ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-3030 of 2018
(United Bank Ltd versus Full Bench of NIRC and others)

Constitutional Petition No. D-3031 of 2018
(United Bank Ltd versus Full Bench of NIRC and others)

Constitutional Petition No. D-2840 of 2018
(United Bank Ltd versus Full Bench of NIRC and others)

Date	Order with signature of Judge

Before:-
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing & judgment: 10.8.2026

Mr. Faisal Mehmood Ghani, advocate for the petitioner in all petitions.
Mr. Abdul Ghaffar, advocate for respondent No.3 Shaukat Ali, Shams Uddin, and Zulfiqar Ali in all petitions.
Mr. Abdul Jalil Zubedi, Addl. AG Sindh.
Ms. Wajiha Mehdi, Assistant Attorney General.

J UD G M E N T

Adnan-ul-Karim Memon, J. The petitioner-United Bank Limited (UBL) is being aggrieved and dissatisfied with one common order dated 21.11.2016 passed in cases No.4B (114)/2013-K, 4B (16)/2013-K and 4B (115)/ 2013-K passed by respondent No.1-Full Bench of NIRC and the order passed by respondent No.2-Single Bench of National Industrial Relations Commission, Sukkur in Appeal No. 12A (14) 16-S, 12A (15) 16-S and 12A (08)/16-S dismissing the appeal of the petitioner and respondent No.3 has been ordered to be reinstated in service with full back benefits.

2. The Petitioner, United Bank Limited (UBL), has challenged the common order dated 21.11.2016 passed by the Sukkur Bench of the National Industrial Relations Commission (NIRC), whereby private Respondent No.3, Shaukat Ali, Shams Uddin and Zulfiqar Ali were ordered to be reinstated with full back benefits, as well as the subsequent order dated 13.02.2018 passed by the Full Bench of the NIRC dismissing the Bank's appeal. An excerpt of the common order dated 21.11.2016 passed in cases No.4B (114)/2013-K, 4B (16)/2013-K and 4B (115)/ 2013-K passed by respondent No.1-Full Bench of NIRC is reproduced as under:-

3. The case of the Petitioner Bank is that private Respondents No.3 were serving as Officer Grade-III/Chief Teller at UBL Moro and Halani Branch. In August 2011, they were charge-sheeted for allegedly supervising fraudulent/flying entries which resulted in an attempted financial loss of approximately Rs.9.7 million, including unauthorized credits to customer

accounts without corresponding debits or supporting instruments. They submitted a reply denying the allegations. A regular departmental inquiry was thereafter conducted, during which they were provided an opportunity to cross-examine the prosecution witnesses, record their own statement and produce defence evidence. The Inquiry Officer found the charges established and, consequently, their services were terminated. The Respondents acknowledged during the proceedings that they had participated in the inquiry and had been afforded full opportunity to defend themselves. The private Respondents challenged their termination through appeals and grievance notices addressed to the President and other officers of the Bank rather than to United Bank Limited as the legal entity, and, according to the Petitioner, the grievance notices were also not addressed to the competent appointing authority. They subsequently filed grievance applications before the Sindh Labour Court No.7, Sukkur. The Bank contested the maintainability of the proceedings, inter alia, because all private Respondents No.3 in three petitions were Officers Grade-III and therefore not a "workman", that the grievance proceedings had not been properly instituted against the Bank, and that the termination followed a lawful inquiry. It is averred that during pendency of the matter, the Industrial Relations Act, 2012 came into force. The Labour Court, holding that UBL was a trans-provincial establishment, returned the grievance applications on 29.08.2012 for presentation before the proper forum. According to the Petitioner, the applications were never freshly instituted before the NIRC in time. Nevertheless, after about two years, the Karachi Bench of the NIRC summoned the old record from the Labour Court, renumbered the matter and proceeded with it as though it had been transferred. The Bank maintains that the Labour Court had merely returned the grievance applications and had not transferred the proceedings to the NIRC, and that no fresh grievance applications were filed before the Commission. The Petitioner further averred that the NIRC proceeded on the evidence recorded before the Labour Court without conducting de novo proceedings, did not frame issues despite the Bank having raised specific legal and factual objections, and permitted the matter to proceed on pre-typed affidavits instead of recording evidence viva voce. The Bank asserts that these procedural irregularities materially prejudiced its case. It also maintains that the subsequent amendment of the title of the grievance applications to substitute United Bank Limited for the President of the Bank could not cure the fundamental defect in the original grievance notices.

