

**IN THE HIGH COURT OF SINDH, AT KARACHI**

**C.P. No. D-410 of 2025**  
(*Anwar Zaib v/s M/s Rasheed Fabrics*)

**PRESENT:**

**MR. JUSTICE MUHAMMAD FAISAL KAMAL ALAM**  
**MR. JUSTICE NISAR AHMED BHANBHRO**

Petitioner : Through Mr. S. Inayat Hussain Shah,  
Advocate.  
Respondent : Nemo for Respondents.  
Date of hearing : 03.02.2025

**JUDGMENT**

**NISAR AHMED BHANBHRO, J:** The Petitioner through instant writ Petition has assailed the concurrent findings of the two Courts, viz. Judgment dated 30.09.2024, passed by the learned Chairman Sindh Labour Appellate Tribunal, Karachi, in Labour Appeal No.KAR-159 of 2023 and the Judgment dated 19.09.2023, passed by the learned Sindh Labour Court No.V, Karachi, in Application No.10 of 2023, whereby, the Grievance Application of the Petitioner has been dismissed.

2. Succinctly, the facts of the case for filing of this Constitutional Petition are that the Petitioner (Anwar Zaib), filed a Grievance Application under Section 34 of the Sindh Industrial Relation Act, 2013, hereinafter referred as to “**the SIRA 2013**” read with Standing Order 16 (3) of the Schedule to the Sindh Terms of Employment (Standing Orders) Act, 2015, asserting therein that he has worked in Respondent Establishment (M/s. Rasheed Fabrics) as a permanent worker in the capacity of Weaver on a monthly salary of Rs.24,000/- (*rupees twenty four thousand only*) for a period of about 5 years, but the Respondent Establishment failed to secure

the fundamental rights of workers by implementing the mandatory provisions of Labour Laws, as to their contribution towards Employees Old Age Benefits Institute (EOBI) under the Employees Old Age Benefits Act, 2014, and Registration with the Sindh Social Security Institution under the Sindh Employees Security Act, 2016.

3. For enforcement of their rights, the Petitioner with co-workers decided to form Trade Union in Respondent Establishment, in the name and Style of 'Rasheed Fabrics Workers Union', in that regard submitted an Application with the requisite documents in the Office of the Registrar of Trade Union Karachi by sending an intimation notice to the Respondent Establishment, as required under Section 10 of "**the SIRA 2013**".

4. The Respondent Establishment was displeased on receipt of notice of formation of Trade Union, caused harassment and issued threats to Petitioner and co-workers, against the said victimization, the Petitioner filed a Complaint before the Joint Director Labour West Division Karachi but without any result. Per Petitioner's claim, he was terminated from Job through verbal orders and restrained from entering into the Factory Premises with effect from 01.03.2018.

5. Impugning such illegal termination, the Petitioner sent grievance notice to the Respondent Establishment claiming therein service benefits and reinstatement in Job. Respondent Establishment controverted claim of Petitioner in its Reply dated 15.03.2018 given through Factory Manager, by denying very relationship of employment with the Petitioner and asserted that he was employee of Zubair Polani and left Job at his own after full and final settlement. The Petitioner adopted legal course and set law into motion by filing grievance application under Section 34 of "**the SIRA**

**2013”** before the learned Labour Court-II at Karachi, praying for grant of back benefits and reinstatement in service.

6. The Respondent Establishment on notices by learned Trial Court made an Appearance and filed Reply with the stance mentioned above; that the Petitioner was a trouble maker and he with co-workers resorted to closure of the Department, leaving Factory Administration with no option but to close the department. The Petitioner was not terminated but he himself left his Job after full and final settlement of his claim with Zubair Polani. The Grievance Application was not maintainable, as the same was filed through Attorney, prayed for dismissal of Grievance Application.

7. The learned Trial Court based upon divergent pleadings framed Issues and Parties in proof to their respective claims led evidence. The Petitioner examined himself and Respondent Establishment examined Factory Manager.

8. The Learned Trial Court vide its Judgment dated 19.09.2023 dismissed the grievance Petition on the score that the Petitioner failed to establish his case through cogent and trustworthy evidence; he failed to bring on record the proof of his Job with the Factory and did not examine any coworker as his Witness. The Petitioner preferred Labour Appeal before the Learned Sindh Labour Appellate Tribunal at Karachi, which also met the same fate, leading to filing of instant writ Petition.

