

## ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

C.P. No.D-4653 of 2024

(Saqib v Rollins Industries Pvt. Ltd. and others)

C.P. No.D-4654 of 2024

(Muhammad Asim v Rollins Industries Pvt. Ltd. and others)

C.P. No.D-4655 of 2024

(Muhammad Amir Hameed v Rollins Industries Pvt. Ltd. and others)

C.P. No.D-2194 of 2024

(Rollins Industries Pvt. Ltd. and others v Learned Chairman Sindh Labour Appellate Tribunal & others )

C.P. No.D-2195 of 2024

(Rollins Industries Pvt. Ltd. and others v Learned Chairman Sindh Labour Appellate Tribunal & others )

C.P. No.D-2196 of 2024

(Rollins Industries Pvt. Ltd. and others v Learned Chairman Sindh Labour Appellate Tribunal & others )

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Date

Order with signature of Judge

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Before:-

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order:- 25.02.2026

Mr. Zain-ul-Abidin Sahito advocate for the petitioner in C.P. No. D-4653/2024 to D-4655/2024.

Mr. Ameeruddin advocate for the petitioner in C.P. No. D-2194/2024 to D-2196/2024

Mr. Abdul Jalil Zubedi AAG

Ms. Rabia Saqib APG

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**ORDER**

**Adnan-ul-Karim Memon, J.** – The petitioner in C.P. No. D-4653/2024 has filed the captioned Constitutional Petitions under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer(s): -

- a) *This Hon'ble Court may kindly be pleased to set aside the judgment of the learned Sindh Labour Appellate Court to the extent of not granting back benefits and direct the respondents to provide full back benefits to the petitioner;*
- b) *This Court may direct respondents to comply with the order of the Sindh Labour Appellate Tribunal by reinstating the petitioner in employment;*
- c) *The cost of the petition may be paid/settled by the Respondent.*

The petitioner in C.P. No. D-4654/2024 has filed the captioned Constitutional Petitions under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer(s): -

- a) *This Hon'ble Court may kindly be pleased to set aside the judgment of the learned Sindh Labour Appellate Court to the extent of not granting back benefits and direct the respondents to provide full back benefits to the petitioner;*

- b) This Court may direct respondents to comply with the order of the Sindh Labour Appellate Tribunal by reinstating the petitioner in employment;**
- c) The cost of the petition may be paid/settled by the Respondent.**

The petitioner in C.P. No. D-4655/2024 has filed the captioned Constitutional Petitions under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer(s): -

- a) This Hon'ble Court may kindly be pleased to set aside the judgment of the learned Sindh Labour Appellate Court to the extent of not granting of back benefits and direct the respondents to provide full back benefits to the petitioner;**
- b) This Court may direct respondents to comply with the order of the Sindh Labour Appellate Tribunal by reinstating the petitioner in employment;**
- c) The cost of the petition may be paid/settled by the Respondent.**

The petitioner in C.P. No. D-2194/2024 has filed the captioned Constitutional Petitions under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer(s): -

- a) That on the touch some of the principles of law, the impugned judgment of the SLAT is not sustainable and is liable to be set aside;**
- b) That the respondent, having received full and final payment in the form of cross cheques at the time of termination, is therefore not entitled to reinstatement and no further benefits.**

The petitioner in C.P. No. D-2195/2024 has filed the captioned Constitutional Petitions under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer(s): -

- a) To set aside the impugned consolidated judgments dated 22.03.2024 of the learned Sindh Labour Appellate Tribunal Karachi;**
- b) Consequently, in the first set of appeals, Nos. Hyd-176, Hyd-177, and Hyd-178 of 2023 filed by the petitioner are liable to be allowed;**
- c) While the second set of appeals Nos. Hyd-181, Hyd-182, and Hyd-183 of 2023 filed by the respondent No.1 Muhammad Amir Hameed and Muhammad Asim are liable to be dismissed;**
- d) Resultantly consolidated judgment dated 20.10.2023 of the Sindh Labour No. VI, Hyderabad may also set aside;**
- e) Consequently, the grievance petitions bearing Nos. 93,94 and 95 of 2023 filed by the respondents were dismissed.**

The petitioner in C.P. No. D-2196/2024 has filed the captioned Constitutional Petitions under Article 199 of the

Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer(s): -

- a) *That on the touch, some of the principles of law, the impugned judgment of the SLAT is not sustainable and is liable to be set aside;*
- b) *That the respondent, having received full and final payment in the form of cross cheques at the time of termination, is therefore not entitled to reinstatement and no further benefits.*

