

ONATIONAL INDUSTRIALS RELATIONS COMMISSION
FULL BENCH AT ISLAMABAD

Appeal No. 12A(46)/2023-P
CMA No. 24B(39)/2023-P

Before:- **Mr. Justice (F) Abdul Rasool Memon, Chairman**
Mr. Abdul Qayyum Khan, Member
Syed Noor-ul-Hassnain, Member

Head of Professional Employers Private Limited (PEOPLE) Plot NO. 1-C,
 JEhlum Block and Green Fort-II, Lahore

Versus

Shah Nawaz

Present Mr. Khurram Shahzad, learned counsel for the appellant.
 Mr. Bilal Ahmed Kakazai, Learned counsels for the respondents.

ORDER **By Syed Noor-ul-Hassnain, Member**

01.12.2023

The appellant/respondent has filed this appeal against the order dated 07.08.2023 passed by the Learned Single Bench, NIRC, Peshawar. The brief facts of the case are that the respondent/petitioner filed a petition before the Single Bench at Peshawar against the termination letter, dated 12.10.2022 under section 33 of the Industrial Relations Act, 2012 and the Learned Single Bench accepted the grievance petition, set aside the impugned termination letter dated 12.10.2023 and the respondent/petitioner was reinstated in service with all back benefits.

2. The learned counsel for the appellant/respondent argued for acceptance of this appeal, the impugned order dated 07.08.2023 be set aside being against law; that the written statement against the grievance petition of the appellant/respondent has been ignored illegal and unlawful; that the Learned Single Bench has failed to apply its judicious mind while dealing with the case; that the impugned order ignores appellant Firm's terms and conditions despite the fact that it is the actual operational body to execute operations smoothly; that the learned Single Member has ignored appellant/respondent inquiry, its witness's statement

previous verbal warnings to the appellant Firm's SOPs, TORs and appellant/respondent presence on the sport; that the learned Single Member has failed to understand that the inquiry is not incomplete and the petitioner /respondent was given opportunity of hearing in show cause notice but he failed to respond; That the sale deed presented by the respondent itself speaks that the shop at Malak Taj Pump Shah Kas was previously rented by the petitioner/respondent; that the learned Single Member questioned about the presence and picture of the written statement but failed to accumulate the declaration of respondents' presence in his grievance letter; that the learned Single Member ignored the SOPs and terms and conditions set forward in the contract about the dual job; but the indemnity form duly agreed and signed by the petitioner/respondents.

3. The learned counsel for the appellant/respondent further contended that the Learned Single Member ignored all the facts and figures in appellant/respondent inquiry report handed over to the petitioner/respondent; that avoiding the written statement, enquiring about evidence relating to death certificates of respondent's brothers, shop rent contract in respondent's brothers etc but rather consider petitioner/respondent's mere statement as correct without confirming against enquiring and proof; that proof of enquiry committee in witness statement was communicated before the impugned order dated 07.08.2023 was provided to the Learned Single Bench attached with the written statement and witness statement, through which it can be ascertained that the said order dated 07.08.2023 was handed over to appellant; that the learned Single Member, has failed to comprehend the show cause and termination letter where the allegation of misconduct is clearly mentioned; that the Learned Single Member has also failed to

appreciate the fact of the case; that the preparing an order against the defendant's employment Guidelines' of contract (SOPs, TORs), duly understand and undertaken by the employee is beyond the comprehension, could not serve the purpose of professional environment in any working environment.

4. The version of the learned counsel for the respondent/petitioner is that he was initially appointed as Area Level Social Mobilizer in Chip Training & Consulting on 01.10.2020 at Shah Kas Jamrud Khyber for rendering services to UNICEF; that respondent received suspension order and show cause notice on 05.10.2022 wherein an allegation of dual job was levelled against him; that the petitioner replied the show cause notice on 28.09.2022 wherein he denied the charges levelled against him; that without conducting an inquiry or affording an opportunity of personal hearing the impugned termination letter dated 12.10.2022 was issued to the petitioner/respondent; that being aggrieved of the impugned termination letter, the petitioner served grievance notice to the respondent on 18.11.2022 which was not replied; that the services were terminated by the appellant/respondents without conducting inquiry.

5. We have heard the learned counsel for the parties and gone through the record.

6. According to the Standing Order 15(4) of the Industrial & Commercial employment (Standing Orders) Ordinance, 1968.

15. Punishments (4).

No order of dismissal shall be made unless the workman concerned is informed in writing of the alleged misconduct 1 [within one month of the date of such misconduct or of the date of which the alleged misconduct comes to the notice of the employer] and is given an opportunity to explain the circumstances alleged against him. The approval of the

employer shall be required in every case of dismissal and the employer shall institute independent inquiries before dealing with charges against a workman.

7. The appellant/respondent has failed to bring on record even a single document in support of his version that the respondent/petitioner was involved in dual job. No statement of allegation was issued to the respondent/petitioner. No proper enquiry was conducted against him. No evidence against the petitioner was recorded. Neither the respondent/petitioner was provided the opportunity of personal hearing nor given the opportunity of cross examining the witnesses.

8. As a result of above discussion, it has come to limelight that the appellant/respondent has not observed the Standard Procedure of law while terminating the services of the respondent/petitioner. The order of Learned Member warrants no interference resultantly which is upheld and the instant appeal having without any force and substance is hereby dismissed. Parties to bear their own cost. File be consigned to record room after due completion.

Announced in open Court.

Dated: 01.12.2023

(Abdul Rasool Memon)

Chairman

(Syed Noor-ul-Hassnain)

Member

(Abdul Qayyum Khan)

Member