

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No. D-4717 of 2024

[M/s Habib Sugar Mills Ltd. V. Muhammad Nadeem and others]

Date	Order with signature of Judge(s)
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Before:
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Zulfiqar Ali Sangi

Date of hearing and Order: 11.05.2026

Mr. Mohsin Ali, Advocate for the Petitioner.

Mr. Ghulam Sarwar Chandio, Advocate for Respondent No.1

ORDER

Adnan-ul-Karim Memon, J. – Petitioner M/s Habib Sugar Mills Limited has filed this Constitution Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan 1973, seeking the following relief(s):-

In view of the above actual, factual, and legal position, it is respectfully prayed that this Hon'ble Court may be pleased to call for the record and proceedings of the Appeal No.KAR-172 of 2023 from respondent No.2 and Grievance Application No.141 of 2022 from the respondent No.3 and after providing an opportunity of being heard to the parties, set aside the impugned orders dated 09.09.2024 passed by the respondent No.2, and order dated 28.10.2023 passed by the respondent No.3 and dismiss the grievance petition No. 141 of 2022 and any further or additional relief(s) which this Hon'ble Court may deem fit and proper in the circumstances of the case.

2. The petitioner, a public limited company engaged in the manufacturing of sugar, has challenged the impugned orders dated 09.09.2024 passed by the Sindh Labour Appellate Tribunal (SLAT) in Appeal No. KAR-172 of 2023 and dated 28.10.2023, passed by the Sindh Labour Court (SLC) in Grievance Application No.141 of 2022, whereby respondent No.1 was reinstated in service along with full back benefits. The petitioner submits that the impugned orders are contrary to law and settled principles laid down by the superior courts.

3. It is the case of the petitioner that Respondent No.1 was initially employed as a seasonal temporary worker from 1989 to 2013 and was later appointed permanently as Mill Labour (Oilman) in the Mechanical Department. Owing to organizational restructuring, his services were terminated vide letter dated 08.11.2017 by way of discharge simplicitor on payment of one month's salary instead of notice along with all lawful terminal benefits. Aggrieved by the termination, respondent No.1 filed a grievance application alleging that the termination on the grounds of reorganization was unlawful and sought reinstatement. However, the petitioner contested the grievance application by filing objections and a reply statement, specifically challenging its

maintainability. Thereafter, both parties led evidence and examined witnesses in support of their respective cases. The learned SLC, however, vide order dated 28.10.2023, allowed the grievance application and directed reinstatement of respondent No.1. The petitioner filed an appeal before learned SLAT/respondent No.2, which too was dismissed vide order dated 09.09.2024.

4. The petitioner's counsel contends that both the forums below misapplied the law by treating the matter as one of retrenchment and by applying provisions of the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968, although the establishment is governed by the Sindh Terms of Employment (Standing Orders) Act, 2015. It is further contended that the termination was a discharge simplicitor and not based on misconduct; therefore, no charge-sheet, show-cause notice, or departmental inquiry was legally required. The petitioner's counsel further submits that one month's salary in lieu of notice was duly offered in accordance with the law. It is also asserted that the impugned orders suffer from misreading and non-reading of evidence, ignore admissions made by respondent No.1 during cross-examination, and grant relief beyond the prayer clause by awarding back benefits without assigning lawful reasons. The petitioner's counsel maintains that the findings recorded by the forums below are based on misinterpretation and misapplication of law and are therefore liable to be set aside. The petitioner's counsel has accordingly prayed that the record and proceedings of Appeal No. KAR-172 of 2023 and Grievance Application No.141 of 2022 be called for, the impugned orders dated 09.09.2024 and 28.10.2023 be set aside, and the grievance application filed by respondent No.1 be dismissed.

5. The learned counsel for the respondent No.1 has opposed the petition and raised the question of maintainability of the petition against the concurrent findings and supported the impugned orders passed by the learned SLC and SLAT and prayed for dismissal of the petition.

6. We have heard learned counsel for the parties and perused the available record with their assistance.

7. Before advertng to the merits of the controversy, it is also necessary to examine the maintainability and scope of interference in constitutional jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973. It is a settled principle that constitutional jurisdiction is supervisory and discretionary in nature and is not intended to function as a forum of appeal against concurrent findings of fact recorded by competent statutory forums. Interference under Article 199 of the Constitution is warranted only where the impugned orders suffer from patent illegality, jurisdictional defect, coram non iudice, violation of law, procedural impropriety, mala fide, or where the findings are so arbitrary or perverse that no reasonable person could have