2. It appears from the record that the two sets of appeals filed before the learned Sindh Appellate Tribunal (SLAT) arise out of a common judgment dated 20.10.2023 passed by the learned Labour Court No. VI, Hyderabad in Grievance Application Nos. 93, 94, and 95 of 2023 were therefore decided through a consolidated judgment of the Sindh Labour Appellate Tribunal vide impugned judgment dated 22 March 2024. The first set of Appeals bearing Nos. HYD-176, HYD-177, and HYD-178 of 2023 were filed by Rollins Industries (Pvt.) Ltd. against its employees, namely Muhammad Amir Hameed, Muhammad Saqib, and Muhammad Asim, whereas the second set of Appeals bearing Nos. HYD-181, HYD-182, and HYD-183 of 2023 were preferred by the said employees against the same establishment, challenging the same judgment passed by the learned Labour Court.

3. Briefly stated, the petitioners/workers, who had rendered service ranging from 7 to 16 years at different positions in the establishment, were accused in the year 2020 of allegedly embezzling an amount of approximately Rs. 3.5 Crore by fabricating bogus records of daily wagers for the period from 2016 to 2020. Subsequently, they were restrained from entering the premises of the establishment and were later arrested in connection with FIR No.154/2020. Upon conclusion of the criminal trial, they were acquitted by the competent court of law. Thereafter, the petitioners/respondents filed grievance notices followed by grievance applications before the learned Sindh Labour Court-VI, Hyderabad, seeking reinstatement with back benefits. After recording evidence from both sides, the learned Labour Court, vide impugned judgment, declined reinstatement but directed payment of gratuity and severance amounts to them, with a condition that in case of non-payment, they would be reinstated in service. Being aggrieved, both parties preferred appeals before the Appellate Tribunal.

4. The learned counsel for the establishment contended that the employees were involved in serious financial misconduct and their acquittal did not automatically entitle them to reinstatement. It was further argued that the grievance applications were time-barred, no proper grievance notice was served upon the establishment, and the termination was justified in view of the allegations of embezzlement, although admittedly no departmental inquiry was conducted before termination.

5. Conversely, the learned counsel for the employees maintained that the criminal proceedings were initiated based on a false internal audit report and culminated in acquittal. It was argued that the termination was patently illegal, having been effected without conducting any lawful inquiry as required under the statutory provisions, and that the respondents were deprived of their livelihood and reputation due to the unlawful acts of the establishment. He further contended that both M/s. Rollins and M/s. Colgate was operating under the same management within the same premises, and that reinstatement with back benefits was the only adequate relief to redress the hardship suffered by the respondents. After hearing learned counsel and examining the record, the Tribunal first addressed the objection of limitation raised by Rollins Industries (Pvt.) Ltd.. It was observed that although the grievance applications were filed after the lapse of time from termination, the respondents had remained entangled in criminal proceedings arising out of FIR No.154/2020 and were acquitted only thereafter. The Tribunal held that the cause of action for reinstatement effectively accrued upon acquittal; thus, the applications were within 90 days from that date and not time-barred. Even otherwise, the filing of a condonation application was treated as a curable defect. On merits, the Tribunal noted that although an acquittal in a criminal case does not automatically entitle an employee to reinstatement, it is equally settled that criminal and departmental proceedings are distinct. In the present case, admittedly, no domestic inquiry was conducted before terminating the respondents. The management relied merely on a clause in the appointment letter permitting termination on notice, but the Tribunal held that such a clause does not override statutory requirements. Under Standing Orders 16 and 21 of the Terms of Employment (Standing Orders) Act, 2015, termination on grounds of misconduct requires a proper inquiry and lawful procedure. Since no such process was followed, the termination was declared illegal. The plea regarding non-service of grievance notice was also rejected, particularly as both sister concerns operated under the same management and premises, and postal receipts were available on record. Regarding the relief granted by the Labour Court, the Tribunal found that the conditional direction ordering payment of gratuity and severance in lieu of reinstatement was not in accordance with law. Once termination was found unlawful, a clear and definite relief ought to have been granted. However, on the question of back benefits, the Tribunal observed that such relief does not automatically follow reinstatement. Relying upon the principle laid down in *Habib Bank Ltd. v. Sindh Labour Appellate Tribunal*, it held that a worker must establish through evidence that he remained unemployed and

made efforts to mitigate his loss during the period of unemployment. In the present case, the respondents failed to produce evidence showing that they remained jobless or what efforts they made for survival, except for a general assertion of hardship. The Tribunal, therefore, confined back benefits only to the period during which they remained in judicial custody, observing that during incarceration they could not have engaged in any gainful employment. Consequently, the impugned judgment of the Labour Court was set aside. The appeals filed by the establishment were dismissed, while the appeals of the workers were allowed to the extent that the employees were ordered to be reinstated in their respective posts with continuity of service, pay and increments, with liberty to the management to transfer or reassign them as needed. However, Back benefits were restricted to the salary for the period of incarceration only. The period from release on bail till rejoining was treated as leave without pay, though contributions toward EOBI and SESSI were to be maintained and the said period was to count for retirement benefits. All appeals were disposed of in the above terms.