4. On merits, the Bank's principal contention is that private respondents in all petitions, being an Officer Grade-III/Chief Teller in a banking company, did not fall within the definition of "workman" and therefore could not invoke the jurisdiction of the Labour Court or NIRC. The Bank further asserts that the NIRC misread the evidence by treating him as a mere cashier and by holding that

absence of hire-and-fire powers made him a workman, despite the judgments of the superior courts relied upon by the Bank. The Bank also disputes the finding that the departmental inquiry was defective. It maintains that the private Respondent was given a full and fair opportunity to defend himself, cross-examine witnesses and produce evidence, and that he expressly recorded their satisfaction regarding the fairness of the inquiry. According to the Bank, the NIRC failed to properly appreciate the evidence relating to the fraudulent/flying entries and the Respondent's admitted role in crediting a substantial amount to a customer's account. The Bank emphasizes that, in banking matters, breach of trust, negligence and violation of banking procedures constitute serious misconduct, particularly because banks are custodians of public funds and depend upon the integrity of their employees. The Petitioner further challenges the award of reinstatement with full back benefits, contending that private Respondents neither pleaded nor established that they remained unemployed or were not engaged in gainful employment during the relevant period. It is also argued that even if the inquiry were considered defective, the appropriate course could have been to provide an opportunity for a fresh inquiry rather than automatically directing reinstatement with back benefits. The Bank additionally challenges the legality of the proceedings on the grounds of limitation, want of a valid grievance notice, absence of proper jurisdiction, non-framing of issues, alleged retrospective application of the Industrial Relations Act, 2012, and reliance upon the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 despite the constitutional devolution of labour matters. It also alleges that the NIRC failed to consider the numerous judgments and legal objections specifically cited in the Bank's written submissions. Accordingly, the Petitioner's case is that the proceedings before the Labour Court and their subsequent continuation before the NIRC were without lawful jurisdiction and procedurally defective; Private Respondents were not workman entitled to invoke the labour jurisdiction; their grievance applications and notices were not properly instituted; the departmental inquiry was lawful and afforded him due process; and the findings of the NIRC were based upon misreading and non-reading of material evidence. The Bank therefore seeks setting aside of both impugned orders and dismissal of private Respondents' grievance application.

5. Learned counsel for the petitioner-UBL submits that the Sindh Labour Court No.7, Sukkur did not transfer the grievance petition to NIRC; it returned the petition on 29.08.2012 for presentation before the proper forum, and no fresh grievance was thereafter presented before NIRC. Merely summoning and re-numbering the old file could not confer jurisdiction. He further contended that once the petition was returned, Private Respondents were required either to challenge the order before the competent appellate forum or to institute a fresh

