

NATIONAL INDUSTRIAL RELATIONS COMMISSION, ISLAMABAD
(FULL BENCH AT ISLAMABAD)

Appeal No.12A(33)/2023-P

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

Head of Professional Employers (Pvt) Ltd (PEOPLE), Plot No.1-C, Jhelum Block and Green Fort-II, Lahore and two others.

.....Appellants.

Versus.

Mst.Saima Gul, EX-Area Supervisor, PEOPLE, BHU, Chamkani, Peshawar.

.....Respondent.

Present: Mr.Khurram Shahzad, Advocate for appellants.
Mr.Ijaz Ahmed Malik, Advocate for respondent.

ORDER
01-12-2023

Abdul Qayyum Khan, Member, NIRC

The appellants have filed the instant appeal under section 58 of the Industrial Relations Act, 2012 against the impugned order dated 20-06-2023 passed by the learned Member, NIRC Peshawar Bench whereby he has allowed the grievance petition No.4B(04)/2023-P of the respondent.

2. The concise facts giving rise to this appeal are that the respondent Mst.Saima Gull has filed grievance petition before the learned Single Member, NIRC with the contention that she was appointed as Area Supervisor on 08-12-2016 in the appellants establishment on contract basis which was extended from time to time; that her duty was to inject drops to the children and to visit different areas as assigned to her by the authority; that she performed



here duties efficiently to the entire satisfaction of her superiors; that a complaint was allegedly made by her colleague against her with the allegations of misbehaviour, so she was served with charge sheet and in the meanwhile she was suspended from service on 17-01-2023; that on the same date, she was terminated from service vide letter dated 17-01-2023; that being aggrieved from the said termination letter, she has served grievance notice to the appellants management on 13-02-2023 for redressal of her grievances but in vain, hence her grievance petition with the prayer that the impugned order dated 17-01-2023 be declared unlawful, illegal, void, ineffective and be set aside and she be reinstated into service with all back benefits. The appellants have contested the grievance petition through their written reply by controverting the averments of the grievance petition and raising many objections on the point of law as well as facts and prayed for dismissal of the same. After hearing arguments of learned counsel for the parties, the learned Single Member, NIRC Peshawar Bench has allowed the grievance petition vide impugned order dated 20-03-2023 with the direction to the appellant (respondent) to reinstate the respondent (petitioner) with all back benefits.

3. Feeling aggrieved from the above said order, the appellant has preferred the instant appeal with the contention that they have filed written reply against the grievance petition before learned Single Member and he without recording pro & contra evidence on the question of limitation as well as other questions raised



in the written statement has allowed the grievance petition on 20-06-2023; that the learned Single Member has erred-in-law while passing the impugned order and did not consider the aspect involved in the controversy in its true perspective and passed the impugned order in hasty manner; that the instant appeal be accepted and the grievance petition be dismissed.

4. Conversely, the learned counsel for the respondent while controverting the averments of the appeal has supported the impugned order passed by the learned Single Member, NIRC.

5. We have heard the arguments advance by the learned counsel for the parties at considerable length and perused the record available on file with due care.

6. Perusal of written reply of grievance petition reveals that in the said written reply, the appellants have claimed that proper inquiry has been conducted against the respondent before issuance of termination letter dated 17-01-2023 but they have not annexed a single piece of document which could suggest that any inquiry was conducted against the respondent. Particularly, the show cause notice, reply to the show cause notice, inquiry proceedings and inquiry report. They have also failed to bring on record a letter of appointment of inquiry officer who held the inquiry on the given date and inquiry proceedings showing that the respondent had participated in the inquiry and that she had signed each and every page of the inquiry proceedings and that copy of inquiry report



handed over to her, so it is established that proper inquiry has not been conducted against the respondent. Standing Order 15 of Industrial & Commercial Employment (Standing Orders) Ordinance, 1968 is very much clear that the respondent had been working in the appellants establishment as Area Supervisor on 08-12-2016 for more than 06 years without any break and successfully completed her service for more than 09 months and by virtue of provisions of Industrial & Commercial Employment (Standing Orders) Ordinance, 1968, she has attained the status of permanent workman.

7. The appellants were required to serve the show cause notice and charge sheet upon the respondent and then to hold regular inquiry against her. Without holding of regular inquiry and not giving an opportunity to the respondent to defend herself, she being permanent workman cannot be terminated from service. In this regard, the August Supreme Court of Pakistan in case Hafeez Shah & 03 others Versus. United Bank Limited reported in 2001 SCMR-P-931 has held as under:-

"provisions of Section 15(4) of West Pakistan Industrial & Commercial Employment (Standing Orders) Ordinance, 1968 were mandatory and their non-observance would vitiate the proceedings. Neither charge sheet, show cause was duly served upon the employee nor was any opportunity of hearing after completion of alleged inquiry given to them. The proceedings with regard to dismissal of employees having been conducted in violation of natural justice and law, same could not be sustained".



8. For what has been discussed above, we are of the considered opinion that the learned Single Member, NIRC has not committed any illegality or irregularity while passing the impugned order dated 20-06-2023 which is up-held. Resultantly, the instant appeal is hereby dismissed with no order as to costs. File be consigned to record after due completion.

Announced in Open Court
Dated: 01-12-2023

(Abdul Rasool Memon)
Chairman

(Syed Noor-ul-Hassnain)
Member

(Abdul Qayyum Khan)
Member

Madad