

**FULL BENCH,**  
**NATIONAL INDUSTRIAL RELATIONS COMMISSION,**  
**ISLAMABAD, BENCH AT LAHORE.**

Before:- **Mr. Abdul Rasool Memon, Learned Chairman**  
**Mr. Shabbir Hussain Awan, Learned Member,**  
**Syed Noor-ul-Hassnain, Learned Member,**

**Appeal No.12(17)/2022-M**

Alkaram Textile Mills      Versus      Ausaf Haider

Present:- Rana M. Arshad Khan, advocate for the appellant  
Sardar Aqeel Qayyum Khan advocate for the respondent.

**ORDER**  
26-09-2023

**Abdul Rasool Memon, Chairman**

Through the instant appeal filed under Section 58 of the IRA, 2012 the appellant has assailed the impugned order dated 12.05.2022 passed by learned Single Bench at Multan, in case No. 4B(234)/2020-M, whereby the learned Single Member has held that *"the respondent admitted that the petitioner was their employee for three years. Therefore, the contention that he left the job because of theft is not plausible as they should have proceeded against the petitioner for that misconduct or atleast misconduct of absence from duty. The termination is void order and is declared illegal. The petitioner is reinstated in service with back benefits."* The appellant being aggrieved from the impugned order has filed instant appeal.

2. The learned counsel for the appellant has contended that the learned Single bench has allowed the grievance petition, which was filed without reasons; that the respondent was appointed

as 'Sales representative' and his service was never confirmed; that the respondent was called for inquiry on account of missing of stock from the branch outlet and he did not appear rather absented himself; that the respondent was never terminated from service; that the learned Member did not consider the important aspect of the matter that the respondent has never served grievance notice upon the employer; that the learned trial Bench has not appreciated the contentions of the appellant put forth during arguments; that the learned Single bench has failed to apply the judicial mind and the guidelines given by the Superior Courts of the Country. The learned counsel for the appellant has prayed that the appeal may be dismissed.

3. The learned counsel for the respondent has contended that the learned Single bench has passed a well reasoned impugned order warrants no interference; that the respondent was working in the appellant establishment for last three years and due to his excellent performance he was confirmed after one month of his appointment; that the respondent was terminated from service verbally without any charge sheet/ show cause notice on 30.04.2020 as he was informed by Mr. Asadullah Branch Assistant on behalf of ASM; that the respondent served grievance notice upon the employer and thereafter, filed grievance petition in accordance with law; that the verbal termination having no value in the eye of law; that the allegation of the appellant that any kind of enquiry was initiated is against the factual position because neither the respondent was served any explanation/ show cause notice/ charge sheet nor termination letter was issued; that the respondent by dint of nature of duties performed by him was workman and in accordance with law, he should have been proceeded under the



provision of Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 and other relevant labour law. The learned counsel for the respondent has prayed that the appeal may be dismissed and the impugned order may be maintained. The learned counsel in support of his submissions has referred case law i.e. 2023 PLC (C.S)780 and 2018 PLC 28.

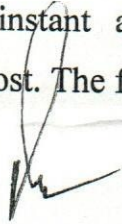
4. We have heard the learned counsel for the parties at considerable length and have also gone through the documents available with the memo of appeal and lower court record as well as the case law cited at bar.

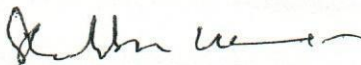
5. The respondent was working in appellant establishment and allegedly he was verbally terminated from service. The appellant submitted that there was missing of stock and enquiry in the matter was conducted and the respondent was called upon and he opted to absent himself instead of appearing before the enquiry committee. The appellant has failed to bring on record any material/record regarding enquiry proceedings and reiterated that the appellant has not terminated the respondent from service. On the other hand the respondent has stated that he was verbally terminated from service. The appellant if initiated any enquiry in the matter would have been reached to its logical end but neither any enquiry notice, charge sheet, show cause nor report of enquiry if any have been produced before the Single bench or this bench, in absence whereof it can be hardly believed that any enquiry in the matter was ever conducted. The respondent claimed that he has been verbally terminated from service, there is no provision under the labour laws or the employer is permitted to terminate the service of any worker verbally without written order containing the explicit reasons or cause of termination. A worker

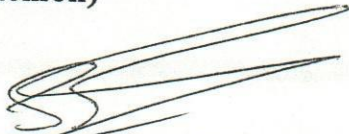


can be proceeded on account of misconduct, obviously, through issuance of charge sheet, show cause notice, holding of enquiry, affording opportunity of personal hearing prior to awarding punishment. With the cast of repetition again said that under the law there is no provision supported the verbal termination which is against the principle of natural justice. The employer should have been conducted their affairs lawfully, conscientiously and transparently while taking decisions regarding service matters of its employees, in accordance with law. It is elementary rule of law that before taking adverse action the affected party must be given fair opportunity of defense, which in the matter in hand has not been done.

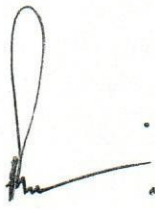
6. In view of what has been discussed above, we are unable to persuade with the contentions of the appellant and thus, found no substance in the instant appeal, which is hereby dismissed with no order as to cost. The file be consigned to record room after its due completions.

  
(Abdul Rasool Memon)  
Chairman

  
(Shabbir Hussain Awan)  
Member

  
(Syed Noor-ul-Hassnain)  
Member

Approved for reporting

  
Chairman