grievance petition before NIRC. He further contended that the Karachi Bench could not continue the proceedings from the stage at which they had stopped before the Labour Court. He added that the IRA 2012 contained no provision authorizing automatic transfer of pending Labour Court cases to NIRC; therefore, the earlier proceedings could not lawfully be treated as proceedings before NIRC merely because the Bank was a trans-provincial establishment. He further contended that the grievance was originally filed under the Industrial Relations (Revival and Amendment) Act, 2010, whose legal validity and continuation after constitutional devolution were specifically questioned and the learned forums failed to determine this objection. He added that the appeal and grievance notice were addressed to the President, District Manager and District Customer Service Manager, rather than United Bank Limited; the legal entity and the subsequent amendment of the title could not retrospectively cure the fundamental defect in the original grievance notice. He further contended that the President was not the appointing authority of private Respondents. Consequently, the mandatory grievance procedure was not validly initiated, rendering the original proceedings non-maintainable. He further contended that after the Labour Court returned the petition, the Respondents approached/were proceeded before NIRC after a substantial delay and no proper application for condonation of delay was filed or adjudicated. Limitation could not be condoned without a lawful application. He further contended that private Respondents themselves admitted that they were Officers in Grade-III and the Supreme Court authorities cited by the Bank establish that banking officers performing supervisory/official functions are not necessarily “workmen”; absence of hire-and-fire power by itself does not make an officer a workman. He added that the learned forums treated private Respondents as Cashiers, whereas the evidence established that they were serving as Officer Grade-III. This amounted to material misreading and non-reading of evidence. He further contended that despite serious disputes regarding jurisdiction, maintainability, workman status, applicability of labour law and legality of termination, neither the Labour Court nor NIRC properly framed issues. This materially prejudiced the Bank and vitiated the proceedings. He further contended that the Respondent relied upon a pre-typed affidavit instead of properly recorded oral evidence and the affidavit did not adequately distinguish personal knowledge from information or disclose the sources of information. The Bank's objection regarding its evidentiary value was not properly considered. He further contended that the private Respondents were served with a charge-sheet, submitted their reply, participated in the inquiry, cross-examined prosecution witnesses, recorded their statement and were afforded opportunity to produce defence evidence. They signed the proceedings and acknowledged that they had been given full opportunity to defend themselves. He added that the Inquiry Officer appeared before NIRC and supported the fairness of the inquiry. The findings were based upon the inquiry record and evidence. The learned forums failed to give proper weight to this material. He further contended that private Respondents admitted their status as Officer Grade-III, the relevant banking transaction, receipt of the charge-sheet and participation in the disciplinary proceedings. These admissions materially supported the Bank's case but were not properly appreciated. He added that the allegations involved fraudulent/irregular banking entries and substantial financial exposure. Banking is founded upon trust and confidence, and an employee/officer involved in serious financial irregularities cannot claim reinstatement merely on technical grounds. He further contended that the existence or outcome of any criminal proceedings does not determine the validity of departmental action. The standards and purposes of criminal prosecution and disciplinary proceedings are different. In support of his contention he relied upon the cases of *Allied Bank Ltd. v. Zulfiqar Ali Shar and others* (**2021 SCMR 1213**, *MCB Ltd v. Muhammad Riaz Jatt* (**NLR2010 Labour 109**), *KESC and others v. NIRC and others* (**2015 PLC 1**), unreported order dated **30.01.2024** passed in *Civil Petition No.34/20*22 and unreported order dated **17.02.2020** passed in *C.A No.1842/2019*. He lastly prayed for allowing these petitions.

6. Learned counsel for private respondent No.3 in all petitions submits that the Labour Court proceedings arose during the period of transition following repeal/revival of industrial relations laws. The subsequent judgment of the Sindh High Court in 2015 PLC (Labour) 1, particularly paragraph 29, directed that cases concerning trans-provincial establishments be transferred to NIRC. The said judgment was ultimately considered by the Supreme Court in **2018 SCMR 802**. Therefore, the objection that the case could not proceed before NIRC merely because the Labour Court had initially entertained and returned the proceedings for presentation before the proper forum, is misconceived. He further contended that the NIRC, upon receipt of the record and proceedings from the Labour Court, was entitled to proceed from the stage already reached. He added that the fresh grievance petition was tagged with the existing proceedings. The Supreme Court's approach in **2018 SCMR 802** supports continuation of proceedings in such circumstances and no objection regarding the mode of continuation was raised by the parties at the relevant stage in terms of diary sheets of the NIRC. On merits he further contended that although initially employed as Cashier, private Respondents were serving as Chief Teller/Chief Cashier at the time of the charge-sheet. Their actual duties were manual/clerical in nature. The mere designation of “Chief Teller” or Teller did not alter the substance of their duties. He added that the Bank's own witness, Khuda Bux, admitted in cross-examination that Chief Teller was essentially the designation used for Chief Cashier. Thus, the Respondent continued to perform cashier-related duties falling within the scope of a workman as they had no powers of hire and fire the employees; therefore, by

