

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Amin-ud-Din Khan
Mr. Justice Muhammad Ali Mazhar
Mr. Justice Irfan Saadat Khan

Civil Petition No. 1866-L of 2023

Appeal against the Judgment dated
21.02.2023 passed by the Lahore High
Court, Lahore in W.P.No.9869/2013

Muslim Commercial Bank Limited

.....Petitioner

Versus

Punjab Labour Appellate Tribunal through its
Chairman, Lahore and others.

...Respondents

For the Petitioner:

Mr. Farooq Zaman Qureshi, ASC

For Respondents No.4-6:

Mr. Tariq Masood, ASC

Date of Hearing:

24.09.2024

JUDGMENT

Muhammad Ali Mazhar, J:- This Civil Petition for leave to appeal is directed against the Judgment dated 21.02.2023, passed by the learned High Court, Lahore, in W.P.No.9869/2013, whereby the writ petition filed by the petitioner was dismissed.

2. The transitory facts of the case are that Chaudhry Mushtaq Ahmad Khan was employed as a Cashier in the petitioner's bank, who allegedly committed certain acts of misconduct. Therefore, he was issued a show cause notice on 27.09.1981. Since his reply was not found satisfactory, a domestic enquiry was conducted, in which he appeared and participated, but at the end of the day, he was found guilty and was dismissed from service *vide* Office Order dated 17.04.1982. To challenge the dismissal, he filed the Grievance Petition in the Punjab Labour Court

which was allowed *vide* judgment dated 03.04.1985 with the directions to reinstate him in service. To begin with, the judgment of the Labour Court was challenged by the petitioner in the Lahore High Court on the notion that the dismissal from service was not a result of an industrial dispute; therefore, the Labour Court had no jurisdiction. However, the Writ Petition No.2683/1985 was disposed of on 06.11.1996 with the observation that the petitioner may challenge the judgment of the Labour Court before the Labour Appellate Tribunal where the benefit of Section 14 of the Limitation Act, 1908, would be available for filing appeal. Thus, the petitioner filed an appeal before Punjab Labour Appellate Tribunal along with an application for condonation of delay in view of the indulgence granted by the High Court in its order dated 06.11.1996, but the learned Labour Appellate Tribunal, *vide* order dated 13.03.2013, dismissed the appeal, which was also barred by 2 months and 22 days. This order was challenged in the High Court, but the Writ Petition No.9869/2013 was also dismissed on 21.02.2023.

3. It is also reflected from the record that at the time of decision of the grievance petition by the Labour Court, the employee (Chaudhry Mushtaq Ahmad Khan) was alive; but during the pendency of the appeal, he passed away. Thereafter, his legal heirs were impleaded, who represented him and pursued the cases up to the High Court. In the present case also, the legal heirs have been arrayed as respondents, on the premise that, although reinstatement is not possible, but according to them, the services of their predecessor-in-interest (ex-employee) were rightly terminated following due process of law and finding him guilty. Therefore, there was no justification for the Labour Court to reinstate him in service with back benefits for which the legal heirs have already approached the National Industrial Relations Commission ("NIRC") for implementation of the judgments of the lower fora.

4. The learned counsel for the petitioner argued that when the Industrial Relations Act, 2012 ("IRA") was promulgated, the jurisdiction of the Labour Courts and the Labour Appellate Tribunal stood ousted with regard to the employees employed in trans-provincial institutions and the matters pending before the said fora were required to be decided by the NIRC. However, in the present case, the learned Labour Appellate Tribunal took cognizance and dismissed the appeal *vide* order dated 13.03.2013, which was without jurisdiction. He further argued that the appeal was filed on 18.12.1996, which remained pending for a

considerable time but on 13.03. 2013, it was dismissed when the learned Appellate Tribunal had no jurisdiction and the memo of appeal was liable to be returned for presentation in the NIRC for further proceedings. He further contended that after the death of the dismissed employee, no order of re-instatement could be implemented. It was further averred that the writ petition was instituted in the Lahore High Court in 2013, which remained pending for a considerable time and was finally decided on 21.02.2023, but the learned High Court failed to take into consideration the crucial question of jurisdiction. Rather, it was held that no application for transfer of appeal was filed by the petitioner in the NIRC, therefore, they cannot raise the objection with regard to the jurisdiction which was a misconceived notion. He further contended that the learned High Court also failed to consider that the legal heirs of the deceased employee themselves approached the NIRC for implementation of the order of the Labour Court and the Appellate Tribunal, which was sufficient to hold that now only the NIRC has jurisdiction to take cognizance and decide the matter of trans-provincial organizations.

