

# IN THE HIGH COURT OF SINDH, AT KARACHI

**C.P. No.D-1689 of 2021**

*(M/s. Silver Textile Factory versus Nadir Ali and others)*

**PRESENT:**

**MR. MUHAMMAD FAISAL KAMAL ALAM, J**

**MR. JAWAD AKBAR SARWANA, J**

Date of hearing : 10.04.2025

Petitioner

*[M/s. Silver Textile Factory]* : Through Mr. Nasir Mehmood,  
Advocate.

Respondents

*[Nadir Ali, Sindh Labour  
Appellate Tribunal and  
Ist Sindh Labour Court]* : Nemo

## **JUDGMENT**

**MUHAMMAD FAISAL KAMAL ALAM, J:** Petitioner has challenged the Appellate Tribunal Judgment (of 09.02.2021), which has set-aside the Decision of the learned Labour Court, whereby the Grievance Petition preferred by private Respondent was dismissed.

2. Despite service of Notice, Respondent No.1 (Nadir Ali) did not appear.

3. Mr. Nasir Mehmood, the learned Counsel for Petitioner has stated that although the learned Appellate Tribunal was also of the view that the Respondent should not be imposed upon the Appellant [an unwilling employer], but, at the same time has awarded him compensation, of Rs.300,000/- (*rupees three hundred thousand only*), which is also illegal, as the same is beyond the jurisdiction of learned Appellate Tribunal, which is

exercised in terms of the Sindh Industrial Relations Act, 2013 [*SIRA*]. Contends that the power to grant compensation in lieu of reinstatement was mentioned in the erstwhile Industrial Relations Ordinance, 2002 (*IPO*), viz. Section 46(5), but in subsequent legislation, both of Federal and Provincial, that provision is not mentioned, thus, impliedly it is omitted and in absence of any such express statutory provision in this regard, the monetary compensation cannot be given.

4. The defence of Petitioner (being Respondent) was that the present Respondent (being Applicant) was a daily wager recruited on 07.04.2018 and being continuously absent from duty since 01.08.2018, without any leave, his employment ended; in this regard two Letters were sent to Respondent but, not served, because, on first occasion, when the Despatch Rider was sent at the address (House No.32-D, Mohallah Nasir Colony, Karachi, East), as provided by the Respondent, the Occupant of the House stated that Respondent is not available at the given address, whereas on second occasion, the Despatch Rider reached the address mentioned in the Grievance Petition, which is care of Afzal Aziz General Store, Madina Basti, Frontier Colony No.3, Metrovil Road, SITE Town, Karachi, the Attendant at the said General Store refused to receive the Letter and stated that he did not know the Respondent.

5. Arguments heard and record perused.

6. The main grievance of the Respondent is that he was an old, permanent employee of Petitioner and his employment was verbally terminated by the Manager of Petitioner Establishment, which violated Section 16(3) of the Statute-The Sindh Terms of Employment (Standing Orders), Act, 2015. Sent the Grievance Notice to the Petitioner Establishment through Postal Service, but it was not replied to, followed by

the Grievance Petition before the learned Labour Court; thus, the termination be set-aside and reinstatement ordered.

7. Since there are conflicting Decisions, the Evidence available in record is considered only to see that whether any misreading or non-reading is committed in the impugned Judgment or not, as argued by the Petitioner's Counsel.

8. The Respondent in his cross-examination, has not denied the fact that in his Job Form, his date of appointment is mentioned as 01.04.2018, besides admitting that he has directly filed the Grievance Petition in the Court and has not sought redressal elsewhere. This admission is contradictory to the stance of Respondent that he is working in Petitioner for the past 14 years, as well as his second assertion, that prior to filing the Grievance Notice, he filed the Grievance Application before the Petitioner, which was a statutory requirement under Section 34 of the Sindh Industrial Relations Act, 2013 [*SIRA*].

9. In support of its defence, the Petitioner's Representative and a Despatch Rider testified. Nothing contradictory is stated in the cross-examination, in particular, assertion in examination-in-chief, that Respondent worked with the Petitioner for a total period of three months and 24 days for which he has received his dues, could not be falsified.

The Dispatch Rider, namely, Liaquat Khan, asserted the fact that he has reached the vicinity, but could not deliver the Letters, because, on first occasion, the Lady at the given address and neighbours had stated that Respondent did not reside there and second time, at the different address, the attendant of Afzal Aziz General Store, stated that no person by the name of Nadir Ali (Respondent) resided at the given address; these crucial

facts could not be disproved in the cross-examination. Despatch Rider has also produced the Envelope bearing address of Respondent.

10. The Grievance Petition of Respondent was dismissed, which was overturned in the Appeal (as stated above). The finding of the fact by the learned Labour Court that the Respondent has failed to prove about his long association [of fourteen years] with Petitioner Establishment, has been overturned in the impugned Judgment, but, without discussing the evidence, and on assumption that since he worked for more than three months, he was a permanent employee.

11. In the impugned Judgment, non-delivery of the two Notices by the Petitioner upon the Respondent to join the duty is also adjudged against the Petitioner with an adverse observation that the Notices are fabricated, and why these Letters were not sent through Post; but no evidence in this regard is discussed.

12. The Impugned Order is erroneous, as the learned Appellate Court did not exercise the jurisdiction properly and lawfully. Appraisal / reappraisal of evidence is not done, while overturning the findings of fact by the learned Labour Court.

As far as the award of monetary compensation is concerned, we do not agree with the argument of Petitioner's Counsel, that it cannot be awarded, since no express statutory provision exists in the present scheme of statute. Following two Decisions controvert such view\_

- i. **2021 PLC 124**  
*[Azeem Weaving through Manager / Owner versus Muhammad Arshad and 2 others]*
- ii. Unreported Decision in the Case of  
*[Gul Faraz versus Member S.L.A.T. and others]*

However, awarding compensation in this particular *Lis* was not justified, considering the detailed discussion done by the learned Labour Court after the appraisal of the evidence, as mentioned in the foregoing Paragraphs.

Consequently, we set-aside the impugned Judgment with directions that the Petitioner Establishment should pay Service Dues [if any] to Respondent immediately, and if the Respondent is not traceable then deposit the same in the concerned Administration Office / Branch of the learned Labour Court, wherefrom Respondent can withdraw the amount as per Rules and Procedure.

No order as to costs.

JUDGE

JUDGE

Karachi

Dated 03.10.2025

M.Javaid PA