

**Order Sheet**  
**IN THE LAHORE HIGH COURT**  
**MULTAN BENCH, MULTAN**  
**Judicial Department**

**W.P No.2212 of 2024**

National Rural Support Program  
(NRSP), etc.

Vs. National Industrial Relation  
Commission (NIRC), etc.

| <i>Sr. No. of<br/>order/<br/>proceedings</i> | <i>Date of order/<br/>Proceeding</i> | <i>Order with signature of Judge, and that of<br/>Parties' counsel, where necessary</i> |
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**09.10.2024.** M/s Muhammad Ali Siddiqui, Fatima Safeer and Sammar Abbas, Advocates for petitioners.  
 Malik Masroor Haider Usman, Assistant Advocate General.  
 Rana Ghulam Hussain, Assistant Attorney General for Pakistan.  
 Mr. Sajjad Hussain Tangra, Advocate for respondent No.3.

Concurrent decisions by the Member, National Industrial Relations Commission (**NIRC**) and National Industrial Relations Commission Full Bench dated 30.09.2022 and 10.01.2024, respectively, are subject matter of challenge through instant constitutional petition.

2. Legal question raised for determination is whether petitioner, which was registered under Section 42 of erstwhile Companies Ordinance, 1984 and a non-profit organization ('NPO'), falls within the definition of the expression(s) "commercial establishment" or "industrial establishment" under the provisions of The Industrial and Commercial Employment (Standing Order) Ordinance 1968.

Status of the petitioner entity as Guarantee Company, incorporated under section 42 of the Companies Ordinance 1984 and classification as NPO is not disputed. In support of submissions, learned counsel for the petitioner cites the case of "Syed Shahid Abbas and 36 others vs. Chenab Club

(Guarantee) Limited Faisalabad through President and another” (2008 PLC 58).

3. Conversely, learned counsel appearing for respondent No.3 submits that petitioner is a trans-provincial establishment and jurisdiction to try industrial disputes is exclusively vested with NIRC, which jurisdiction is conferred and exercisable in terms of the provisions of Industrial Relations Act 2012 (Act, 2012), which has an overriding effect under section 87 of the Act, 2012.

4. Heard.

5. Petitioner is a trans-provincial establishment, which is covered under the provisions of Act, 2012. It is evident that initially grievance petition was submitted under section 46 of the Industrial Relations Ordinance, 2002, wherein claim of respondent No.3 was allowed by the Labour Court No.9 on 14.03.2011, which matter went to Labour Appellate Tribunal and in the meanwhile Act, 2012 was promulgated; whereupon appeals were transferred to NIRC Full-Bench, which set-aside the judgment of the Labour Court and remanded the matter to Member, NIRC. Question of non-application of Standing Order 1968 was raised but dismissed by Member NIRC and NIRC Full Bench.

6. Following are determinable questions; whether petitioner comes within the definition of establishment – section 2 (x) of Act, 2012 -; whether grievance raised is covered under the expression ‘industrial dispute’ whether respondent No.3 qualifies as worker or workman, either under Act, 2012 or in terms of Standing Order 1968. And if all these requirements are met then assumption and exercise of jurisdiction by NIRC under the provisions of the Act, 2012

tantamount to lawful exercise of authority / jurisdiction. For better understanding of the triable questions, it is expedient to reproduce relevant provisions of Act, 2012 and Standing Order 1968, which read as,

(x) “establishment” means any office, firm, factory, society, undertaking, company, shop or enterprise, which employs workmen directly or through contractor for the purpose of carrying on any business or industry and includes all its departments and branches in the Islamabad Capital Territory or falling in more than one province, whether situated in the same place or in different places and except in section 62 includes a collective bargaining unit, if any, constituted by any establishment or group of establishment.