5. The learned counsel appearing for the legal heirs of the deceased employee, at the very outset informed us that Mst. Musarrat Mushtaq, widow of the deceased employee, has passed away on 26.09.2022, and her death certificate is attached with C.M.A No.3305/2023. The learned counsel further directed our attention to C.M.A No.4095-L/2023, whereby the legal heirs have applied to delete the widow's name and he now represents all surviving legal heirs mentioned in the aforesaid Civil Misc.Application. The names are taken on record and the counsel for the petitioner is directed to file the amended title which shall be placed by the Office at the appropriate place. As far as the merits of the case are concerned, the learned counsel argued that the predecessor of his clients served the bank diligently and efficiently, but was wrongfully dismissed from service. He further argued that no such appeal was preferred before the Punjab Labour Appellate Tribunal within the prescribed period of 30 days. It was further averred that no interference can be caused to the judgment of the Labour Appellate Tribunal as it is the Court's bounden duty to dismiss a *lis* filed beyond the legally prescribed limitation period. However, the learned counsel could not refute that for the implementation of the Labour Court's order, as merged into the Order of Labour Appellate Tribunal, the legal heirs have themselves approached the NIRC for compliance under the provisions of the IRA rather than returning to the Labour Court, which passed the original judgment on

the grievance petition. The order passed by this Court on 10.08.2023 also indicates that a contempt application is pending before the NIRC against the noncompliance. However, pending adjudication of this Civil Petition, those proceedings have been stayed by this Court.

6. Heard the arguments. The purpose of enacting the IRA was to consolidate and rationalize the law relating to the formation of trade unions and improve the relations between employers and workmen in the Islamabad Capital Territory ("Islamabad") and in the trans-provincial establishments and industries. According to Section 2 (Definitions), clause (xvi), "industrial dispute" refers to any dispute or difference between employers 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. While the definition of "trans-provincial", encapsulated in clause (xxxii) of Section 2, means any establishment, group of establishments, industry, having its branches in more than one province. The mechanism for settlement/redress of disputes with regard to individual grievances is provided under Section 33, wherein after fulfilling the requisite conditions, such as submitting a grievance notice and other statutory compliances, a worker may approach NIRC and while adjudicating and determining a grievance, the NIRC is obligated to examine all the facts of the case and issue orders deemed just and proper in the circumstances of the case. Under Section 58, any person aggrieved by an award or decision given or a sentence or order determining and certifying a collective bargaining unit passed by any Bench of the NIRC, may, within thirty days of such award, decision, sentence or order prefer an appeal to the NIRC. In appeal, the Full Bench may confirm, set aside, vary or modify the decision or sentence passed and shall exercise all the powers required for the disposal of an appeal and render the decision as expeditiously as possible, within a period of sixty days. Additionally, the NIRC may, on its own motion, at any time, call for the record of any case or proceedings under this Act in which a Bench within its jurisdiction has passed an order for the purpose of satisfying itself as to the correctness, legality, or propriety of such order, and may pass such order in relation thereto as it thinks fit; provided that no order under this Subsection shall be passed revising or modifying any order adversely affecting any person without giving such person a reasonable opportunity of being heard. In unison, Section 54 demarcates various functions of the NIRC which includes, in clause (h), dealing with

cases of individual grievance in the manners prescribed in Section 33; and pursuant to clause (i), exercising exclusive jurisdiction over the establishment or group of establishments situated in Islamabad and trans-provincial areas.

7. Chapter-V of the National Industrial Relations Commission (Procedure and Functions) Regulations, 2016, pertains to industrial disputes. Regulation 43 accentuates that an application for adjudication and determination of an industrial dispute shall be filed on the format as set out in Form U, while under Regulation 45, it is provided that subject to the provisions of these regulations, the procedure prescribed under the Code of Civil Procedure, 1908, in regard to suits may be followed, as far as it can be made applicable, in the proceedings for adjudication and determination of industrial disputes including adjudicating application brought under Section 33 and clause (e) of Section 54. The preview of the procedure set down in Regulation 59 divulges that while dealing with and deciding cases based on allegations of unfair labour practices or redressal of individual grievances in respect of any right guaranteed or secured to any worker by or under any law or any award or settlement, the NIRC has been conferred powers to summon the employer; summon and enforce attendance of witnesses and examine them on oath; compel the production of documents and material objects; conduct any enquiry as it deems fit; issue an order in writing and announce it. If any party fails to appear despite receiving notice, the NIRC may proceed to hear and decide the dispute *ex parte*. Additionally, the matter brought before it arises out of the dismissal or removal from service of a workman, the NIRC may direct the reinstatement of the workman with consequential benefits.

