

**JUDGMENT SHEET**  
**IN THE ISLAMABAD HIGH COURT,**  
**ISLAMABAD**

**CASE NO. : W.P. NO.2703-2018**

**Naseer Ahmed**

**Vs.**

**The Director General, Pakistan Broadcasting Corporation, Islamabad etc.**

**Petitioner by : Mr. M. Umair Baluch, Advocate**  
**Mr. Babar Manzoor, Advocate**  
**Mr. Saif ur Rehman, Advocate**  
**Respondents by : Ms. Shahida Parveen Sukhera, Advocate**  
**Date of decision : 24.09.2020**

**AAMER FAROOQ J.** The petitioner is an employee of Pakistan Broadcasting Corporation (PBC); he filed an application before the then Labour Court Islamabad seeking promotion; his application was allowed vide order dated 06.12.2010 by the Labour Court, Islamabad. Since at the relevant time, the appellate forum was this Court under the then law hence appeal was preferred. Subsequently, pursuant to the decision by Hon'ble Supreme Court of Pakistan dated 13.02.2013 in case titled 'State Bank of Pakistan through its Governor/Director Human Resources and another Vs. Presiding Officer, Labour Court (District & Sessions Judge) Islamabad and others' (Civil Appeal No.1150-2012). PBC, reversed the order of Move Over of the petitioner vide order dated 20.05.2011. The petitioner challenged the said letter before National Industrial Relations Commission (NIRC), however, his petition was dismissed by the Single Member of NIRC vide order dated 07.12.2018; appeal was preferred against the said order before Full Bench, NIRC which was also dismissed on 07.06.2018, hence the petition.

2. Learned counsel for the petitioner, *inter alia*, contended that order passed by the Labour Court was duly implemented and promotion/move over was granted to the petitioner and subsequently reversal of the same was without lawful authority. It was contended that the then Industrial Relations Laws had a sunset clause and it lapsed when the order was passed by the Labour Court, however, subsequently in 2012, another Industrial Relations Act, 2012 was promulgated and the Hon'ble Supreme Court of Pakistan in case reported as 'Messrs Sui Southern Gas Company Limited and others Vs. Federation of Pakistan and others' (2018 SCMR 802), while interpreting the same, has held it retrospective in effect.
3. Learned counsel for the respondents, *inter alia*, contended that since decision of Hon'ble Supreme Court of Pakistan, in case 'State Bank of Pakistan through its Governor/Director Human Resources and another Vs. Presiding Officer, Labour Court (District & Sessions Judge) Islamabad and others' (Civil Appeal No.1150-2012), is very clear on the subject hence promotion/move over of petitioner was reversed. It was submitted that move over/promotion was granted on the basis of the order passed by the then Labour Court, which was without jurisdiction.
4. Arguments advanced by learned counsels for the parties have been heard and the documents, placed on record, examined with their able assistance.
5. The factual aspect of the case is mentioned hereinabove in the preceding paragraphs, therefore, need not be reproduced.
6. The Industrial Relations Act, 2008 had a sunset clause, by virtue of which, unless repealed earlier, it lapsed on 30.04.2010. The Labour

Court passed order in favour of the petitioner after sunset clause under the mistaken belief that law is still valid and it can continue. It is pertinent to observe that after lapse of Act, 2010, the Labour Court ought to have returned application/cases pending before it. Likewise, appeal filed by the petitioner was entertained by this Court erroneously.

7. The Hon'ble Supreme Court of Pakistan clarified the position as to the lapse of 2010 Act and its effect in case titled 'State Bank of Pakistan through its Governor/Director Human Resources and another Vs. Presiding Officer, Labour Court (District & Sessions Judge) Islamabad and others' (Civil Appeal No.1150-2012), vide order dated 13.02.2013, in the following terms:-

*"7. In the case of Air League of PIAC Employees (supra) this Court has held that the Industrial Relations Act, 2012 stood repealed on the expiry of period mentioned in section 87(3) of the Act and the consequence of such repealed will render the judgment of the Court coram non judice. The Act stood repealed on 30.04.2010 and after that there was no legislation in the field of labour dispensation until 18.07.2011, when the Industrial Relations Ordinance, 2011 was promulgated. The judgments of the Labour Court dated 26.06.2010, 11.01.2011 and 24.03.2011 were passed during the period when the Act of 2008 stood repealed and there was no legislation in the field. In the light of law laid down in the case of Air League of PIAC Employees by this Court, the judgments of the Labour Court will be coram non judice. The result of it would be that the order of the Labour Court dated 27.05.2011, on the application for Contempt filed by the respondents in Civil Appeal No.1150 of 2012 will also be without jurisdiction and that the judgment of the Labour Court being coram non judice was not capable of being implemented. This Writ Petition No.1961/2011 filed by the appellant in C.A. No.1150-2012 will stand allowed and the impugned judgment dated 25.07.2012 is set aside. The judgment of the Labour Court dated 26.06.2010 in CA No.127/2013 was maintained up to the High Court, where Writ Petition No.2186/11 of the appellant was dismissed. In the face of the findings that the said judgment of the Labour Court was coram non judice, the said Writ Petition No.2186/11 is allowed and the impugned judgment dated 28.09.2012 is set aside. The two judgments dated 24.03.2011 of the Labour Court in Civil Petition No.1754 and 1755 being coram non judice, the filing of Contempt proceedings for its implementation is also without jurisdiction as the judgments of the Labour Court are not capable of being implemented, thus Writ Petitions No.2517 & 2518/12 stands allowed. The result of it would be that the grievance petitions, which the private respondents have filed now stand revived and will be decided in accordance with law by the*

*forum, which is available now for their determination. The Industrial Relations Commission has been established by the Industrial Relations Act, 2012 for redressal of the individual grievance of the workmen. Consequently, all these grievance petitions are remanded accordingly for deciding the same in accordance with law”.*

It is clearly stipulated in the above judgment that after lapse of the Act, 2010, the courts acted without jurisdiction hence their orders were *coram non judice*. The judgment of the Hon'ble Supreme Court of Pakistan, relied upon by the petitioner reported as 'Messrs Sui Southern Gas Company Limited and others Vs. Federation of Pakistan and others' (2018 SCMR 802) to submit that since successor of 2010 Act namely Industrial Relations Act, 2010 is retrospective, is of no avail, as it would not grant jurisdiction to the then Presiding Court. The dictum of august Apex Court would be applicable to only pending cases. The judgments/orders passed by National Industrial Relations Commission do not suffer from any error of law or jurisdiction.

8. For what has been stated above, instant petition is without merit and is accordingly dismissed.

  
(AAMER FAROOQ)  
JUDGE