

Order Sheet

IN THE HIGH COURT OF SINDH KARACHI

C. P. No. D – 521 to 606 of 2021

Date	Order with Signature of Judge
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Priority

- 1.For hearing of CMA No.2217/21 (stay)
- 2.For hearing of main case

15.03.2021

Mr. Muhammad Ali Khan, advocate for petitioners
Mr. Jamshed Ahmed Faiz, advocate for respondents

The concurrent findings of two forums below, petitioner-company being an employer/ex-employer of the private respondents have challenged the findings of learned Sindh Bench / Full Bench of National Industrial Relation Commission, on the strength that there was no such observation as to reinstatement, as relied upon by the two forums below, and hence since there was no observation as to reinstatement there is no question of back benefits. Learned counsel also submits that without practically analyzing the evidence, which is yet to be ascertained through cogent evidence, summarily two forums below reached such conclusion which does not align with the evidence/material available on record. When confronted with the legal position of the case on the premise that lis between the parties have already been set at naught by the decision of the Hon'ble Supreme Court; and, the issue of back benefits has already been taken care of by the learned Single Bench of NIRC, concurred by the Full Bench of NIRC vide order dated 12.01.2021 had no satisfactory reply.

Because of the above legal position of the case, and after detailed deliberations on the subject matter, both learned counsels concluded that the Petition bearing C.P.No.D-225/2017, which is pending before learned Division Bench at Sukkur be heard, and till the decision, thereof the amount of back benefits, which was/is not calculated properly under the law may not be disbursed to the private respondent. Learned counsel for

the petitioner further submits that the Grievance Petition filed by the beneficiaries through their attorneys was also not maintainable.

Be that as it may, through this petition, we are not probing the aforesaid question at this stage, as the C.P.No.D-225/2017 is pending and yet to be decided. However, we make it clear that till the decision of the aforesaid petition respondent No.1 shall not attempt for encashment of bank guarantee deposited by the petitioner-company with the Nazir of this Court vide order dated 08.02.2021 and the same shall remain lying with the Nazir, till the final decision of C.P.No.D-225/2017.

In terms of the above understanding, learned counsel for the petitioners does not press these petitions, which are accordingly dismissed as not pressed, leaving the petitioners to avail their remedy before a proper forum as provided under the law. This order shall apply mutatis mutandis in all connected petitions. The office is directed to place a copy of this order in all connected petitions. These petitions stand disposed of in the above terms with no order as to costs.

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