

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Adnan Iqbal Chaudhry

Constitutional Petition No. D – 4003 of 2019

Munaza Yasmeen and others

Versus

National Industrial Relation Commission & others

Date of hearing & Order : 22.04.2021

Mr. Kamran Iqbal, advocate for the petitioners.

Mr. M. Asghar Malik, advocate for PIA.

Mr. Muhammad Nishat Warsi, DAG.

ORDER

ADNAN-UL-KARIM MEMON, J. Through the instant petition, the petitioners have assailed the findings of the learned Single Bench of National Industrial Relations Commission (NIRC), Karachi whereby their Grievance Petitions were dismissed with direction to the respondent-Pakistan International Airline Company to allow joining period to them till 13.06.2019.

2. In view of the above narration, firstly, we asked learned Counsel to satisfy this Court with regard to maintainability of this petition under Article 199 of the Constitution against the Single Member Bench of NIRC in view of Section 58 of the Industrial Relations Act, 2012.

3. Learned counsel for the petitioner replied to the query and argued that petitioners fall within the category of employees, who cannot be transferred as per PIA Transfer Manual, 2006. He further submitted that they challenged their transfer orders before the NIRC Karachi, alleging that the aforesaid transfer orders were based on unfair labour practice. However, the learned Member, NIRC vide order dated 13.05.2019, while deciding the injunction application had finally disposed of their grievance petitions by holding that petitioners had no valid ground to prove their transfer orders based on unfair labour practice. Learned counsel further submits that the petitioners have filed an appeal against the aforesaid decision before the Full Bench of NIRC at Karachi, however, such Appellate Bench is presently not available at Karachi, therefore, they have no other remedy except to approach this Court. We are not

convinced with the aforesaid reasoning put forward by learned counsel for the petitioners for the simple reason that the learned Single Bench of NIRC passed the order in the year 2019 and now we are in 2021. At this stage, learned counsel representing the respondent-PIA has stated that there were several occasions whereby the learned Full Bench of NIRC was assembled at Karachi and decided so many appeals, and the matter of the petitioners was taken up and dismissed on account of non-prosecution vide order dated 29.8.2019. We again asked the learned counsel for the petitioners as to why they have not approached the learned Full Bench of NIRC to recall its order dated 29.8.2019, he has no plausible explanation, but to reiterate his submissions as discussed supra and referred various documents attached with the memo of the petition and argued that the grounds agitated in the memo of the petition are valid to be considered for just decision of this petition.

4. We have heard learned counsel for the petitioners on the maintainability of this petition and perused the material available on record.

5. In view of the order dated 29.8.2019 passed by the learned Full Bench of NIRC in Appeal No.12 (176)/2019-K, whereby their appeals were dismissed for non-prosecution, which order is still holding the field. We are clear in our mind that this Court has no jurisdiction to adjudicate upon the matter in view of the aforesaid legal position of the case. The petition is accordingly dismissed along with the listed application leaving the petitioners at liberty to avail their remedy before the appropriate forum in accordance with law.

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