

NATIONAL INDUSTRIAL RELATIONS COMMISSION
FULL BENCH AT KARACHI

BEFORE: **Mr. Justice (F) Abdul Rasool Memon, Chairman**
Mr. Shabbir Hussain Awan, Member
Mr. Mukhtar Hussain Soomro, Member

Appeal No. 12(24)/2022-Q

QESCO
Versus
Mai Khel S/O Jhada Khan, Quetta.

Present: Mr. Luqman Masood, Advocate for the appellant
Mr. Azam Jan Zarkoon, Advocate of the respondent.

ORDER
28-12-2023

Shabbir Hussain Awan, Member.

The appellant being aggrieved and dis-satisfied from the order dated 20.02.2022 passed by the learned Single Bench, NIRC Bench at Quetta has filed appeal under Section 58 of the IRA, 2012. The learned Single Bench has disposed of the grievance petition with the following terms:-

"6. In view of what has been discussed herein above, the petition in hand is allowed, the respondents are directed to correct their record (Service Book, CNIC etc) by correcting the date of birth of petitioner to be 26.01.1964 as per his Secondary School Certificate issued by Board of Intermediate & Secondary Education, Sargodha under Roll No. 33760 dated 25.06.1980 and allow the petitioner to continue his duties till attaining the age of superannuation as per his date of birth recorded in the above referred SSC

Shabbir Hussain Awan
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(Certificate) i.e. 26.01.1964 and retire the petitioner on the basis of said date of birth. The petition is disposed of in the above terms."

2. The appellant being aggrieved by the impugned order has filed this appeal. The imperative question involved in the matter is that whether this Commission under Section 33 of the IRA, 2012 have jurisdiction to dilate upon the question with regard to the correction of the date of birth of employees/workers of any establishment. Section 33 of the Act ibid enumerates the grievances of the workers which for convenience is reproduced herein below:-

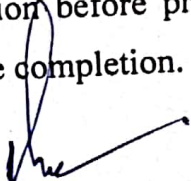
"33. Redress of individual grievances.- (1) A worker may bring his grievance in respect of any right guaranteed or secured to him by or under any law or any award or settlement for the time being in force to the notice of his employer in writing, either himself or through his shop steward or collective bargaining agent within ninety days of the day on which the cause of such grievance arises."

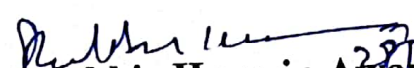
3. The above referred sub-Section clearly demonstrates that grievance petition can be filed for redressal of grievance in respect of the guaranteed and secured rights and the issue with regard to the determination/correction of date of birth can hardly be integrated within the jurisdiction of the Commission as any alteration/correction in date of birth can be determined through filing civil suit, which mandate is rest with the competent jurisdiction of the concerned Civil Court and not with this Commission (NIRC).

4. In view of what has been discussed above, without going into merits of the case it is held that this Commission (NIRC) having no jurisdiction to deal with the matter regarding correction/alteration in the date of birth, therefore, the impugned order has been passed without jurisdiction, not sustainable in the eye of law, is hereby set aside and consequently the

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petition filed before the Commission is directed to be returned to the respondent (petitioner) for presentation before proper forum. The file be consigned to record room after its due completion.


(Abdul Rasool Memon)
Chairman


(Shabbir Hussain Awan) 28/12/27
Member


(Mukhtar Hussain Soomro)
Member