8. At this juncture, we cannot lose sight of the niceties of Section 57 of the IRA which delineates the additional powers of the NIRC. Subsection (5) of Section 57 is somewhat noteworthy in the present context, which is reproduced as under: -

“(5) Save as provided in sub-section (4) no Registrar, Labour Court or Labour Appellant Tribunal shall take any action, or entertain any application or proceedings, in respect of any matter which falls within the jurisdiction of the Commission: Provided that no Court, including Labour Court, shall take any action or entertain any application or proceedings in respect of a case of unfair labour practice which is being dealt with by the Commission”

9. The law can be categorized as either substantive or procedural. Substantive law defines rights, while procedural law deals primarily with the process or remedies involved. Procedure is merely a machinery, a means to an end, and its object is to facilitate, not obstruct, the administration of justice. In fact, procedural laws are meant to set the rules for the judicial system, outlining how the business of the court should function to protect the rights of individuals within the credible and sound justice system. The purpose is to safeguard and uphold the due process of law and ensure a fair trial in both civil and criminal proceedings. In tandem, the mere change in the forum of appeal does not prejudice a vested right of appeal provided by any special or general law. Here, the only change was the conferral of jurisdiction to the NIRC to hear cases at both the original and appellate levels for workers in trans-provincial establishments, which in our considered view, does not prejudice or harm any lawful rights of workers, nor can it be considered an injustice. It is a well-settled exposition of law that procedural law initiates and guides the process and course of action through which the lawsuit progresses and the way in which court proceedings are undertaken. It also regulates and oversees the procedures employed. Substantive law, on the other hand, comprises statutory obligations relevant to the subject matter, declaring the applicable rights and obligations, and regulating the demeanor of an individual or government. Jeremy Bentham, an English philosopher, jurist, and social reformer, first coined the terms 'substantive laws' and 'adjective laws' (*i.e.* procedural laws) in his book *The Works of Jeremy Bentham* (1843), while describing the procedure and course taken for the execution of laws. He argued that in jurisprudence, both procedural and substantive laws must co-exist, as neither can function independently. Similarly, Thomas Holland, the British jurist, in his book *The Elements of Jurisprudence* defined 'substantive law' as laws that determine how the legal system protects rights, while 'adjective laws' or 'procedural laws' are the laws which provide the methods for enforcing and protecting those rights. According to Salmond, as cited in *Introduction to Jurisprudence* (3rd ed. Reprint, 2011) by Dr. Avtar Singh & Dr. Harpreet Kaur, the law of procedure may be defined as that branch of law which governs the process of litigation. It is the law of actions, *jus quod ad actiones pertinet*, which includes all legal proceedings, whether civil or criminal. Salmond outlines the following distinctions between substantive law and procedural law: (i) Substantive law determines the conduct and relations

of the parties inter se in respect of the matter litigated, whereas the procedural law regulates the conduct and relations of Courts and litigants in respect of the litigation; (ii) Substantive law deals with the ends which the administration of justice contemplates while the procedural law deals with the means and instruments by which the ends of administration of justice are to be attained; (iii) The question as to what facts constitute a wrong is determined by substantive law, while what facts constitute proof of a wrong is a question of procedure; (iv) Substantive law defines the rights whereas the law of procedure defines the modes and conditions of the application of one to the other; and (v) Substantive law relates to the matter outside the Courts, whereas the procedural law regulates affairs inside the Courts [Ref: Judgment authored by one of us in the case of Meeru Khan v. Mst. Naheed Aziz Siddiqui and others (PLD 2023 SC 912)].

10. The outcome of legislation or changes in law that pertain solely to the procedures or legal remedies indicates that if legislation is enacted with the primary intent to alter or modify procedural aspects without prejudicing the rights of the litigants, then no doubt, it will apply to all pending and future actions. Individuals do not possess a vested right in any particular course of procedure, so for all intents and purposes, the change in the law of procedure operates retrospectively. However, laws affecting, curtailing or prejudicing vested rights shall be applied prospectively. For ease of reference, relevant experts from various statutory interpretation are reproduced below: -

1. Corpus Juris Secundum, Francis J. Ludes & Harold J. Gilbert (Volume 5B § 1841):

A change in law, during the pendency of an appeal, may be given different effect in the determination and the disposition of the cause by the appellate court depending on the nature of the particular change but generally, the reviewing court will not by its decision allow a change in the law to affect vested rights.

