

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-6045 of 2023  
(*M/s Searle Pakistan Limited versus Nazim Ahmed Khan & others*)

Date	Order with signature of Judge
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Mr. Justice Adnan-ul-Karim Memon  
Mr. Justice Zulfiqar Ali Sangi

**Date of hearing and order: 20.4.2026**

Mr. Mujtaba Ahmed Bajwa advocate for the petitioner alongwith Mr. Shafiq Ahmed Khan, authorized officer of the petitioner.

Mr. Muhammad Nishat Warsi advocate, along with respondents No.1 to 4

Ms. Wajiha Mehdi, Assistant Attorney General

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**ORDER**

**Adnan-ul-Karim Memon, J.** The petitioner M/s Searle Pakistan Limited has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer: -

- (i) *Set aside the order dated 05.12.2023 passed by the Full Bench of NIRC.*
- (ii) *Dismiss the grievance application filed by the respondent Nos. 1 to 4 u/s 33 of the IRA, 2012.*

2. The petitioner has filed the present Constitutional Petition challenging the order dated 05.12.2023 passed by the Full Bench of NIRC, whereby the appeal of Respondents No. 1 to 4, including Nazim Ahmed Khan and others was allowed. As per the private respondents, they were permanent employees since the 1990s and office bearers of the CBA union, having an unblemished record. They alleged that due to their union activities, the management became hostile and initiated victimization, including the issuance of show-cause notices on allegations of misconduct. A departmental inquiry was conducted, which they termed biased and unlawful, particularly objecting to the Inquiry Officer and the presence of an unauthorized person as an investigating officer. Upon boycotting the proceedings, the inquiry was completed ex parte, and they were dismissed from service on 14.06.2018 without being afforded a proper opportunity of hearing. Their grievance petition was dismissed by the learned Single Member of NIRC on 29.08.2022; however, in an appeal under Section 58 of the Industrial Relations Act, 2012, the Full Bench set aside the said order. It held that the inquiry proceedings were legally flawed, conducted in violation of principles of natural justice, and without issuance of final show-cause notices. It was further held that the petitioner, being a trans-provincial establishment, had wrongly invoked the Sindh Terms of Employment (Standing Orders) Act, 2015, thereby vitiating the entire proceedings. Consequently, the appeal was allowed, dismissal orders were declared void, and the respondents were reinstated with full back benefits.

3. It is submitted by the learned counsel for the petitioner that Respondents No. 1 to 4 were permanent employees of the petitioner company. Due to misconduct, separate show-cause notices were issued to them on different dates in April 2018. After conducting independent departmental inquiries in accordance with the law, and upon completion of due process, all respondents were dismissed from service on 14.06.2018. Aggrieved, the respondents filed a joint grievance notice under Section 33(1) of the Industrial Relations Act, 2012, followed by grievance proceedings before the Single Bench of NIRC. The petitioner company filed preliminary objections and a detailed reply. After recording evidence from both sides, the learned Single Bench dismissed the grievance petition vide order dated 29.08.2022. However, in appeal, the Full Bench of NIRC set aside the said order on 05.12.2023, mainly because no final show-cause notice was issued and the applicable law was incorrectly invoked. The petitioner's counsel submits that the impugned order is illegal and contrary to law. The Full Bench failed to appreciate that there is no requirement for a "final show-cause notice" under the applicable labour laws. It also overlooked the fact that separate show-cause notices and independent inquiries were conducted against each respondent. Furthermore, the finding regarding the applicability of acted law is misconceived, as at the relevant time the petitioner company was not a trans-provincial establishment, and in any case, mere wrong citation of law does not vitiate lawful proceedings when no prejudice was caused to the private respondents. It is further contended that the joint grievance notice filed by the respondents was not maintainable under Section 33(1) of IRA 2012, yet this objection was not addressed by the Full Bench. In view of the above, the petitioner prays that the impugned order dated 05.12.2023 be declared illegal, set aside, and the order of the Single Bench be restored. He prayed to allow this petition.

4. Learned counsel for the private respondents submitted that the private respondents were admittedly permanent employees of the respondent establishment and also office bearers of the CBA union. They were issued show-cause notices dated 02.04.2018 under Section 21(1) of the Sindh Terms of Employment (Standing Orders) Act, 2015, alleging misconduct, which they categorically denied in their replies. It was contended that the subsequent inquiry proceedings were conducted in a biased and unlawful manner. Serious objections were raised regarding the appointment of the Inquiry Officer, Ms. Sobia Alam, as well as the presence of an unauthorized outsider, in the enquiry proceeding namely Imran Khan, who was allowed to assist the complainant during the proceedings. Despite specific objections, the Inquiry Officer permitted such participation, which was legally impermissible. Due to these irregularities, the appellants were constrained to boycott the inquiry proceedings. Learned counsel further argued that, instead of addressing these objections, the management proceeded ex parte and concluded the inquiry in the absence of the respondents,

thereby violating the principles of natural justice. It was emphasized that no final show-cause notices were issued before the dismissal orders dated 14.06.2018, rendering the respondents condemned unheard. Additionally, it was submitted that the entire proceedings were conducted under Section 21(3) of the Sindh Terms of Employment (Standing Orders) Act, 2015, even though the petitioner establishment was a trans-provincial entity, to which the said law was not applicable. Consequently, the initiation and culmination of proceedings under an inapplicable law vitiated the entire process, including the dismissal orders. In light of these submissions, it was contended that the inquiry proceedings, dismissal orders, and the impugned order of the learned Single Member were all illegal, without lawful authority, and were rightly upset by the Full Bench of NIRC, which order needs to be maintained. He prayed to dismiss the petition.

5. After some arguments, learned counsel for the petitioner submitted that the petitioner is willing to conduct a de novo inquiry through a neutral person within one month, confront all allegations, and conclude proceedings by submitting recommendations to the competent authority, which shall pass a speaking order after hearing the respondents. Learned counsel for the respondents agreed to this proposal and sought the disposal of the petition on these terms. The proposal being reasonable is accepted.

6. In view of the above and with the consent of the parties, the petition is disposed of with directions to conduct a de novo inquiry through a neutral Inquiry Officer, who shall confront the respondents with all allegations by holding the regular inquiry and conclude the proceedings within one month. The competent authority shall thereafter pass a speaking order after hearing all concerned. The issue of back benefits shall remain subject to the outcome of the regular inquiry. Consequently, the orders of the learned Single Bench and Full Bench of NIRC are set aside, and the matter is remanded for de novo inquiry as discussed supra. All pending applications also stand disposed of.

JUDGE

JUDGE