9. Heard Learned Counsel for the Petitioner and perused material available on record.

10. Learned Counsel for the Petitioner contended that Petitioner was a permanent worker, as Weaver in Respondent Establishment over a monthly salary of Rs.24,000/- (rupees twenty four thousand only),

having worked there for a period of five years till his termination. On failure of the Respondent Establishment to enforce Labour Laws guarantying welfare of workers, Petitioner with coworkers formed Trade Union and submitted an application with Registrar of Trade Union for its registration, which activity on the part of Petitioner annoyed Respondent Establishment, which started harassing, threatening Petitioner, coworkers and finally they were restrained from entering into factory premises and verbally terminated from service on 01.03.2018. He contended that verbal termination is barred in view of Standing Order 16 (3) of the Schedule to the Sindh Terms of Employment (Standing Orders) Act, 2015, which provides for such an action in writing; he emphasized that Petitioner proved his case before the learned Trial Court, as his claim as to the worker in Factory was admitted; thus, his verbal termination, without settlement of dues was no sufficient ground to dismiss the Grievance Application; there is material illegality and irregularity in the Judgments of both the Courts below on account of serious misreading and non-reading of evidence, therefore, require interference by this Court. The impugned Judgments be set-aside and Grievance Application of the Petitioner be accepted as prayed. He relied upon the case law reported in **1992 SCMR 2169** [*General Manager National Radio Telecommunication Corporation Haripur District Abotabad versus Muhammad Aslam and others*].

11. Taking up the contentions of the learned Counsel for the Petitioner stressing that Petitioner was permanent worker of the Respondent Establishment and penalized by way of termination as an act of victimization for demanding his rights safeguarded under the Labour Laws of the Country. The minutiae of the Case File reveal that Petitioner had filed his grievance Application before learned Labour Court No.II at

Karachi, through his Attorney-Mubarak Rehman, praying, *inter alia*, therein for reinstatement in service and granting of back benefits. The Petitioner claimed to be permanent employee of Respondent Establishment for last five years until his termination, whereas, Respondent Establishment emphatically denied existence of any employment relationship with Petitioner, therefore, Petitioner was burdened to prove his employment relationship with the Respondent through some cogent and reliable evidence; by no means the Petitioner could take benefit of any of weaknesses on the part of the other Party. When the Petitioner appeared in the witness box he was cross examined and specifically questioned about his employment, wherein reply he admitted that he was employed with one Zubair Polani and settled all his claims and received salaries through the said Person. Petitioner did not produce any salary slip or other document to say that he had any employment relationship with Respondent Establishment. The Petitioner even failed to examine any co-worker to support his version of victimization on account of formation of Trade Union. The documents brought on record by Petitioner in evidence as Exhibits R/1 and R/2 before the learned Trial Court fell short of the registration requirement per provisions of Sections 5 and 6 of **“the SIRA, 2013”**. Even none from the office of Registrar Trade Union Karachi was summoned or examined as a witness to say that the office had received any memorandum from workers seeking registration of Trade Union in Respondent Establishment, therefore, the assertion of Petitioner that he was terminated as an act of victimization, stands negated.

12. It is necessary to observe that the learned Trial Court has allowed the Petitioner to be cross-examined, although he filed the grievance Application through his Attorney, who also filed his Affidavit-in-Evidence, which, in fact, is the examination-in-chief, and the same person should have

been cross-examined. Since this irregularity has no adverse effect either on the overall evidence that has come on record, or, the Decisions given, therefore, in view of Article 162 of the Qanun-e-Shahadat Order, 1984, there is no need to remand the Case for retrial.

13. Adverting to the next contention of the learned Counsel for the Petitioner, that settlement of full and final dues would not debar an aggrieved worker from bringing grievance Application to Labour Court for reinstatement in service; this point has force and it gets support of the legislation too. Aggrieved worker can invoke the jurisdiction of Labour Court concerning any labour dispute, particularly for reinstatement in service when such an action was taken in violation of laws. This view also finds support from the case of *General Manager National Radio Telecommunication Corporation Haripur District Abotabad* (supra), a worker can make a challenge to his dismissal or removal from service and Court can grant a relief in that regard if is satisfied that employer's action of dismissal or removal from service was by unfair Labour practice. The Case Law cited by the Petitioner, relates to the proposition that a worker, even after receiving of his final dues, can apply for reinstatement, in view of the above discussion, the cited Judgment is distinguishable and inapplicable to the facts of the present *Lis*.

14. For what has been discussed hereinabove, this Court has reached a definite conclusion that both the Courts below have rightly decided the grievance Application of the Petitioner. No illegality, irregularity or infirmity warranting interference by this Court under its writ jurisdiction has surfaced. The Petition being devoid of merits stands dismissed in *limine*.

Karachi  
Dated : 10.02.2025  
Jamil

**JUDGE**

**JUDGE**