arrived at such conclusions. In the present case, both the learned Sindh Labour Court and the learned Sindh Labour Appellate Tribunal, after proper appreciation of oral and documentary evidence, concurrently concluded that the termination of respondent No.1 was not a bona fide discharge simpliciter but an unlawful termination carried out under the vague and unsubstantiated plea of reorganization. The petitioner has been unable to point out any jurisdictional defect, violation of mandatory provision of law, misreading or non-reading of evidence of such magnitude, or denial of due process warranting constitutional interference by this Court in exercise of powers under Article 199 of the Constitution. It is further settled that where specialized labour forums constituted under law have exercised jurisdiction lawfully and recorded concurrent findings based upon evidence, the Constitutional Court would exercise restraint and would not substitute its own opinion merely because another view may also be possible. The constitutional jurisdiction under Article 199 of the Constitution cannot be invoked to reappraise evidence as an appellate forum, as this court is not an appellate Court. Moreover, the impugned orders reflect due observance of the constitutional mandate embodied in Article 10-A of the Constitution relating to fair trial and due process. The respondent No.1, being a permanent worker, could not have been deprived of his livelihood except in accordance with law, fairness, and transparent procedure. The forums below rightly examined whether the action of the petitioner satisfied the statutory and constitutional requirements and, upon finding the alleged reorganization unsupported by evidence, declared the termination unlawful.

8. However, we also intend to look into the actual controversy and make a decision by addressing the issues involved in the matter due to the point raised that the termination is simpliciter. It appears that the learned Sindh Labour Appellate Tribunal, vide judgment dated 09.09.2024, dismissed the appeal filed by the petitioner against the order dated 28.10.2023 passed by Sindh Labour Court No. IV, Karachi, whereby the respondent No.1 was ordered to be reinstated in service with back benefits.

9. Briefly stated, the respondent was initially employed by the petitioner in 1989 and, owing to satisfactory performance, his services were confirmed in 2013 as Operator/Oilman in the Mechanical Department. Subsequently, vide letter dated 08.11.2017, his services were terminated on the ground that, due to reorganization of the establishment, he was being discharged simpliciter. Before the Labour Court, the petitioner contended that the termination was lawful and in accordance with Section 16(1) of the Sindh Terms of Employment (Standing Orders) Act, 2015, arguing that an employer has the right to reorganize its establishment and terminate services by way of discharge simpliciter upon payment of one month's notice pay. It was further argued that, since the

termination was not based on misconduct, there was no legal requirement to issue a show-cause notice or conduct an inquiry. Reliance was placed upon various judgments of the superior courts in support of such contention. Conversely, the respondent No. 1 maintained that no actual reorganization had taken place and that he had been removed from service mala fide due to his trade union activities. It was argued that the termination of only one worker on the vague plea of reorganization clearly established victimization and unfair labour practice. After recording evidence of the parties, including the testimony of the respondent No.1 and the petitioners' Manager (Admin & Human Resources), the Labour Court concluded that the respondent, being a permanent worker, had been wrongfully removed from service under the mere pretext of reorganization. The Tribunal examined Standing Order 16(3) of the Sindh Terms of Employment (Standing Orders) Act, 2015, which mandates that termination of service must be through a written order explicitly stating the reasons for such action. The learned Tribunal observed that the requirement of "explicit reason" under the law means a reason fully disclosed without vagueness or ambiguity and capable of withstanding judicial scrutiny. While considering the case law cited by the petitioner, particularly *Allied Bank Limited versus Zulfiqar Ali Shar* (2021 SCMR 1213), the Tribunal held that the facts of the present case were distinguishable. In the cited case, the employer had provided a specific and justifiable reason for termination, namely the prolonged incarceration of the employee, whereas in the present matter, the petitioner merely used the word "reorganization" without disclosing any material particulars or evidence explaining the nature, scope, or necessity of such reorganization. The Tribunal further observed that reorganization of an industrial establishment ordinarily involves large-scale structural or operational changes affecting efficiency or economy of the organization. However, the petitioner had neither produced any resolution of the Board of Directors nor any documentary material to establish that any genuine reorganization had actually taken place. The removal of only one worker out of thousands of employees could not reasonably be termed as a reorganization of the establishment. It was therefore held that the alleged reason for the reorganization was vague, deceptive, and insufficient to satisfy the statutory requirement of "explicit reason" under Standing Order 16(3). Consequently, the termination could not legally be treated as a discharge simpliciter. The Tribunal further held that, once the plea of valid discharge simpliciter failed, the appellants were under a legal obligation to conduct a proper inquiry before terminating the respondent's services. Since no inquiry was conducted, the action of the petitioner was declared illegal and without lawful authority. In this regard, reliance was placed upon several judgments of the Hon'ble Supreme Court emphasizing the constitutional requirement of due process and fair opportunity under Article 10-A of the Constitution. The Tribunal also noted that the respondent had remained jobless after his removal from service and that the petitioner had failed to show that he

had secured any alternative employment. Accordingly, finding no illegality or infirmity in the order of reinstatement with back benefits passed by the Labour Court, the appeal was dismissed as being devoid of merit.

10. The pivotal controversy involved in the present matter revolves around the legality and validity of the termination of respondent No.1 under the guise of “discharge simplicitor” on the alleged ground of reorganization of the establishment. It is by now a settled principle of labour jurisprudence that although an employer possesses managerial prerogative to reorganize its establishment and dispense with the services of employees for bona fide administrative or operational reasons, such power is neither unfettered nor immune from judicial scrutiny. Any action affecting the livelihood and tenure of a permanent worker must strictly conform to the requirements of law, fairness, and due process.

