

# NATIONAL INDUSTRIAL RELATIONS COMMISSION, LAHORE

NO. 7(13)/2023-L

**Raja Rashid Mehmood S/o Raja Muhammad Aslam Khan**

**Vs.**

**Muhammad Jawaaid Iqbal & 02 others**

**Before: Mr. Muhammad Sirajul Islam Khan, Member**

**Present:** Mr. Zia ullah Khan, advocate for petitioner.  
Mr. Umer Abdullah, advocate for respondents.

Date of Arguments: 20.06.2023

Date of Order: 18.08.2023

## **ORDER**

**18.08.2023**

This is an application filed under section 57(1) of IRA, 2012 read with all other enabling provisions under relevant laws for initiation of contempt proceedings against the respondents for non compliance of order dated 17.10.2022 passed by the learned Member, NIRC, Lahore Bench.

2. Brief facts of the matter are that the petitioner filed the grievance petition bearing No. 4B(240)/2018-L, before this Hon'ble Commission wherein it was prayed that termination order dated 04.08.1999 may kindly be set aside and petitioner may kindly be reinstated into service with all back benefits.

Learned Commission vide order dated 17.10.2022, accepted the grievance petition filed by the petitioner in following terms:

*“..... I accept the grievance petition and set aside the impugned termination order dated 04.08.1999 issued against the petitioner being illegal and without justification. The respondents are directed to reinstate the petitioner in service from the date of his termination with all back benefits because the petitioner during his cross examination has deposed that he is jobless since his termination (Reliance is placed upon 2018 SCMR 376, 2018 PLC 28, 2006 PLC 335 and 1991 SCMR 2087) and then to pay the pensionary benefits. There is no order as to costs. File be consigned to record after due completion”.*

3. Learned counsel for the petitioner has argued that the order dated 17.10.2022 was duly communicated to the respondents and petitioner promptly approached the respondents for implementation of the said order and petitioner's reinstatement into service with all back

benefits. But the respondents bank kept on procrastinating the matter on one pretext or the other and adopted a non-seminal attitude. That the petitioner has tried his level best to get implement the order dated 17.10.2022 but of no avail. Learned counsel for the petitioner further contended that the respondents are under lawful obligation to comply with the order dated 17.10.2022 and particularly, when the same has not been suspended till the day. Learned counsel for the petitioner contended that the respondents have disregarded the lawful order of this commission by way of not implementing it, prayed that the respondents may be directed to implement the order dated 17.10.2022 in its letter and spirit. Learned counsel for the petitioner has placed his reliance on 1997 SCMR 193 and 2012 SCMR 909.

4. On notices, learned counsel for the respondents entered appearance and advanced the arguments that respondent's bank does not intend to violate any orders of this learned Commission. The application in hand is frivolous and devoid of any legal or factual merits of the case. The instant application has been filed with malafide intentions, thus is deserved to be dismissed. This learned Commission does not have jurisdiction to entertain upon the matter as the petitioner is OG-I, hence, this learned Commission cannot proceed with the matter in hand. Learned counsel for the respondents placed his reliance on 1991 CLC 694, 2006 PLC 354, 1994 PLC 784, 2000 PLC 67 and 2010 PLC 276.

5. Arguments heard and record perused.

6. Record shows that the order dated 17.10.2022 has been passed in favor of the petitioner, against which the respondents have preferred an appeal before the learned Full Bench and the appeal was fixed for 15.06.2023 on which date no suspension order was passed in favour of respondents. In the absence of any restraining order, respondent's bank is under lawful obligation to implement the order dated 17.10.2022.

Section 33 sub section 6 of IRA-2012 is relevant which states that;

*“If a decision under sub-section (4) or an order under sub-section (5) given by the Commission or a decision in an appeal against such a decision or order is not given effect to or complied with within seven days or within the period specified in such order or decision the defaulter shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to seventy-five thousand rupees, or with both”.*

In judgment, titled Gun and Country Club Islamabad Vs. NIRC etc, reported as 2017 PLC 130, it has been held that:

*“ 8. In the instant case the additional powers are conferred on National Industrial Relations Commission under Section 57 of the Act. The bare perusal of section 57(2)(c) shows that the power to grant interim relief by way of injunction or otherwise is not restricted to any particular kind of proceedings and it extends to all kinds of proceedings before the National Industrial Relations Commission. In light of said facts respondent No. 1 did have the jurisdiction to grant interim relief while issuing notice in the contempt proceedings under section 57(2)(c) of the Act. It is an established principle that no petition under Article 199 of the Constitution is maintainable against interim order unless the same is without jurisdiction or patently illegal. As mentioned hereinabove National Industrial Relations Commission did have the jurisdiction to grant interim relief while issuing notice in contempt proceedings, therefore, the order passed by it and assailed in the instant petition are not without jurisdiction or otherwise illegal.*

*9. For the reasons set out above, the instant petition is without merit and is accordingly dismissed”.*

In case titled Abdul Wahab Galadari Vs. Abdul Wahab Ebrahim Galadari & another (1991 CLC 694), question of jurisdiction has been discussed, while in the matter in hand, this aspect of the matter will be decided into whole finalizing the contempt proceedings, This may not be relevant at this point of time.

In case laws, reported as 2006 PLC 354, 1994 PLC 784 and 2000 PLC 67, ratio of land revenue has been discussed which is different fact and question. Now section 33(6) and 57 of IRA, 2012 empowers the commission for implementation of its orders.

7. What has been discussed above, it is prima facie clear and obvious that the order dated 17.10.2022 is in field and it has not be implemented yet in its true spirit. Let show cause notice be issued to the respondents to appear in person and to explain in writing as to why contempt proceedings under Sections 57 & 33(6) of IRA, 2012 may not be initiated against them. Now to come up on 31.08.2023.

**Announced**

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