

ORDER SHEET  
 IN THE HIGH COURT OF SINDH, KARACHI  
 Constitutional Petition No. D-5289 of 2023  
 (M/s Shaheen Airport Services (SAPS) versus Riaz Ahmed Khan & others)

Date	Order with signature of Judge
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Before:-  
 Mr. Justice Adnan-ul-Karim Memon  
 Mr. Justice Muhammad Hasan (Akber)

1.

**Date of hearing and order: 21.5.2026**

Mr. Faisal Shahzad advocate for the petitioner  
 Mr. Abdul Rauf advocate for respondent No.1  
 Mr. Muhammad Akbar Khan, Assistant Attorney General

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### **ORDER**

**Adnan-ul-Karim Memon, J.** Petitioner has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer: -

*i) It is therefore prayed that this Court may be pleased to allow this petition and set aside the order of the learned Full Bench NIRC dated 14.09.2023 and that of the learned Single Member Bench dated 07.04.2022, while declaring them illegal, passed in excess of the jurisdiction and against law, especially with reference to the Honorable Supreme Court judgment 2018 SCMR 802.*

*ii) To suspend the operation of Order(s) dated 14.09.2023 & 07.04.2022 passed by the Learned Full bench & Single Member, National Industrial Relation Commission Karachi till final decision of this Petition.*

2. Learned counsel for the petitioner submitted that respondent No.1 had filed a grievance petition under Section 33(1) of the Industrial Relations Act, 2012, before the National Industrial Relations Commission (NIRC), Karachi, challenging his termination from service and seeking reinstatement with back benefits. The grievance petition was allowed by the learned Single Member Bench vide order dated 07.04.2022, whereby respondent No.1 was directed to be reinstated and treated as a regular employee with half back benefits from the date of filing of the petition. The said order was subsequently maintained by the learned Full Bench of NIRC through judgment dated 14.09.2023. Counsel contended that both the impugned orders are without lawful authority and passed in excess of jurisdiction. He argued that Shaheen Airport Services (SAPS) is a non-statutory organization functioning under the Shaheen Foundation, established through a welfare scheme for Pakistan Air Force personnel, and therefore, the relationship between SAPS and its employees is governed by the principle of master and servant as well as the contract of employment. According to him, disputes arising out of such contractual employment can only be agitated before the competent civil court and not before the NIRC. It was further argued that the

learned NIRC misconstrued the judgment reported as 2018 SCMR 802, wherein the Hon'ble Supreme Court recognized the jurisdiction of NIRC only in relation to labour disputes concerning organizations functioning in more than one province. Counsel submitted that the said judgment does not extend jurisdiction to adjudicate individual service matters of employees of non-statutory bodies such as SAPS. He maintained that although Section 33 of the IRA, 2012 provides for redressal of individual grievances, the same applies only to employees of statutory corporations and public sector organizations, and not to employees of private or non-statutory entities. Counsel further submitted that SAPS is neither a separate legal entity nor a public company registered with SECP, but merely a department of Shaheen Foundation, whose affairs are managed by the Foundation itself. He also contended that the petitioner engages employees on a contractual basis depending upon operational requirements and contracts with various airlines; therefore, a reduction in workforce is a necessary consequence of a reduction in such contracts. On these premises, learned counsel prayed that the judgments dated 07.04.2022 and 14.09.2023 passed by the learned Single Member and Full Bench of NIRC, respectively, be declared illegal, without jurisdiction, and liable to be set aside.

3. Conversely, learned counsel for the respondent submitted that, despite the label of contractual employment, the respondent had continuously served for more than ten years on a permanent post and had consequently attained the status of a permanent workman by operation of law under the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968. It was further argued that his services were terminated without following the mandatory procedure prescribed under Standing Order 12(3), as no reasons were assigned and no misconduct proceedings were initiated against him. He prayed to dismiss the petition.

4. We have heard the learned counsel for the parties on the maintainability of the petition and perused the record with their assistance.

5. The learned Full Bench of the National Industrial Relations Commission (NIRC), Karachi, while dismissing the appeal filed by SAPS, maintained the order of the learned Single Member Bench directing reinstatement of the respondent with consequential benefits. The Full Bench observed that the respondent had been engaged as a Cargo Assistant since 2008 and continuously worked till 2018 without any break, against work of a permanent nature. Although the appellant claimed that the respondent was employed on a contract basis, no evidence of valid extensions or fresh contractual arrangements was produced. The Full Bench held that the respondent's employment squarely fell within the definition of "permanent workman" under Standing Order 1(b), as he had worked

continuously for a period far exceeding the prescribed duration on work of permanent nature likely to continue for more than nine months. The Bench observed that labour laws would prevail over any contractual arrangement inconsistent with statutory protections and that the appellant could not deprive the respondent of his legal status by merely describing him as a contractual employee. The Full Bench further noted that the petitioner's own witness admitted that the respondent had continuously worked from 2008 till 2018 without interruption and that no charge-sheet or disciplinary proceedings had ever been initiated against him. In these circumstances, the respondent's removal under the guise of expiry of the contract was held to be unjustified and contrary to labour laws. Accordingly, the appeal of the petitioner was dismissed, and the impugned order of the learned Single Member Bench was maintained in toto.