(xvi) “industrial dispute” means any dispute or difference between employees and employers or between employers and workmen or between workmen and workmen which is connected with the employment or non-employment or the terms of employment or the conditions of work of any person;

(xxxiii) “workers” and “workman” mean person not falling within the definition of employer who is employed (including employment as a supervisor or as an apprentice) in an establishment or industry for hire or reward either directly or through a contractor whether the terms of

employment are express or implied, and, for the purpose of any proceeding; under this Act in relation to an industrial dispute includes a person who has been dismissed, discharged, retrenched, laid-off or otherwise removed from employment in connection with or as a consequence of that dispute or whose dismissal discharge, retrenchment lay-off, or removal has led to that dispute but does not include any person who is employed mainly in managerial or administrative capacity.

Definition of workman under Standing Order 1968.

(i) “workman” means any person employed in any industrial or commercial establishment to do any skilled or unskilled, manual or clerical [work] for hire or reward.

[Emphasis supplied]

7. Upon perusal of the quoted provisions of law, I find no difficulty in holding that petitioner qualifies as an ‘establishment’ in terms of section 2 (x) of the Act, 2012, which *inter alia* includes a company, that had employed a workman, i.e., respondent No.3 and for carrying on business, which nature of business is distinguishable from the industry. Respondent No.3 was dismissed, whose individual grievance comes within the ambit of an industrial dispute, in terms of section 2 (xvi) – *inter alia* a dispute between employer and workmen and connected with the employment or otherwise concerning the terms and conditions of employment. Further, respondent No.3 comes within

the definition of workman under section 2 (xxxiii) of the Act, 2012, - [respondent No.3 was not employed to conduct managerial or administrative assignment], who was dismissed in relation to an industrial dispute, hence, entitled to bring his grievance within the ambit of Act, 2012. Designation of the petitioner was office attendant / Telephone Operator – which is covered under specification of skilled or unskilled workman – which comes within the definition of workman in terms of clause (i) of section 2 of the Standing Order 1968, as well.

Any doubt or confusion, if any, stood settled in terms of the ratio settled in the case of "Messrs Pak Telecom Mobile Limited vs. Muhammad Atif Bilal and 2 others" (**2024 PLC 130**), which illustrates that for the purposes of seeking remedy under Standing Order or Act, 2012, grievance-raiser had to satisfy his qualification under definition of workmen under relevant statute. It is not disputed that respondent No.3 meets the definition of workman under the Act, 2012 and Standing Order 1968 and there appears no apparent conflict qua assumption and exercise of jurisdiction – petitioner being a trans-provincial establishment. Questions raised have been addressed by the forums competent to exercise jurisdiction – reasoning may not be eloquently laid but sound enough to affirm it. The case of Chenab Club (Guarantee) Limited Faisalabad through President and another (supra) is not applicable, which decision was made in terms of section 25-A of the Industrial Relations Ordinance 1969, wherein requisite amendment was made in Standing order 1968 to provide remedy of invoking jurisdiction in terms of the mechanism provided under Industrial Relations Ordinance 1969.

The case of Fauji Foundation (Headquarters) through Manager Administration vs. Punjab Labour Appellate Tribunal and 2 others (2007 SCMR 1346) extends no support, which relates to Industrial Relations Ordinance, 1969.

8. There is another aspect of the matter. Petitioner may not qualify as a ‘commercial establishment’ for the purposes of Standing Order 1968, but comes within an ambit of establishment under the Act, 2012, which might not be a ground for dismissing claim of respondent No.3 in wake of section 87 of the Act, 2012, which extends an overriding effect to the Act, 2012.

9. In view of the above, question is answered by affirming the decisions assailed and holding that petitioner is an establishment under section 2 (x) of the Act, 2012.

10. Constitutional petition is found meritless and same is, hereby, dismissed.

**(Asim Hafeez)  
Judge**

*“M.S.Aleem”*

Announced in open court on this 24<sup>th</sup> day of October, 2024.

Approved for reporting

**Judge**

**Judge**