

**NATIONAL INDUSTRIAL RELATIONS COMMISSION, LAHORE****CMA NO. 7A(105)/2023-L****Muhammad Amjad S/o Muhammad Shafi Bhatti****Vs.****Novo Nordisk Pharma (Pvt.) Limited & others****Before: Mr. Muhammad Sirajul Islam Khan, Member**

**Present:** Syed Umair Abbas, advocate for applicant.  
Mr. Zaheer Ahmed Cheema, advocate for respondents.

**ORDER**

18.07.2023

This is an application filed for call of record and continuation of the above titled grievance petition, with the prayer that the instant application may very kindly be accepted and the record for the above titled case may kindly be summoned and called to be brought before this Hon'ble Court and the above titled grievance petition may kindly be continued to be adjudicated by the competent court of jurisdiction i.e this Hon'ble court in the supreme interest of justice, equity and fair play.

2. Brief facts of the instant application are that the applicant filed a grievance petition bearing No. 26/2020 before Punjab Labour Court No. 1, Lahore against his termination, who vide judgment dated 02.02.2023, dismissed the grievance petition of the applicant. Feeling aggrieved by the judgment dated 02.02.2023, applicant preferred an appeal before Punjab Labour Appellate Tribunal (PLAT), Lahore and learned PLAT vide judgment dated 13.04.2023 dismissed the appeal of the applicant due to lack of jurisdiction, set aside the impugned judgment dated 02.02.2023 of Punjab Labour Court No. 1, Lahore, with direction to the Registrar of PLAT to transmit that appeal to the Deputy Registrar, NIRC, Lahore.

2. Learned counsel for the applicant contended that the respondent department is trans-provincial establishment, having its Head Office in Karachi and learned PLAT vide judgment dated 13.04.2023 has issued direction to transmit the appeal to NIRC but only appeal file has been sent to NIRC and file of grievance petition has not been sent whereas the judgment passed by the Punjab Labour Court No.1 has also been set aside by the PLAT, which means that the grievance petition has revived and due to status of Trans-Provincial establishment, proceedings in the grievance petition will be held before NIRC and for continuing of proceedings in the grievance petition it is also required that the file of the grievance petition be also transmit to NIRC. Learned counsel has further contended that the office of Punjab Labour Court No.1, Lahore has refused to hand over the file to the petitioner. He further contended that section 57 empowers the Commission to requisite any case or pleadings from the provincial labour courts which falls under the jurisdiction of the Commission, prayed that the instant application may kindly be accepted.

3. Upon notices, respondents entered appearance through counsel, who did not raise objection on the instant application.

4. Arguments heard and record perused.

5. There is only one legal question which has to be addressed about the jurisdiction of the NIRC to adjudicate upon the instant matter. As per record, respondent establishment is a Trans-Provincial Establishment. The phrase, "trans-provincial" has been defined in clause (xxxiv) of section 2 of Act X of 2012, which means, "any establishment, group of establishments, the industry having its branches in more than one Provinces." To elaborate further on the

subject, it can be seen that under the provision of section 53, the NIRC has been constituted by the Federal Government but its functions and jurisdiction have been explained and elaborated in the provision of section 54 of the IRA, 2012. According to clause (e), the NIRC has the powers and jurisdiction to deal with the cases of unfair labor practices specified in sections 31 and 32 of the Act on the part of employers, workers, trade unions, either of them or persons acting on behalf of any of them, whether committed individually or collectively, in the manner laid down under section 33 of subsection (9) or in such other way as may be prescribed and to take, in such manner as may be prescribed by regulations under section 66, measures calculated to prevent an employer or workman from committing an unfair labor practice. In addition to the above powers and jurisdiction, the NIRC has been conferred upon additional powers under the provision of section 33(6), 57 of the Act, which includes the powers to punish for contempt of court and may award simple imprisonment which may extend to six months or with fine, which may extend to Rs.50,000 or with both. In the same provision, vide clause (2)(b), the Commission has been empowered to withdraw from a Labor Court of a Province any applications, proceedings or appeals relating to unfair labor practice, which fall within its jurisdiction; and (c) grant such relief as it may deem fit including an interim injunction. A proviso has been added to the above provision, to the effect that “no Court, including Labor Court, shall take any action or entertain any application or proceedings in respect of a case of unfair labor practice”, which is being dealt with by the learned Commission. Section 57(2)(b) is reproduced under:

**“(b) withdraw from a Labour Court of Province any application, proceedings or appeal relating to unfair labour practice, which fall within jurisdiction of the Commission; and”**

In judgment, reported as 2023 PLC 23, it has been held that,

*“Hence, not only that there was no concealment on the part of the petitioners regarding the pendency of Appeal before the PLAT but even otherwise, jurisdiction conferred by law cannot be ousted by the parties or the Court. This is especially so when Section 57(2)(b) stipulated that the NIRC may, on the application of a party or of its own motion withdraw from a labour court of province any application, proceedings or appeal relating to unfair labour practice which falls within its jurisdiction. Thus, instead of invoking the powers conferred on the NIRC by law to the benefit and facilitation of the Petitioners, their grievance was, knocked down on technical ground on the attribution of concealment”.*

6. In the light of aforesaid provisions and decisions rendered by the Hon'ble Supreme Court of Pakistan in the case of Pakistan Telecommunication Company Limited v. Members of NIRC and others, **2014 SCMR 535** and other connected petitions reported as **PLD 2014 Sindh 553**, I am of the considered view that, NIRC is competent to decide the issue in hand. Hence, the instant application is allowed and the office of Deputy Registrar, NIRC Lahore is directed to requisite the said file from Punjab Labour Court No.1.

**Announced**

**(Muhammad Siraj ul Islam Khan)**  
Member