virtue of law, they were/are workmen. The reliance is placed upon the cited authorities, including **2007 SCMR 1617** and **2007 SCMR 1143**, wherein employees performing cashier/Officer Grade-III functions in banking establishments were held entitled to invoke labour jurisdiction. Therefore, private Respondents' grievance was maintainable before the labour Court and NIRC. He further contended that the private Respondents' status must be determined from the actual nature of their duties and functions, rather than merely from their designation or absence of independent hiring/firing authority. He added that several other employees were charge-sheeted in respect of the same incident, including Muhammad Hassan Korai (OG-III) and Khuda Bux Buriro (OG-II). Although the Inquiry Officer found misconduct against them, they were retained in service, and one was even promoted. He further contended that the FIA investigated the incident and registered criminal proceedings against certain persons and the Respondent's name was ultimately dropped, and no successful challenge to that decision was brought by the Bank. This circumstance supports the Respondent's contention that the allegations against him were not conclusively established. He further contended that where employees facing substantially similar allegations were retained in service, whereas private Respondents alone were dismissed, the Bank was required to explain the distinction in treatment. Failure to do so renders the punishment open to challenge on the ground of discriminatory and arbitrary treatment. He emphasized that the jurisdiction conferred under Article 199 of the Constitution is discretionary with the objects to foster justice in aid of justice and not to perpetuate injustice1. He added that the ambit of a writ petition is not that of a forum of appeal, nor does it automatically become such a forum in instances where no further appeal is provided, and is restricted inter alia to appreciate whether any manifest illegality is apparent from the order impugned. It is also well settled that where the fora of subordinate jurisdiction had exercised its discretion in one way and that discretion had been judicially exercised on sound principles, the supervisory forum would not interfere with that discretion, unless the same was contrary to law or usage having the force of law. He finally said that petition against the concurrent findings is not maintainable. He relied upon the cases of *PTCL v. Member NIRC and others* (**2014 SCMR 5**35), *Almas Ahmad Faiz v. Secretary Government of the Punjab Housing and Physical Planning Development Lahore and another* (**2007 TD (Labor) 27**), *Javed Ahmed Bhutto v. Federation of Pakistan* (**PLJ 2013 Karachi 67 (DB**), *KESC and others v. NIRC and others* (**2015 PLC 1),** *PTCL v. Mst Faizan Bibi and 9 others* (**PLD2013 Sindh 80**) and unreported order dated **29.03.201**3 passed in *C.P No/D-1218/2013*. He lastly prayed for dismissal of these petitions.

7. We have heard the learned counsel for the parties and perused the record with their assistance and case law cited at the bar.

8. The settled principle is that the right of appeal is a statutory creation, and where the legislature provides only one appellate remedy, the decision of the appellate court is final on questions of fact. Particularly in labor matters, constitutional jurisdiction under Article 199 should not be invoked to provide a second appeal or to reappraise evidence and substitute this Court's view for that of the trial and appellate courts. Such an approach would open the floodgates to appellate litigation, frustrate the legislative intent to achieve expeditious resolution, and undermine the essential principle of finality in litigation. Therefore, once factual issues have been adjudicated by the competent courts, constitutional courts should ordinarily refrain from re-examining them, thereby ensuring closure of proceedings and preventing abuse of the process of law, as held in *Muslim Commercial Bank Ltd. v. Abdul Waheed Abro* [**2015 PLC 259**], *Shajar Islam v. Muhammad Siddique* [**PLD 2007 SC 45**] and *Arif Fareed v. Bibi Sara* **[2023 SCMR 413**].

9. So far as the issue of limitation in approaching the NIRC is concerned, at the outset, we deem it appropriate to examine the objection, as the same goes to the maintainability of the grievance proceedings and, if found to have substance, would render it unnecessary to examine the remaining questions as agitated on merits.