2. Canon of Construction & Interpretation of Statutes, M. Mahmood (Pages 315, 513, 301):

A statute cannot be said to have a retrospective operation because it applies a new mode of procedure to suits commenced before its passing. In other words, if a statute deals merely with the procedure in an action, and does not affect the rights of the parties, it will be held to apply *prima facie* to all sections pending as well as future. It is only if it be more than a mere matter of procedure, that if it touches a right in existence at the passing of the new Act, that the aggrieved party would be entitled to succeed in giving a successful challenge to the retrospective effect of the new Act. [PLD 1965 S.C. 681] Retrospective operation cannot deprive a person of a right possessed by him in the absence of clear provision to that effect. [PLD 1966 S.C. 362]-- No person has a vested right in any course of procedure. He

has only the right of prosecution or defence in the manner prescribed for the time being by or for the Court in which the case is pending and if by an act of Parliament the mode of procedure is altered, he has no other right than to proceed according to the altered mode. In other words a change in the law of procedure operates retrospectively and unlike the law relating to vested rights is not only prospective.

3. The Construction of Statutes, Earl T. Crawford (1998, pages 581-583):

As a general rule, legislation which relates solely to procedure or to legal remedies will not be subject to the rule that statutes should not be given retroactive operation.... Therefore, in the absence of a contrary legislative intention, statutes pertaining solely to procedure or legal remedy may affect a right of action no matter whether it came into existence prior to, or after the enactment of the statute. Similarly, they may be held applicable to proceedings pending or subsequently commenced. In any event, they will, at least, presumptively apply to accrued and pending as well as to future actions.

4. The Interpretation of Statutes, N.S. Bindra (1984, 7th Edition, pages 645-646):

The adjective law is also termed as "procedure" which is a term used to express "the mode of proceeding by which a legal right is enforced, as distinguished from the law which gives or defines the right, and which by means of the proceeding, the Court is to administer; the machinery as distinguished from the product.' In other words the expression "procedure" means the manner and form of enforcing the law. (...) Thus it will be seen," says Venkataramana Rao, J., in *Girdhari Lal Son & Co. V. K. Gowder*, "that under 'procedure' are comprised all steps which a party must take in order to get the aid of the Court for the enforcement of his rights." It, therefore, includes not only the steps which he has to take after an action is launched in Court but also steps which a party has to take before commencing it. After examination of a number of cases, on this branch of the law, it appeared to be fairly clear to his Lordship that the law of procedure deals with the process by which a remedy for the enforcement of a right is made available. ..No litigant has a vested right that his appeal should be heard by a particular number of Judges. There is a distinction between 'a right of action' and 'a right of action to be conducted in a particular way.' The former is a vested right while the latter is merely a matter of procedure.

5. Principle of Statutory Interpretation and Statutory Words and Phrases, S.C. Sarkar (2013, page 109):

There is a well-settled principle against interference with vested rights by subsequent legislation unless the legislation has been made retrospective expressly or by necessary implication.

11. The ramification or aftermath of change in procedural law *vis-à-vis* the change of forum without affecting or disturbing substantive rights, including the right of appeal, has been articulated very luminously in the following dictums, which, for the ease of reference, are reproduced as under:

1. Pakistan Telecommunication Company Ltd. v. Member NIRC and others (2014 SCMR 535): The Court held under the provision of Section 53 of the IRA that the NIRC has been constituted by the Federal Government, but its function and jurisdiction has been

explained and elaborated in the provision of Section 54. The Court held that the provisions of the IRA have an overriding effect on all provincial labour laws.

2. Messrs. Sui Southern Gas Company Ltd. and others v. Federation of Pakistan (2018 SCMR 802): This Court held that the IRA is a valid piece of legislation and the NIRC has jurisdiction to decide the labour disputes, etc., relating to the employees/workers of companies, corporations, institutions and establishments functioning in more than one Province. It was further held that the IRA 2012, being a procedural law, would be applicable retrospectively w.e.f. 01.05.2010, when the IRO 2008 ceased to exist.

