

**NATIONAL INDUSTRIAL RELATIONS COMMISSION ISLAMABAD**  
**FULL BENCH AT ISLAMABAD**

Before: **Mr. Justice (F) Abdul Rasool Memon, Chairman**  
**Mr. Shabbir Hussain Awan, Member**  
**Syed Noor ul Hassnain, Member**

**Appeal No.12(28)/2022**

All Pakistan WAPDA Hydro Electric Workers Union  
Vs  
Labour Unity of IESCO

Present: Ch. M. Khalid Farooq advocate for appellant.  
Hafiz Bakhtiar Ahmed, advocate for respondents.

**ORDER**

13.12.2023 **Shabbir Hussain Awan, Member.**

Facts giving rise to the instant appeal are that Labour Unity of IESCO (CBA) moved an petition under Section 54 (e) 31, 20, 33, 9, 60 of IRA, 2012 against Islamabad Electric supply Company and two others with the prayer of declaring the office order dated 02-07-2021 and 30-06-2021 illegal unlawful and without authority as well as against the provisions of IRA, 2012 etc.

2. After hearing of arguments of the parties, the learned Single Member vide order dated 09-03-2022 set aside the order dated 30-06-2021 while disposing of the petition. Feeling aggrieved the instant appeal.

3. Ch. M. Khalid Farooq, learned counsel for the appellant, argues that the appellant being a necessary party was neither impleaded in the petition moved against the order dated 02-07-2021 and 30-06-2021 passed in favour of the appellant nor otherwise he was



heard, therefore, the impugned order in contravention of rule of natural justice as well as existing law of the land is no more sustainable. Therefore, while allowing the appeal the impugned order be set aside.

4. Hafiz Bakhtiar, Learned counsel for the respondent on the other hand contended that the appeal is hopelessly time barred because the order dated 09-03-2022 has been challenged on 02-11-2022 i.e approximately seven months for which neither any plausible explanation has been rendered. So much so, the application for condonation of delay has also not been moved. Therefore, the appeal is liable to be dismissed.

5. Having given our decent consideration. There is no denying of the facts that the order dated 09-03-2022 was passed in favour of the respondent union against the appellant without his notice and knowledge. Legally, morally, as well as religiously no order can be passed against a person without providing proper opportunity of hearing. Because It is a legitimate right of a person to defend his legal rights.

6. So far as the objection of the learned counsel for the respondent regarding limitation is concerned. Undoubtedly, the order dated 09-03-2022 has been challenged on 02-11-2022 i.e approximately after seven months but the fact remains that the appellant was not party to the proceedings. Who attained the

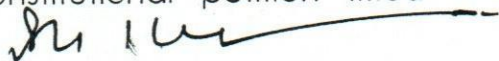
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knowledge of the impugned order on 02-11-2022 and ultimately, filed the instant appeal on 02-11-2022 after obtaining the certified copies. There is nothing on file from the respondent side that the appellant had attained the knowledge of the impugned order much prior to 02-11-2022. What is more important to mention here that the respondent has not even file any counter affidavit in this respect, which is sufficient to believe that what is alleged by the appellant with regard to factum of knowledge of impugned order stands admitted by the respondents.

7. Since, the appellant being necessary party was not impleaded and the order was passed against him in his absence without affording opportunity of hearing. Who after attaining the knowledge of the impugned order file the instant appeal within the time limit therefore, the objection of the learned counsel for the respondent is hereby rejected as being untenable. I am supported by 2021 SCMR 1158.

8. Admittedly, the appellant has been condemned unheard in violation of the rule of natural justice as well as article 10-A, constitution of Pakistan 1973, therefore, we are left with no choice except to remand the matter to learned Bench No.3 NIRC, Islamabad for decision afresh in line with the observation of the Hon' ble High Court Balochistan passed in writ petition CP No.965/2021 in constitutional petition titled WAPDA Hydro Electric Labour Union,



Balochistan vs Labour Unity of IESCO and four others by affording opportunity of hearing to both the parties, <sup>2</sup> while disposing the matter purely on merits accordance with law.

**(Abdul Rasool Memon)**

Chairman

**(Syed Noor ul Hassnain)**

Member

**(Shabbir Hussain Awan)**

Member