11. Standing Order 16(3) of the Sindh Terms of Employment (Standing Orders) Act, 2015 explicitly mandates that termination, removal, retrenchment, discharge, or dismissal of a worker must be through an order in writing “explicitly stating the reasons” for such action. The use of the expression “explicitly” by the legislature is of considerable significance and cannot be treated as superfluous or redundant. The requirement of explicit reasoning necessarily implies that the reason assigned must be specific, clear, unambiguous, and capable of objective judicial examination. A vague or generalized recital cannot satisfy the statutory command.

12. In the instant matter, the termination letter merely stated that, “as part of reorganization”, the services of respondent No.1 were being terminated by way of discharge simpliciter. Beyond the use of the word “reorganization”, no particulars whatsoever were furnished either in the termination order or before the Labour Court and the Tribunal. No material was produced to demonstrate the nature of the alleged restructuring, the departments affected, the economic or operational necessity prompting such a decision, or any policy decision taken by the management or Board of Directors in this regard. Admittedly, no evidence was brought on record to establish the abolition of the post held by respondent No.1 or a reduction in workforce arising from any restructuring process. Rather, the record reflects that only respondent No.1 was removed from service despite the establishment employing a large number of workers.

13. It is settled law that where a termination simplicitor is founded upon a bona fide administrative reason, the employer must disclose sufficient material demonstrating the existence of such a reason. In the *Allied Bank Limited* case, supra, relied upon by the petitioner itself, the Supreme Court upheld the termination because the employer had disclosed a definite and objectively

verifiable reason, the prolonged incarceration and non-availability of the employee for duty. The said judgment, instead of supporting the petitioner, reinforces the principle that the reason assigned for discharge simplicitor must be genuine, explicit, and capable of judicial scrutiny. In the present case, the alleged “reorganization” remained wholly unsubstantiated and was never translated into any tangible or demonstrable fact.

14. Similarly, it is well settled that managerial powers relating to reorganization or reduction of staff are subject to the condition of bona fides and fairness. Such powers cannot be exercised arbitrarily, mala fide, or as a device to camouflage victimization or unfair labour practice. The concept of discharge simplicitor cannot be permitted to become an instrument to circumvent statutory safeguards available to permanent workers under labour laws.

15. The record further reveals that respondent No.1 had rendered long and continuous service extending over nearly twenty-eight years and had attained the status of a permanent employee. In such circumstances, his abrupt removal on a vague and unsupported plea of reorganization, without disclosing any objective criteria or necessity, rightly invited judicial scrutiny by the forums below. The learned Labour Court as well as the learned Tribunal concurrently found that the plea of reorganization was merely a pretext and not a bona fide administrative exercise. Such concurrent findings of fact, based upon appreciation of evidence, ordinarily do not warrant interference in constitutional jurisdiction unless shown to be perverse, arbitrary, or suffering from a jurisdictional defect, which is not the case here.

16. Once the plea of lawful discharge simplicitor failed, the inevitable consequence was that the action of the petitioner ceased to enjoy protection under Standing Order 16 and assumed the character of punitive or colourable termination. In such circumstances, compliance with the principles of natural justice and due process became mandatory. The requirement of fair opportunity and lawful procedure is now constitutionally entrenched under Article 10-A of the Constitution. The Supreme Court consistently held that where civil consequences ensue, denial of fair opportunity renders the action void and unlawful.

17. The contention of the petitioner that no inquiry was required because the case involved discharge simpliciter is devoid of substance in the peculiar facts of the present case. The protection available to an employer dispensing with inquiry in cases of bona fide discharge simpliciter cannot be extended to situations where the very foundation of such discharge is found to be vague, mala fide, or unsupported by evidence. The law does not permit an employer to avoid statutory safeguards merely by labeling an otherwise questionable termination as “simplicitor”.

18. We are also unable to accept the argument that the grant of back benefits was beyond the scope of relief claimed by respondent No.1. Once reinstatement was found justified on account of unlawful termination, the consequential relief of back benefits fell within the discretionary domain of the Labour Court, particularly when the respondent remained unemployed, and the petitioner failed to produce any evidence showing gainful alternate employment.

19. In these circumstances, discussed supra, no case for interference under Article 199 of the Constitution is made out, and the petition is liable to be dismissed.

20. For the foregoing reasons, we are of the considered view that the learned Sindh Labour Court and the learned Sindh Labour Appellate Tribunal committed no illegality, jurisdictional error, or material irregularity in concluding that the termination of respondent No.1 was not a bona fide discharge simplicitor but an unlawful termination cloaked under the vague plea of reorganization. The impugned judgments are well-reasoned, based upon proper appreciation of evidence, and fully consistent with the settled principles of labour jurisprudence and constitutional guarantees of due process.

21. Consequently, this Constitutional Petition is also devoid of merit and is dismissed along with pending applications, if any.

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