3. Muhammad Shabbir and another v. Quaid-e-Azam University (2022 SCMR 487): This Court, while relying on the dictum laid down in the case of Gul Hassan and Co. v. Allied Bank of Pakistan (1996 SCMR 237), held that a statute providing change of forum, pecuniary or otherwise, is procedural in nature and has retrospective effect unless contrary is provided expressly or impliedly, or it effects the existing rights, or causes injustice or prejudice. It is a well-settled principle of interpretation of statute that where a statute affects a substantive right, it operates prospectively unless "by express enactment or necessary indictment" retrospective operation has been given. However, a statute, which is procedural in nature, operates retrospectively unless it affects an existing right on the date of promulgation or causes injustice or prejudice to the substantive right.

4. Kiran Singh and others v. Chaman Paswan and others (AIR 1954 Supreme Court 340): The Court held that a mere change of forum is not a prejudice within the meaning of Section 11 of the Suits Valuation Act and the prejudice envisaged by that section therefore must be something other than the appeal being heard in a different forum. So far, the definition of "prejudice" has been negative in terms that it cannot be a mere change of forum.

5. Neena Aneja and another v. Jai Prakash Associates Ltd. (AIR 2021 Supreme Court 1441): Where a law takes away a right of action or appeal, it is treated as a substantive alteration and does not apply to pending actions. A mere change in forum is to be distinguished from a substantive alteration. An amendment taking away this right imposes a substantive alteration and is therefore construed to be prospective. This principle does not apply where there is only a change of forum. The right to appeal is therefore strengthened and not truncated. The forum of appeal and also the limitation for it are matters pertaining to procedural law which is cleared from the following passage appearing at page 462 of Salmond's Jurisprudence (12th Edn.): "Whether I have a right to recover certain property is a question of substantive law, for the determination and the protection of such rights are among the ends of the administration of justice; but in what courts and within what time I must institute proceedings are questions of procedural law, for they relate merely to the modes in which the courts fulfil their functions."

6. Videocon International Limited v. Securities and Exchange Board of India (AIR 2015 Supreme Court 1042): The right of appeal is a substantive right and it gets vested in a litigant no sooner the lis is commenced in the Court of the first instance, and such right or any remedy in respect thereof will not be affected by any repeal of the enactment conferring such right unless the repealing enactment either expressly or by necessary implication takes away such right or remedy in respect thereof, but the forum where such appeal can be lodged is indubitably a procedural matter and, therefore, the appeal, the right to which has arisen under a repealed the Act, will have to be lodged in a forum provided for by the repealing Act.

7. Hitendra Vishnu Thakur and others v. State of Maharashtra and another ((1994) 4 SCC 602): The Court held that (i) A statute which affects substantive rights is presumed to be prospective in operation unless made retrospective, either expressly or by necessary intendment, whereas a statute which merely affects procedure, unless such a construction is textually impossible, is presumed to be retrospective in its application, should not be given an extended meaning and should be strictly confined to its clearly defined limits; (ii) Law relating to forum and limitation is procedural in nature, whereas law relating to right of action and right of appeal even though remedial is substantive in nature; (iii) Every litigant has a vested right in substantive law but no such right exists in procedural law.

8. New India Insurance Co. Ltd. V. Smt. Shanti Misra ((1975) 2 SCC 840): The change in law was merely a change of forum i.e. a change of adjectival or procedural law and not of substantive law. It is a well-established proposition that such a change of law operates retrospectively and the person has to go to the new forum even if his cause of action or right of action accrued prior to the change of forum. He will have a vested right of action but not a vested right of forum.

12. In the case at hand, a critical distinction is that the IRA is applicable only to the employees and entrepreneurs of trans-provincial establishments, while after the 18th Constitutional Amendment, the provinces have also promulgated their local labour laws, including those relating to industrial relations, and in case of any grievance, the aggrieved person may approach the Labour Courts as per the prescribed procedure. If dissatisfied with an order of a Labour Court, they may file an appeal to the Labour Appellate Tribunal, but not to the NIRC. In this instance, since the petitioner is a trans-provincial establishment, the matters were previously being handled by the Labour Court before the promulgation of the IRA. However, pending adjudication of the appeal before the Punjab Labour Appellate Tribunal, a special industrial relations law was promulgated for trans-provincial establishments whereby a procedural change was made in the choice of forum of appeal, applicable not to new cases but to those pending in labour courts or the Labour Appellate Tribunal for the establishments/organizations included and covered in the definition of trans-provincial establishments in the IRA. Consequently, from the effective date, the jurisdiction of provincial labour courts and the Labour Appellate Tribunal for the employees of trans-provincial establishment stood excluded for all intents and purposes. The learned Punjab Labour Appellate Tribunal decided the appeal of the petitioner on 13.03.2013, when the IRA was very much in the field, having come into force on 14.3.2012. Therefore, taking into consideration Subsection (5) of Section 57 of the IRA, no Labour Court or Labour Appellant Tribunal could have taken the cognizance in respect of