10. Learned counsel for the Petitioner-Bank contended that private Respondents had challenged his termination through appeal dated 03.10.2011 and grievance notice dated 08.10.2011, and thereafter instituted the grievance proceedings before the Sindh Labour Court, Sukkur. The Labour Court, vide order dated 29.08.2012, returned the grievance application for presentation before the proper forum. According to the Bank, no fresh grievance application was thereafter instituted before the NIRC within the prescribed limitation period. Rather, after a lapse of considerable time, more than a year, the private respondents instituted proceedings before the NIRC in 2013, and then the NIRC Karachi Bench summoned the old record, re-numbered the matter and proceeded with it. It was argued that such continuation could not defeat the statutory period of limitation, nor could the delay be condoned in the absence of a proper application for condonation and an order passed thereon. He pointed out that the question requires a distinction between NIRC's jurisdiction over UBL as a trans-provincial establishment and its procedural competence to continue a proceeding already returned by the Labour Court. He added that in view of **2015 PLC (Labour) 1** and **2018 SCMR 802**, there is no serious dispute that industrial disputes concerning UBL fell within the jurisdiction of NIRC; however, the

Labour Court, by order dated 29.08.2012, had returned rather than transferred the grievance applications to the Respondents for presentation before the proper forum. Therefore, NIRC could not acquire procedural jurisdiction merely by summoning and re-numbering the old record, unless a statutory provision, judicial direction or valid transitional arrangement authorized such transfer or continuation. He submitted that the subsequent judgments clarified the competent forum but did not, by themselves, dispense with the requirement of lawful institution or transfer of the particular proceedings. Accordingly, while NIRC possessed jurisdiction over the subject-matter and UBL, its competence to proceed with these particular grievances depended upon a lawful basis for their transfer/continuation or a fresh institution before it. Since this foundational objection was/is not properly determined before the NIRC proceeded based on the returned record, its assumption of procedural jurisdiction calls for scrutiny by this court and dismiss the grievance applications as not maintainable under the law before NIRC based on limitation as well as on merits based on jurisdiction at the relevant time.

11. Conversely, learned counsel for the private Respondents contended that the proceedings were initiated during the transitional period following the constitutional devolution of labour matters and that the subsequent legal position regarding trans-provincial establishments required such matters to be placed before the NIRC. It was therefore argued that the proceedings before the NIRC were a continuation of the earlier proceedings and could not be treated as a fresh institution attracting a fresh period of limitation.

12. Under Section 2 of the IRA 2012, an establishment having branches in more than one Province falls within the trans-provincial category. Sections 53 and 54 confer jurisdiction upon the National Industrial Relations Commission (NIRC), while Section 87 gives the federal law overriding effect in its field. It is well settled that where the employer is a trans-provincial establishment, the IRA 2012 applies and the jurisdiction of the Provincial Labour Courts is excluded. The constitutional validity of the IRA 2012 and recognized NIRC as the competent forum for disputes concerning trans-provincial establishments, while Provincial Labour Courts retain jurisdiction over purely provincial establishments.

13. The important question, however, is whether a pending case automatically transfers from the Labour Court to NIRC. The correct legal position is that the ouster of jurisdiction operates by force of law, but the physical/procedural transfer of the pending proceedings is not necessarily automatic. Once an establishment is shown to be trans-provincial and the dispute falls within the IRA 2012, the Provincial Labour Court cannot continue to exercise substantive jurisdiction merely because the proceedings were originally instituted before it. However, the

record must be transmitted to NIRC through the appropriate procedural mechanism, such as requisition, an order of transfer/withdrawal, or an order returning the proceedings for presentation before the competent forum. This distinction is particularly supported by the decisions of the courts, and the IRA 2012 itself does not prescribe that every pending proceeding is physically transferred automatically. At the same time, Section 57(2)(b) expressly contemplates NIRC withdrawing proceedings from a Provincial Labour Court in matters falling within its jurisdiction. Thus, jurisdiction changes automatically by operation of law, whereas transmission of the record requires procedural implementation. Accordingly, in a pending case instituted before the Labour Court, the proper approach is first to determine whether the employer was, or had become, a trans-provincial establishment. If so, the Provincial Labour Court loses jurisdiction in respect of matters falling within the IRA 2012, and the proceedings must be brought before NIRC through the appropriate procedure.

