

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No.D-1621 of 2025
(K. Electric Limited v NIRC & another)

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. Muhammad Ali Lakhani advocate for the petitioner.

Mr. Khurram Advocate for the respondent

Ms. Wajiha Mehdi, DAG

ORDER

Adnan-ul-Karim Memon, J. – The petitioner 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) *An order perpetually suspending/setting aside the order dated 09.04.2025, passed in Appeal No. 12(10) 2025-K (K-Electric Limited v Muhammad Sajid) by Respondent No.1's Full Bench;*
- b) *An order perpetually suspending/setting aside order dated 28.02.2025, passed in unfair labor practice application No. 4-A(59)/2024 K (Muhammad Sajid v K-Electric Limited) by respondent No.1's Single member;*
- c) *Without prejudice to forgoing and strictly in the alternative) a direction compelling respondent No. 1s Single Member to, in the first instance, determine questions of jurisdiction/ maintainability concerning Unfair Labor Practice Application No. 4-A (59)/2024-K (Muhammad Sajid v K-Electric Limited);*
- d) *Pending grant of foregoing) An order suspending operation of order dated 09.04.2025 passed in Appeal No. 12(1))/2025-K (K-Electric Limited v Muhammad Sajid) by Respondent No. 1s Full Bench & order dated 28.02.2025 passed in Unfair Labor Practice application No. 4-A(59)/2024-K (Muhammad Sajid v K-Electric Limited) by Respondent No. 1's Single Member;*
- e) *Consequently, a direction permitting the petitioner to proceed further against Respondent No.2.*

2. The controversy arises from proceedings before the National Industrial Relations Commission, where Respondent No.2 filed a grievance Petition under Section 54(e) of the Industrial Relations Act, 2012 seeking to set aside Charge Sheet dated 21.10.2024 and restrain the petitioner Company from proceeding against him. He alleged false implication, procedural irregularities in the inquiry including procurement of signatures on blank papers and denial of proper defence and victimization due to trade union activities.

3. The petitioner Company contested maintainability, asserting that disciplinary proceedings are the employer's prerogative and that no specific trade union activity

was pleaded to constitute Unfair Labour Practice, as such the learned NIRC had not demonstrate to entertain the grievance petition of private respondents.

4. Vide Order dated 28.02.2025, the learned Single Member held that allegations regarding signatures on blank papers required recording of evidence; accordingly, the interim order was confirmed and parties were directed to lead evidence. The said Order was affirmed by the Full Bench vide Order dated 09.04.2025, observing that the findings were prima facie and the matter be decided independently on merits.

5. Before this Court, the petitioner counsel contends that issuance of a Charge Sheet does not amount to Unfair Labour Practice and that the Commission assumed jurisdiction without determining foundational facts, rendering the impugned orders coram non iudice. He prayed to allow the petition.

6. Conversely, Respondent No.2 maintains that mala fide and procedural illegality in disciplinary proceedings fall within the Commission's jurisdiction, and that this Petition is premature as it challenges interlocutory orders requiring adjudication on evidence, which is yet to take place.

7. We have heard the learned counsel for the parties and perused the record with their assistance.

8. The lis before this Court essentially revolves around three legal questions for determination:

(i) whether mere issuance of a charge sheet or initiation of disciplinary proceedings constitutes an Unfair Labour Practice;

(ii) whether the National Industrial Relations Commission could assume jurisdiction at the threshold; and

(iii) whether interference is warranted against interlocutory orders confirming interim relief and directing recording of evidence.

9. It is a settled proposition of service jurisprudence that issuance of a show cause notice or charge sheet, by itself, does not amount to punishment nor does it ordinarily constitute an unfair labour practice. Courts have consistently held that disciplinary control is an incident of the employer's managerial prerogative. The Supreme Court of Pakistan reiterated that initiation of inquiry proceedings cannot be interdicted unless it is shown to be wholly without jurisdiction or tainted by mala fide apparent on the face of record. It is also settled that under labour fora must not stifle lawful disciplinary proceedings at an interlocutory stage in the absence of clear statutory violation. However, it is equally well-settled that where an employee alleges victimization on account of trade union activities, or demonstrates that disciplinary proceedings are a colourable exercise of authority intended to penalize

protected union activity, labour forums are competent to examine such allegations within the statutory framework.

10. The Supreme Court has held that the jurisdiction of the Commission under the Industrial Relations Act, 2012, extends to examining whether disciplinary action is a cloak for unfair labour practice, but such a determination must rest on pleaded facts attracting the ingredients of Section 31 of the Act. However, bald or vague assertions are insufficient.

11. Applying these principles, it emerges that the learned Single Member did not set aside the charge sheet nor finally adjudicate the matter; rather, he confirmed an interim arrangement and directed parties to lead evidence to determine whether signatures were obtained on blank papers and whether the proceedings were vitiated by mala fide. The Full Bench, in turn, clarified that its observations were prima facie and that the matter be decided independently on merits. Thus, the impugned orders are interlocutory in nature and do not determine rights of the parties conclusively.

12. The settled rule is that constitutional jurisdiction should not ordinarily be invoked against interlocutory orders of labour fora unless the order suffers from patent lack of jurisdiction or causes irreparable injustice. Interference at a premature stage would amount to pre-empting statutory adjudication.

13. In the present case, while issuance of a charge sheet per se does not constitute unfair labour practice, the allegation of procedural impropriety and victimization if specifically pleaded and proved could bring the matter within the ambit of Section 31 of the Industrial Relations Act, 2012. Since the Commission has neither finally assumed jurisdiction conclusively nor granted final relief but has merely directed recording of evidence, the orders cannot be termed coram non judice at this stage, as portrayed by the petitioner.

14. In view of the settled legal position, the impugned orders being interlocutory and evidentiary in nature do not warrant interference in constitutional jurisdiction. The proper course would be to allow the Commission to determine, on the basis of evidence, whether the disciplinary proceedings amount to unfair labour practice. The petition, therefore, is dismissed along with pending application(s) as premature, subject to the petitioner's right to assail the final order, if adverse, in accordance with law.

JUDGE

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