any matter which was well within the exclusive jurisdiction of the NIRC. It would not be out of place to make reference to Article 143 of the Constitution of the Islamic Republic of Pakistan, 1973, whereby the laws enacted by the Parliament have been given overriding effect over the laws enacted by a Provincial Assembly of any of the provinces, and of course, under the letter of law, the laws made by the Parliament shall prevail in case of any repugnancy or inconsistency. In this situation, there is no doubt that the IRA has an overriding effect on all provincial labour laws. Despite these unambiguous and non-complex legal barricades, the learned Labour Tribunal, instead of acknowledging its lack of jurisdiction as an appellate forum in the cases of trans-provincial establishments, dismissed the appeal rather than returning the memo of appeal for presentation before the competent forum. The learned Appellate Tribunal as well as the learned High Court, both failed to comprehend the question of jurisdiction, rather they misconstrued and misinterpreted the same. If a decision is rendered outside the realm and jurisdiction, it is exclaimed and regarded as *Coram non judice* which is a Latin legal maxim meaning "not before a judge". This expression is used to enumerate a proceeding which may be legal in nature but is outside the authority of a judge due to improper presence or lack of legal jurisdiction. Any order or decision passed without jurisdiction would be *coram non judice* and thus a nullity. It is the duty of the Court itself to apply the relevant law based on the admitted or proven facts, irrespective of whether it has been invoked or relied upon by a party. It is also envisioned in various judicial precedents that if a mandatory condition for exercise of jurisdiction by a court is not fulfilled, then the entire proceeding which follows becomes illegal and suffers from want of jurisdiction. If any order or decision is suffering from the vice of *coram non judice* it may be quashed and set aside by the Court. The expression and phrase *Coram non judice* is well-defined as follows:

1. Words and Phrases (Permanent Edition, Volume 9A): "Coram non Judice" means acts done by a court which has no jurisdiction, either over the person, the cause, or the process. *Secrest v. Galloway Co.*, 30 N.W. 2d 793, 797, 239 Iowa 168. Acts done by a court which has no jurisdiction, either over the person, the cause, or the process, are said to be "coram non judice." *St. Lawrence Boom & Mfg. Co. v. Holt*, 41 S.E. 351, 355, 51 W.Va 352, citing *Bouv. Law Dict.* When a court of general jurisdiction undertakes to grant a judgment in an action where it has not acquired jurisdiction of parties by voluntary appearance or service of process, the judgment is void and may be disregarded and it is 'coram non judice'. *City of Monroe v. Niven*, 20 S.E. 2d 311, 312, 221 N.C. 362.

2. Black’s Law Dictionary (7th Edition, Bryan A. Garner):

Outside the presence of a judge. (2) Before a judge or court that is not the proper one or that cannot take legal cognizance of the matter.

3. K J Aiyer’s Judicial Dictionary: A Complete Law Lexicon (13th Edition, P.M. Bakshi):

In the presence of a person not a judge. When suit is brought in a court without jurisdiction it is said to be coram non judice and any judgment is null and void. [Wharton’s Law Lexicon, 1976 reprint, p 260].

4. Coram Non Judice. Legal Maxim. Law Times Journal (Amol Verma, May 29, 2019):

A Latin Legal Maxim meaning for “not before a judge.” is a legal term basically used to indicate a proceeding which is legal in nature that is outside the authority of a judge (without a judge) with improper presence, or without legal jurisdiction. Any indictment or sentence passed by a tribunal/court which has no authority to try an accused of that particular offence, is clearly in violation of the law of the land and would be termed as Coram non judice.

13. As a result of the above discussion, this Civil Petition is converted into appeal and allowed. Consequently, the order passed by the learned Punjab Labour Appellate Tribunal dated 13.03.2013, and the impugned judgment passed by the learned High Court dated 21.02.2023, both are set aside with the directions to the learned Punjab Labour Appellate Tribunal to return the original memo/file of Labour Appeal No.LHR-624/2011 to the duly authorized representative of the petitioner for its immediate institution and decision by the learned Full Bench of the NIRC on merits, and in accordance with law, after providing ample opportunity of hearing to the parties.

Judge

Judge

Judge

Announced in open Court

On _____at Islamabad Judge
Khalid
Approved for reporting