

Form No: HCJD/C-121

JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD  
(JUDICIAL DEPARTMENT)

W.P. No.4481/2021

M/s Pak Telecom Mobile Limited

Versus

National Industrial Relations Commission, Full Bench, Islamabad, etc

Petitioner by : M/s Shahid Riaz, Bilal Ahmed and Usman Riaz,  
Advocates.

Date of Hearing : 17-12-2021.

ATHAR MINALLAH, C.J.- The petitioner company has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 assailing judgment, dated 29.05.2019 and 22.10.2021, passed by the learned Single Member and Full Bench of the National Industrial relations Commission, Islamabad (hereinafter referred to as the "**Commission**") respectively.

2. Muhammad Atif Bilal son of Fazal Illahi (hereinafter referred to as the "**respondent**") was working against the post of Senior Executive, (NSS Planning) Department of the petitioner company. His employment was terminated vide order, dated 11.11.2017. The respondent promptly sent a grievance notice and hereafter proceedings were initiated before the Commission. The learned Single Bench vide order, dated 29.05.2019 allowed the

grievance petition and consequently the petitioner company was directed to restore the employment of the respondent. The learned Single Bench had determined the status of the respondent as that of a workman on the basis of the testimony of the witness who had entered the witness box on behalf of the petitioner company. The latter preferred an appeal, which was dismissed by the learned Full Bench of the Commission vide judgment, dated 23.09.2019. The said judgment was assailed by invoking the constitutional jurisdiction of this Court through W.P.No.3345 of 2019. The petition was allowed and the matter was remanded to the learned Full Bench. After affording of opportunity to the parties, the learned Full Bench has rendered the impugned judgment, dated 22.10.2021.

3. The learned counsel has been heard at great length. However, despite his able assistance, he was not able, to satisfy the Court why the well reasoned impugned judgments be interfered with. The learned Full Bench has rightly observed that since the employment record was in the custody of the petitioner company, therefore, the onus was on the latter to prove that status of the respondent was not of a workman. The official who had entered the witness box on behalf of the petitioner company was examined as Rw-1. A plain reading of his testimony clearly shows that the petitioner company, despite having been extended the opportunity, could not establish the status of the respondent otherwise than a workman in the light of the definitions contained in the Industrial & Commercial Establishment (Standing Orders) Ordinance, 1968 and the Industrial Relations Act, 2012. The learned counsel has referred

to the testimony to the respondent. However, the inferences drawn by the learned counsel for the petitioner company to establish the status of the respondent otherwise than as a workman are without force. The petitioner company was provided an opportunity to establish the status of the respondent otherwise than as a workman but it failed to do so. While exercising jurisdiction under Article 199 of the Constitution, the court cannot reappraise the evidence brought on record nor substitute opinions formed by the competent forums concurrently. The concurrent findings do not suffer from any legal infirmity nor the question of jurisdictional error has been raised on behalf of the petitioner company. The concurrent findings are well reasoned and do not require interference while exercising jurisdiction under Article 199 of the Constitution.

4. For the above reasons, the instant petition is without merit and, therefore, accordingly **dismissed in limine**.

(CHIEF JUSTICE)

Asif mughal/\*