6. The petitioners/employees also challenged the SLAT judgment only to the extent of non-provision of full back benefits, arguing that Termination without inquiry violated statutory provisions and established legal principles. Once acquitted, employees are entitled to full back benefits, including seniority and pay for the entire period they were unlawfully kept out of service, unless they were gainfully employed elsewhere. They remained unemployed after acquittal and had no alternative means of livelihood, suffering financial hardship. The SLAT erred in limiting back benefits without considering the petitioners' lack of employment and the hardships endured.

7. Rollins Industries, in its counter petitions, argued that the petitioners had committed a serious fraud, justifying termination under the terms of their appointment letters. Full and final payments had been made at termination, and reinstatement with back benefits was not warranted. The relationship between the parties remained hostile, making reinstatement impracticable. The grievance notices were not properly served, and the petitions were filed beyond the statutory period.

8. The SLAT judgment addressed these issues and held that Petitioners were reinstated immediately with pay and increments, but back benefits were limited to the period of detention. The period post-release until rejoining was treated as leave without pay, though EOBI and SESSI contributions were maintained. The appeals of the establishment were dismissed, while the appeals of the employees were allowed. For convenience sake an excerpt of the judgment is reproduced as under:-

9. The petitioners now seek this Court's intervention to direct Rollins Industries to provide full back benefits for the period they were unlawfully out of employment, arguing that the denial of such benefits constitutes an injustice.

10. We have heard the learned counsel for the parties present in court and perused the record with their assistance.

11. Admittedly, the services of Petitioners Muhammad Saqib, Muhammad Asim and Muhammad Amir Hameed, employees of Rollins Industries (Pvt.) Ltd., were terminated without conducting any lawful domestic inquiry as mandated under the applicable labour laws. It is also an undisputed position that the criminal proceedings initiated against them culminated in their acquittal by the competent court vide judgment dated 11.04.2023. The acquittal effectively removed the very foundation on which the impugned termination orders were based.

12. Under the settled principles of service jurisprudence and industrial relations law, termination of service on allegations of misconduct without holding a proper inquiry constitutes illegal dismissal. Once such termination is declared unlawful and the employee is ordered to be reinstated, the normal rule is that reinstatement must follow with full back benefits, unless the employer establishes through cogent evidence that the employee remained gainfully employed elsewhere during the intervening period.

13. In this context, reliance may safely be placed upon the authoritative pronouncements of the Supreme Court of Pakistan wherein it has been held that where termination is found to be illegal and void ab initio, the employee is entitled to be restored to his original position along with all consequential benefits; and it was observed that denial of back benefits after reinstatement amounts to penalizing an employee for no fault of his own; the Supreme Court categorically held that once reinstatement is ordered after illegal dismissal, the employee is entitled to full back benefits unless gainful employment during the intervening period is proved by the employer; it has been laid down that acquittal in criminal proceedings arising out of the same allegations removes the stigma attached to dismissal and entitles the employee to restoration of all service benefits.

14. In the present case, the learned Sindh Labour Appellate Tribunal has already held the termination of the Petitioners to be unlawful and ordered reinstatement with continuity of service by maintaining their EOBI and SESSI contributions. However, limiting back benefits only to the period of incarceration and treating the remaining intervening period as leave without pay is legally unsustainable, as it defeats the very object of reinstatement and continuity of service.

15. Once reinstatement has been ordered, the intervening period between illegal termination and reinstatement cannot be converted into leave without pay in the absence of any finding that the Petitioners were gainfully employed elsewhere. The record reflects that no such evidence was produced by the employer. Therefore, denial of full back benefits amounts to unjust enrichment of the employer and perpetuation of the consequences of an illegal act.

16. Accordingly, in view of the settled law laid down by the Supreme Court of Pakistan, the impugned judgment of the Sindh Labour Appellate Tribunal to the extent of denial of full back benefits suffers from legal infirmity and warrants interference by this Court in exercise of its constitutional jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973.

17. Consequently, the Petitioners, having been unlawfully deprived of their livelihood due to an illegal termination subsequently found to be unsustainable in law, are entitled to reinstatement with full back benefits, including salary, increments, seniority and all other consequential service advantages, for the entire intervening period from the date of termination till their actual reinstatement. Resultantly, All petitions are disposed of along with all pending application(s), in the above terms.

JUDGE

JUDGE