

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Constitutional Petition No. D – 7878 of 2019
(*Rafique Ahmed Shaikh Versus Learned Full Bench NIRC & another*)

DATE	ORDER WITH SIGNATURE OF JUDGES
-------------	---------------------------------------

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing & orders: 19.8.2026

Mr. Allauddin Malik, Advocate for the Petitioner.
Mr. Faisal Mehmood Ghani, Advocate for Respondent No.2.

ORDER

Adnan-ul-Karim Memon, J. The petitioner seeks setting aside of the impugned order dated 05.05.2018 passed by Respondent No.1, restoration of his Grievance Petition pending before the learned Single Bench of NIRC in Case No.4-A(66)/2018-K with a direction to record evidence, and restoration of the status quo earlier granted by the NIRC and this Court. He further seeks suspension of the resignation letter dated 01.02.2018 allegedly obtained forcibly by Respondent No.2, payment of his salary until disposal of the Grievance Petition, and any other relief deemed just and proper.

2. The petitioner was appointed by Respondent No.2 as Customer Service Officer on 14.09.2004, and his contractual employment was renewed from time to time. He was subsequently promoted as Assistant Manager on 01.12.2006, with his contract renewed for another year on 01.12.2007. The petitioner alleges that on 01.02.2018, officials of Respondent No.2 forcibly obtained his resignation on a blank paper. On the following day, he emailed the respondent's higher authorities expressing his intention to continue in service and requesting that his resignation not be accepted; nevertheless, the respondent issued a letter accepting his resignation. Aggrieved, the petitioner approached the Single Bench of the NIRC, which passed an interim order dated 08.02.2018 restraining the operation of the resignation letter and pending for want of evidence; however, finally his case was dismissed / rejected by a full bench of NIRC by setting aside the order of Single Bench. The petitioner's counsel contends that the impugned order is illegal and that Respondent No.1 failed to appreciate that his plea was confined to continuation of the interim stay. He asserts that his grievance petition before the Single Bench was still pending for recording of evidence and could not have been dismissed at that stage, particularly when the issue of jurisdiction could have been determined after evidence. He further alleges violation of his right to a fair trial under Article 10-A of the Constitution and submits that Respondent No.2 forcibly obtained his resignation, depriving him and his family of their sole source of

livelihood. The petitioner, therefore, seeks setting aside of the impugned order dated 05.05.2018 passed by Respondent No.1, restoration of his Grievance Petition pending before the learned Single Bench of NIRC in Case No.4-A(66)/2018-K with a direction to record evidence, and restoration of the status quo earlier granted by the NIRC and this Court. He further seeks suspension of the resignation letter dated 01.02.2018 allegedly obtained forcibly by Respondent No.2, payment of his salary until disposal of the Grievance Petition. He also seeks directions to release the amount deposited by the respondents with the Nazir of this Court in favour of the petitioner as his accrued right before acceptance of his purported resignation.

3. Learned counsel for respondent No.2 has initially supported the order dated 19.8.2020 passed by the Full Bench of the NIRC and submitted that Grievance Petition of the petitioner was not maintainable before the learned Single Bench of the NIRC as he was not worker and NIRC has no jurisdiction to entertain Grievance Petition. He prayed for dismissal of the instant petition in terms of order dated 19.8.2020.

4. When confronted with the legal position of the case, both the parties, after arguing the matter at some length, agreed that the matter may be remitted to the Single Bench of the National Industrial Relations Commission, Karachi, to decide the matter based on evidence and the issue of maintainability of Grievance Application, which shall remain open for decision at appropriate stage in accordance with law.

5. Accordingly, the instant petition is remitted back to the Single Bench of NIRC for recording the evidence of the parties and the issue of maintainability, which shall remain open for the learned NIRC, within a period of one month, after affording full opportunity of hearing to the parties. So far as the amount lying with the Nazir of this Court is concerned, the same shall be subject to the outcome of the decision of Full Bench of NIRC if the aggrieved party succeeds there.

6. Without touching the merits of the case and with the consent of the parties, the instant petition along with all pending applications stands disposed of in the above terms.

JUDGE

JUDGE