14. The material question, therefore, is not merely whether the original grievance was filed within time, but whether, after the Labour Court returned the grievance application on 29.08.2012, the proceedings before the NIRC constituted a lawful continuation/transfer of the pending proceedings or a fresh institution of the grievance

15. The record, as presently placed before us, shows that the Labour Court did not, in express terms, transfer the grievance applications to the NIRC; rather, by order dated 29.08.2012, the applications were returned to the Respondents for presentation before the proper forum. The distinction is material. A returned proceeding and a transferred proceeding do not necessarily stand on the same legal footing. However, at the same time, the question cannot be conclusively determined in isolation from the legal effect of the subsequent judgments concerning the jurisdiction of the NIRC over trans-provincial establishments and the manner in which pending proceedings were to be dealt with during the transitional period. The Respondents have relied upon the judgment reported as 2015 PLC (Labour) 1 and the subsequent judgment of the Supreme Court reported as 2018 SCMR 802 to contend that such matters were liable to proceed before the NIRC. Thus, before declaring the proceedings barred by limitation, it is necessary to determine whether the proceedings before the NIRC were, in law, a continuation of the earlier grievance proceedings or amounted to a fresh institution.

16. Since the determination of limitation is closely connected with the question whether the NIRC lawfully assumed the proceedings from the Labour Court or entertained a fresh grievance, we consider it appropriate to examine next

the jurisdiction and legal competence of the NIRC to proceed with the matter after the Labour Court's order dated 29.08.2012.

17. We are of the view that the objection of limitation cannot, in the peculiar circumstances of the present case, defeat the Respondents’ grievance applications which were filed in time before the Labour Court. Admittedly, the Respondents challenged their termination in October 2011 and thereafter instituted proceedings before the Sindh Labour Court within the then prevailing legal framework. The Labour Court, by order dated 29.08.2012, did not dismiss the grievances on merits or on limitation but returned them for presentation before the proper forum after holding UBL to be a trans-provincial establishment. The subsequent judicial development, particularly the judgment reported as 2015 PLC (Labour) 1, as considered by the Hon’ble Supreme Court in 2018 SCMR 802, clarified the jurisdiction of the NIRC in respect of trans-provincial establishments.

18. In these circumstances, the proceedings before the NIRC cannot be viewed in isolation as an entirely fresh and belated grievance merely because the Labour Court used the expression “returned” rather than “transferred”. The delay was occasioned by the determination of the competent forum during a period of legislative and constitutional transition and not by abandonment of the Respondents’ remedy as discussed in the preceding paragraphs. Although Section 33 prescribes specific periods for invoking the grievance procedure, its application must be considered in the context of the peculiar transitional circumstances of the present case. The mere summoning and re-numbering of the earlier record, however, could not by itself dispense with the requirement of determining the legal character of the proceedings. Nevertheless, on the facts before us, the original grievance having been timely instituted and the subsequent proceedings before the NIRC having arisen directly from the change in the competent forum, the Respondents cannot be non-suited solely on the ground that no separate grievance was instituted within sixty days of the Labour Court’s order dated 29.08.2012.

19. The subsequent proceedings before the NIRC were a direct consequence of the determination of the competent forum and arose during a period of substantial legislative and constitutional transition concerning industrial relations. The subsequent judicial pronouncement in 2015 PLC (Labour) 1, as considered and affirmed in its essential jurisdictional context by the Hon’ble Supreme Court in 2018 SCMR 802, further clarified that disputes concerning trans-provincial establishments fell within the jurisdiction of the NIRC. In these circumstances, it would be contrary to the substance of the statutory scheme and the object of the law to penalize the private Respondents for the intervening period during which the competent forum itself was being determined. The expression “returned” used

by the Labour Court, rather than “transferred”, may have procedural significance for determining the competence of the NIRC to continue the proceedings, but it cannot, by itself, convert a grievance which had been timely instituted and continuously pursued into a stale or abandoned claim.

20. The limitation provisions are intended to prevent stale claims and to ensure diligence; they are not intended to defeat a genuine statutory remedy where the litigant has approached the competent judicial forum with due promptitude and the subsequent movement of the proceedings has resulted from a change or clarification of jurisdiction beyond the litigant’s control. Moreover, the Bank cannot derive an absolute advantage from the procedural consequence of the Labour Court’s order when the very basis of that order was that UBL belonged to a category of establishments falling within the federal industrial-relations regime.

21. To hold otherwise would result in the Respondents losing their remedy not because they failed to act within time, but because they acted before a forum which subsequently declined jurisdiction and directed them towards the proper forum. Such a construction would elevate procedural form over substantive justice and would be particularly inequitable where the original grievance was admittedly raised without undue delay, and the proceedings thereafter remained connected with the same cause of action.

