

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.12A(32)/2023

Panagraphics Vs Muhammad Rafiq

Present: Mr. Muhammad Jehangir, Advocate for appellant
Mr. Muhammad Rizwan, advocate for respondent.

ORDER

03.01.2024 **Shabbir Hussain Awan, Member**

Facts giving rise to the above titled appeal are that the respondent/petitioner filed a grievance petition by challenging his dismissal order dated 03-10-2022 being illegal as well as unlawful by stating therein that he joined the appellant establishment as Chowkidar on 16-04-2014. But his services were disengaged on 03-10-2022, hence, the grievance petition.

2. The appellant resisted the grievance petition through written reply. After hearing the arguments the learned Single Member allowed the grievance petition against the appellant. Feeling aggrieved the instant appeal.

3. It is argued by the learned counsel for the appellant that the impugned order out-come of is misreading and non-reading of evidence; that the impugned order is in conflict with the judgments of the superior courts; that the impugned order is arbitrary and without lawful authority; that the learned Member did not appreciate the arguments of the appellant nor considered the documents in this regard; that it is the prerogative of the appellant to

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dismiss any employee; that the learned Member has failed in considering the admission of the respondent during the cross examination; that the impugned order has been passed mechanically in hasty manner. Therefore, while allowing the appeal the impugned order be set aside.

4. Learned counsel for the respondent, on the other hand, has contended that the impugned order being well reasoned and in accordance with law, merits no interference, hence, the appeal be dismissed.

5. Arguments heard, record perused.

6. Having weighed the arguments. The perusal of the record transpire that the respondent was disengaged from his duty/service on 03-10-2022 on the ground of loss in business by the appellant, but the order dated 03-10-2022 is quite silent with regard to the fact that how many employees were working there and out of them how many were shown the door due to loss of business by retaining the remaining on duty to ascertain as to whether the provision of Section 11(a) Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 have been complied or not?

7. Because the employer is not left unbridled to terminate the employment as per his choice as law has imposed certain restriction upon him in this respect. Legally the employer cannot terminate the service of employees more than 50% of the workmen. And the 50% termination is subject to the prior permission of the Labour Court. Admittedly, no permission was sought prior to the order of retrenchment of the respondent, therefore, the impugned order being in conflict with the Section 11(a) of Industrial & Commercial

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Employment (Standing Orders) Ordinance, 1968 is illegal and unlawful, thus, carry no weight in eye of law.

7. In view of what has been discussed above, the appeal is dismissed being without merits. There is no order as to costs. File be consigned to R.R.

Announced in open Court

Dated:03-01-2024

(Abdul Rasool Memon)

Chairman

(Syed Noor ul Haq)

Member

(Shabbir Hussain Awan)

Member

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