

*Order Sheet*  
**IN THE HIGH COURT OF SINDH KARACHI**

Before:

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

**Constitutional Petition No. D –4905 of 2020**

M/s. Sakina Export International Limited

*Versus*

Fayyaz Muhammad and 03 others

**Constitutional Petition No. D –4906 of 2020**

M/s. Sakina Export International Limited

*Versus*

Muhammad Shair Afazal Khan and 02 others

**Constitutional Petition No. D –4907 of 2020**

M/s. Sakina Export International Limited

*Versus*

Fareed and 02 others

Date of hearing

& order : 12.10.2020

Mr. Muhammad Ameen, advocate for the petitioners.

**ORDER**

**ADNAN-UL-KARIM MEMON, J.** – All the above referred Constitutional Petitions are being disposed of by this common order as the issues raised are similar.

2. Through these constitutional petitions, petitioner-company (M/s. Sakina Export International Limited) has assailed the common judgment dated 16.01.2020 passed by the learned Labour Appellate Tribunal Sindh at Karachi [SLAT] in Appeal Nos. KAR-64/2019, KAR-65/2019, and KAR-66/2019, whereby their respective Appeals were dismissed, however a reasonable compensation of Rs.200000/- (Rupees two hundred thousand) was awarded to each worker/private respondent, namely Fareed, Fayaz, and Muhammad Shair as full and final payment for severance of their employment relationship with the petitioner on the analogy of the length of service of the workers and conditions of unemployment prevailing in the country.

3. At the outset, we asked the learned counsel to satisfy this Court on the point of maintainability of the instant petitions on account of laches on the premise

that the alleged cause of action accrued to the petitioner in January 2020 whereas the petitioner has filed the instant petitions on 08.10.2020 which explicitly fall within the doctrine of laches.

4. Mr. Muhammad Ameen, learned counsel for the petitioner has addressed the aforesaid issue and argued that since after the passing of common judgment dated 16.01.2020 by the learned SLAT, there was a pandemic of COVID-19 in the country and there were no Court proceedings except the urgent matters only. On merits, he argued that the impugned common Judgment dated 16.01.2020 passed by the learned SLAT and the impugned judgments dated 31.07.2019 passed by the learned Sindh Labour Court (SLC) in Grievance Petitions No.47, 84 and 94 of 2019 filed by the private respondents are full of errors, based on misreading and non-reading of evidence ; that the findings of the learned Courts below are arbitrary and perverse ; that the learned Presiding Officer of SLC, as well as, Member, SLAT have failed to appreciate that the private respondents were not employees of the petitioner, and were employees of third party contractor, therefore the impugned judgments passed by both the courts below are not binding upon the petitioner ; that the petitioner was not heard by the learned SLC and ex-parte decision was announced through the impugned judgments ; that the impugned common judgment passed by the Member, SLAT, as well as, SLC are illegal, unlawful and against the law, hence, are liable to be set aside ; that there is no provision in law to award compensation to the workers as such the learned SLAT committed grave error by awarding reasonable compensation of Rs.200000/- to each of the private respondents as full and final payment to the private respondents ; that the learned SLAT wrongly held that the appeals were time barred and meritless ; that learned SLAT erred in directing the petitioner to deposit the remaining amount of Rs.1,55,000 for payment to the private respondents. He lastly prayed for allowing the instant petitions.

5. We have heard the learned counsel for the petitioner-company on the point of maintainability and perused the material available on record.

6. It appears from the record that the private respondents filed their respective grievance applications under section 34 of the Sindh Industrial Relations Act, 2013, against their verbal termination from service, by the petitioner, before the learned SLC Karachi. Their grievance applications were allowed vide order dated 31.07.2019 whereby the petitioner was directed to reinstate them in service with back benefits with effect from 28.01.2019. The petitioner being aggrieved by and dissatisfied with the aforesaid orders of learned

SLC preferred their respective statutory appeals before the learned SLAT Karachi. The learned SLAT after hearing the parties, dismissed their appeals vide common judgment dated 16.01.2020 with certain modifications in the order of learned SLC as discussed supra.

7. The main ground agitated by the learned counsel for the petitioner that the respondents were not their employees but the employees of third party contractors. This plea is not tenable in the light of judgment rendered by the Hon'ble Supreme Court in the case of *Messrs State Oil Company Limited v. Bakht Siddique and others* (2018 SCMR 1181), in which the workers employed by the third-party contractor were held to be the workers of the company.

8. Adverting to the second ground that the decision of Labour Court was ex-parte, suffice it to say, ample opportunity was given to the petitioner to defend their case, but they had chosen to remain absent, therefore, no premium can be given to them to raise this point in the writ petition. Even otherwise an ex parte judgment can only be set aside if there is a sufficient cause whereas the petitioner has failed to show sufficient cause.

9. Reverting to the third point that there is no specific provision for the award of compensation in the Industrial Relations Act/Ordinance, we do not agree with the aforesaid assertion for the simple reason that the learned SLAT has dealt with this issue at paragraphs 11 and 12 of the impugned common judgment dated 16.01.2020 and assigned valid reasons to award a reasonable compensation of Rs.2,00,000/- each to the private respondents as full and final payment for severance of their employment relationship with the petitioner-company.

10. In the light of the above facts and circumstances of the case and for the reasons alluded hereinabove, these petitions are dismissed in *limine* along with pending applications with no order as to costs.

---

J U D G E

---

J U D G E

Nadir\*