22. We, therefore, hold that the intervening period between the Labour Court’s order dated 29.08.2012 and the subsequent proceedings before the NIRC cannot, in the peculiar facts of the present case, be mechanically counted to render the grievance applications of the private respondents as time-barred.

23. Section 53 of the IRA, 2012 confers upon the NIRC jurisdiction in respect of industrial relations in trans-provincial establishments, while Section 33 provides the mechanism for redress of individual grievances. The NIRC itself recognizes that establishments having offices in two or more provinces fall within the trans-provincial framework and that individual grievances of workers of such establishments are to be dealt with by the Commission. The subsequent judgments further settled the constitutional and legislative competence of the Federal Parliament in relation to industrial relations concerning trans-provincial establishments. Therefore, the mere fact that the Labour Court had initially entertained the grievances cannot sustain the Bank’s contention that the NIRC lacked jurisdiction over UBL.

24. The more substantial question, however, is whether the NIRC could continue the particular proceedings after the Labour Court had returned the grievance applications on 29.08.2012. On this aspect, the Bank’s contention that a

returned proceeding is not synonymous with a transferred proceeding has force as a matter of ordinary procedure. Nevertheless, that distinction cannot be examined divorced from the legislative transition which brought the parties before the NIRC. The private Respondents had already invoked their remedy in October 2011 and instituted proceedings before the Labour Court within the then-prevailing legal framework. The Labour Court did not reject their grievances on merits, nor did it hold them barred by limitation; it returned them specifically because UBL was considered a trans-provincial establishment and the proper forum was elsewhere. Thus, the private Respondents were not litigants who had abandoned their remedy and subsequently attempted to revive a stale claim; rather, they were directed by the forum approached by them to pursue the remedy before the forum which, in law, was subsequently recognized as competent. The Supreme Court's decision is particularly significant because it affirmed the federal legislative competence and the jurisdictional framework under the IRA, 2012 in relation to trans-provincial establishments.

25. The Bank's further objection that no fresh grievance was instituted within the period prescribed by Section 33 also cannot be accepted in isolation. The official description of Section 33 likewise recognizes the 90-day grievance notice and subsequent 60-day period for approaching the Commission. In the present case, the original grievance was admittedly raised promptly in October 2011, and the Labour Court's order dated 29.08.2012 was itself the event which occasioned the subsequent proceedings before NIRC. The intervening period, therefore, cannot mechanically be equated with abandonment or deliberate delay, nor does the Bank derive any decisive assistance from the fact that 2018 SCMR 802 was delivered subsequently. The judgment did not create the jurisdiction of NIRC for the first time; rather, it authoritatively settled the constitutional and statutory controversy surrounding the federal industrial-relations framework. The NIRC's statutory mandate under the IRA, 2012 already contemplated individual grievances in trans-provincial establishments. Thus, the subsequent judgment may properly be regarded as a clarification and authoritative affirmation of the governing legal position rather than as the source of a wholly new jurisdiction arising after the Respondents approached NIRC.

26. The Bank's reliance upon the absence of a formal transfer order also loses much of its force when examined against the subsequent statutory and judicial recognition of NIRC as the appropriate forum. If the Labour Court had jurisdiction to entertain the matter initially and later returned it solely because the employer was trans-provincial, the consequence of that order could not reasonably be that the worker was left without an effective forum. The constitutional and statutory framework required the dispute to be adjudicated somewhere; once NIRC was identified as the competent forum for UBL, the

proceedings were required to be dealt with in a manner that preserved, rather than extinguished, the remedy already invoked. The Supreme Court has subsequently reiterated that, for an employee terminated from a trans-provincial establishment, the appropriate forum for an individual grievance is the NIRC under Section 33 of the IRA, 2012. The law emphasizes that Section 33 governs such individual grievances before NIRC.

27. As regards the Bank's objection that the NIRC should have treated the matter as a completely fresh proceeding and conducted a de novo inquiry, the same cannot be accepted as an automatic consequence of the Labour Court's order.

