretary Ministry of Defence (2023 SCMR 960)* that: "Courts and tribunals should regularly exercise their powers to impose reasonable costs to curb the practice of instituting frivolous and vexatious cases by unscrupulous litigants, which has unduly burdened their dockets with a heavy pendency of cases, thereby clogging the whole justice system."

5. For the foregoing reasons, the instant petition was dismissed in limine along with listed applications vide short order dated 31.10.2023, with the cost of Rs.10,000/- to be deposited with the High Court Clinic's Account within seven days.

JUDGE

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