6. The primary contention of the petitioner that the NIRC lacked jurisdiction as SAPS is a non-statutory body and that the dispute is purely contractual, governed by master and servant principles, cannot be accepted. The nature of jurisdiction under the Industrial Relations Act, 2012, is not determined by the corporate classification of the employer (statutory or non-statutory), but by whether the establishment falls within the statutory definition of "industry" and whether the claimant qualifies as a "workman" performing work of a labour nature. Once these statutory thresholds are met, contractual labels cannot oust jurisdiction nor defeat statutory protections.

7. The Hon'ble Supreme Court has consistently held that substance prevails over form in labour relations, and it was categorically held that outsourcing or contractual nomenclature cannot be used as a device to deprive workers of statutory protections where they are performing duties of a permanent nature. Similarly, the Apex Court reiterated that a workman engaged on a permanent post for more than the prescribed statutory period acquires the status of a permanent employee by operation of law and cannot be removed except in accordance with Standing Orders.

8. The petitioner's reliance on 2018 SCMR 802 is misplaced. That judgment does not restrict NIRC jurisdiction to statutory corporations only; rather, it affirms jurisdiction over industrial and labour disputes involving establishments operating in more than one province. The attempt to read a limitation into the judgment to exclude non-statutory or welfare-based entities is contrary to the express statutory scheme of the IRA, 2012.

9. The argument that Section 33 of the IRA, 2012, is confined to statutory bodies is also legally untenable. The provision is remedial in nature and extends to all "workmen" within the meaning of the Act. Any narrower interpretation

would defeat the very object of industrial law, which is to provide uniform protection against arbitrary termination in industrial employment regardless of the employer's internal structure.

10. On facts, both forums below concurrently found that the respondent remained continuously employed from 2008 to 2018, performing duties of Cargo Assistant against a post of permanent nature, without any valid break, disciplinary proceedings, or lawful termination under Standing Order 12(3). These findings are based on the record, including admissions of the petitioner's own witness, and do not suffer from any jurisdictional defect or perversity.

11. It is now well-settled, including in recent reaffirmations by the Supreme Court and consistent earlier jurisprudence, that long-term continuous engagement on permanent duties creates a legal presumption of permanence, and any termination in violation of Standing Orders is void ab initio.

12. It is a settled principle of constitutional jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, that the High Court does not function as a court of appeal against findings of fact recorded by competent tribunals and forums, particularly where such findings are concurrent in nature and based on an appraisal of evidence. In the present case, both the learned Single Member Bench and the Full Bench of the NIRC have returned concurrent findings of fact that the respondent remained continuously employed for a prolonged period (2008-2018), performing duties of a permanent nature, and that his termination was effected without compliance of mandatory provisions of Standing Order 12(3) of the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968. These findings are based upon record, including admissions of the petitioner's own witness, and do not suffer from any jurisdictional defect, misreading of evidence, or perversity. It is well-settled that constitutional jurisdiction is supervisory in nature and is not meant for re-appraisal or re-evaluation of evidence. Interference is warranted only where the impugned order suffers from a jurisdictional defect or coram non iudice proceedings, material illegality or misapplication of law, no evidence or misreading of evidence leading to perverse findings, or violation of fundamental rights or principles of fair trial. In the absence of any of these jurisdictional infirmities, the High Court cannot substitute its own opinion for that of the specialized tribunal.

13. The Hon'ble Supreme Court has consistently held that constitutional courts do not act as appellate forums to reappraise concurrent findings of fact. It was held that findings of fact recorded by competent forums, particularly where based on evidence, are not open to interference in constitutional jurisdiction

unless shown to be perverse or without lawful authority. Similarly, the Apex Court emphasized that where factual findings are supported by the record and reflect proper appreciation of evidence, constitutional interference is not warranted. Likewise, it was reaffirmed that where two forums below have concurrently determined factual aspects, the High Court under Article 199 of the Constitution should exercise restraint and should not convert itself into an appellate court unless glaring illegality or a jurisdictional defect is demonstrated.

14. Applying these principles, the present case reveals no jurisdictional error. The NIRC exercised jurisdiction expressly conferred under the Industrial Relations Act, 2012. The findings regarding the status of the respondent as a permanent workman and the illegality of termination are findings of fact based on settled law under the Standing Orders Ordinance. No perversity, misreading of evidence, or excess of jurisdiction has been demonstrated by the petitioner.

15. In such circumstances of the case, the petition is found to be without merit and is accordingly dismissed. The impugned judgments dated 07.04.2022 and 14.09.2023 are maintained, and no case is made out for interference under Article 199 of the Constitution.

16. All pending application(s), if any stand disposed of in the above terms; there shall be no order as to costs.

JUDGE

JUDGE