

**ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI**

Date	Order with signature of the Judge
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Present:

Mr. Justice Muhammad Iqbal Kalhoro.

Mr. Justice Muhammad Abdul Rehman.

C.P.No.D-6094 of 2023

Pharmatec Pakistan (Private) Ltd.

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Petitioner

Vs.

National Industrial Relations Commission & others.....

Respondents.

03.10.2025.

Mr. Farhan Minhas a/w Sadia Sumera, advocate for Petitioner.

Malik Altaf Hussain, advocate for respondent.

O R D E R

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MUHAMMAD IQBAL KALHORO J: This petition impugns an order dated 10.11.2023 passed by National Industrial Relations Commission (NIRC) dismissing two appeals filed by petitioner against respondents No.4 to 8 challenging orders passed by Member NIRC, Karachi Bench in Case No.7A(255)/2019 and petition No.4-B(94)/2019-K.

2. The brief facts show that the respondents aggrieved by termination order passed by petitioner in 2019 filed petitions stating that they were the workmen in petitioner-establishment and were terminated illegally. Earlier also, when they were terminated, they filed grievance petition before Labour Court No.III, Karachi which was allowed vide order dated 29.04.2010, hence they were reinstated in service. The establishment challenged the decision before Sindh Labour Appellate Tribunal, Karachi but did not succeed, hence filed petitions before this court.

3. Meanwhile, in order to avoid contempt proceedings for violating order of Sindh Labour Appellate tribunal, petitioner reinstated the respondents with only basic pay and kept them away from doing any physical work or performing duty in the company. Subsequently, the management again issued termination orders of the respondents, they served a grievance notice dated 15.11.2019 but to no avail, hence they filed petitions.

4. The establishment/petitioner in response to notice before Single Member, NIRC filed its response stating that after restructuring, the posts the

respondents were working on, were abolished, hence their services were not required and were terminated. The Single Member, NIRC however, did not agree with the stance of the petitioner, and allowed the petitions vide order dated 19.11.2022 which the petitioner challenged before Full Bench of NIRC at Karachi. The said challenge has resulted into impugned order.

5. Learned counsel for petitioner has taken up the same plea in his arguments that the petitioner is a pharmatec company, the retrenchment was carried out after shutdown of certain portions/components of the company rendering the posts the respondents were working on redundant, hence their services were no more required and terminated. His next argument is that learned Full Bench of NIRC has relied upon section 11(A) of the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 which was repealed by The Sindh Shops and Commercial Establishment Act, 2015, hence the reliance on the said provision of law by the Full Bench of NIRC is bad and not sustainable.

6. On the other hand, learned counsel for respondents has supported the impugned order and has submitted that the said provision of law was repealed to the extent of inter provisional entities, the petitioner is intra provisional entity, hence the said provision of law is still applicable to it.

7. We have heard the parties and perused relevant material. The only ground, the services of the respondents were terminated on, is anchored in the claim of petitioner that it had restructured and reorganized the company, whereby the posts held by the respondents were abolished and they were rendered redundant. Regarding which, it appears, petitioner did not produce any evidence either before Single Member or Full Bench of NIRC. The alleged retrenchment of respondents happened due to restructuring and reorganizing the company which is a hard fact, needed to be brought on record to justify the action against the respondents. Heavy burden lied upon the petitioner to establish the fact of reorganization and restructuring of the company as a reason to terminate services of the respondents.

8. Not the least, when respondents before current termination had also been terminated in 2010 which they had challenged before relevant forums successfully. Although the respondents were reinstated in service but the facts of the case show that they were being paid only basic salary and were kept

away from performing physical work in the company. While the said situation was being perpetuated, the respondents were again terminated due to purported retrenchment on account of closure of some components of the company. The necessary evidence in proof of such facts, therefore, was required to be brought on record to dispel impression of malafide, on the part of petitioner in view of its unsuccessful past bid to terminate them, as a reason behind termination of the respondents. It is an admitted position that in a petition the factual controversies cannot be sorted out, in absence of any evidence leaning in favour of petitioner supporting its stance i.e. retrenchment and reorganization of the Company, the orders rendered by both the forums below deciding the facts in favour of respondents cannot be upset. Hence, we are obliged to hold that this petition is devoid of merits.

9. Before parting with this order, we may observe that in compliance of order dated 15.02.2024 the petitioner had deposited back benefits of the respondents which may be disbursed to them alongwith profit in accordance with their respective share.

The petition is dismissed alongwith pending application.

JUDGE

JUDGE