28. The question whether evidence recorded before the Labour Court could be utilized by NIRC is distinct from the question of its jurisdiction. Once NIRC was competent to adjudicate the grievance and the proceedings remained substantially between the same parties, arising from the same termination and founded upon the same cause of action, the evidentiary material already recorded could not be discarded merely because the record had moved from one competent industrial forum to another. At most, the Bank was required to demonstrate actual prejudice resulting from reliance upon such material but unfortunately they failed to do so. A procedural objection cannot succeed merely on the basis of technicality where the parties had full opportunity to contest the evidence and the Inquiry Officer himself appeared before NIRC resulting the decision on merit.

29. The objection regarding the grievance notice being addressed to the President, District Manager or other officers instead of UBL itself is likewise insufficient to nullify the entire proceedings. The purpose of the grievance notice is to communicate the employee's grievance to the employer and afford an opportunity for redress. Where the notice was admittedly received and acted upon by the Bank, and the Bank fully contested the grievance on merits, the subsequent description or correction of the employer's designation would ordinarily constitute a curable procedural defect rather than a jurisdictional nullity, particularly where no prejudice has been demonstrated. The NIRC's own procedural framework requires the grievance petition to contain the names and particulars of the parties and to be accompanied by the grievance notice and proof of service. The substance of the statutory requirement is therefore service upon and notice to the employer, not the creation of a technical trap through an imperfect description of its office-holder.

30. The Bank's contention regarding the status of private Respondents as Officer Grade-III/Chief Teller is also a matter going to the merits and maintainability of the individual grievance rather than the territorial or subject-

matter jurisdiction of NIRC. Section 33 is available to a "worker", and the question whether the Respondents answered that statutory description had to be determined from the actual nature of their duties. The Supreme Court has emphasized that nomenclature alone is not decisive and that the predominant consideration is the nature of the duties actually performed; absence of hiring and firing authority is also not, by itself, conclusive. Thus, the NIRC was competent to examine the evidence concerning the Respondents' functions as Chief Teller/Chief Cashier, rather than treating the designation "Officer Grade-III" as automatically excluding labor jurisdiction.

31. On the question of the departmental inquiry, the Bank's submission that the Respondents were afforded opportunity of defence cannot by itself immunize the disciplinary action from judicial scrutiny. The relevant question is whether the inquiry was conducted fairly, whether the charges were established by reliable evidence, and whether the punishment was proportionate and consistently imposed. The private Respondents' contention that other employees involved in the same transaction were retained in service, coupled with the alleged dropping of proceedings against them, was therefore a material circumstance requiring consideration. Likewise, the Respondents' plea that the FIA investigation did not ultimately sustain the allegations against them was relevant, although not necessarily conclusive, to the overall appreciation of the evidence. The NIRC was consequently entitled to examine whether the Bank had established the misconduct against these Respondents specifically and whether their dismissal was justified and finally rendered the decisions against the petitioner bank.

32. Most importantly, the Bank's reliance upon the mere existence of an inquiry report cannot displace the adjudicatory jurisdiction conferred upon NIRC by Section 33. The Commission examined the facts and determined the employee's statutory rights were violated; primarily, the existence of an internal inquiry does not render the employer's decision immune from scrutiny. The statutory scheme expressly empowers NIRC to adjudicate individual grievances and pass appropriate orders, which has been done in accordance with law.

33. Accordingly, the objection to the jurisdiction of NIRC and limitation is repelled. The Commission had jurisdiction over the subject-matter and the establishment; and, in the peculiar transitional circumstances of the present case, the proceedings cannot be declared void.

34. In view of the foregoing discussion, we find that the petitions are devoid of merit. The NIRCs duly examined the matter based on the material available before it and passed its decision on merits, while no jurisdictional defect, material

illegality, misreading or non-reading of evidence has been demonstrated warranting interference under Article 199 of the Constitution.

35. The petitions, in substance, seek reappraisal of factual findings and an additional appellate remedy, which is impermissible in constitutional jurisdiction. Accordingly, finding no merit in the petitions, the same are dismissed, with no order as to costs.

Office to place a copy of this judgment in the connected petitions.

JUDGE

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