

**IN THE SUPREME COURT OF PAKISTAN**  
**(APPELLATE JURISDICTION)**

**PRESENT:**

MR. JUSTICE GULZAR AHMED, CJ

MR. JUSTICE IJAZ UL AHSAN

MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI

(A.F.R.)

**Civil Appeals No.10-K to 17-K of 2019**

Against judgment dated 28.08.2018 of Sindh Service Tribunal at Karachi, passed in Appeals No.1015, 1063, 1156 to 1159, 1161 & 1164 of 2015.

Sindh Irrigation & Drainage Authority,

**Appellant(s)**

**Versus**

Government of Sindh & others

**Respondent(s)**

For the Appellant(s):

Malik Naeem Iqbal, ASC  
Sh. Khurram Aziz, Secy, SIDA  
Altaf Hussain, Law Officer, (via V.L Karachi)

For the Respondent(s):

Mr. Mukesh Kumar G. Karara, ASC  
Mr. Mansoor ul Haq Solangi, ASC  
Muhammad Ali Zardari, AWB, Ghotki  
Mr. Sibtain Mehmood, Addl.AG, Sindh  
Sikandar Hassan, DS Irrigation Sindh  
Khadim Hussain, DS Irrigation Sindh  
Abdul Hafeez Memon, SO Irrigation Sindh  
(all via V.L Karachi)

Date of Hearing:

24.03.2021

**JUDGMENT**

**IJAZ UL AHSAN, J.-.** Through this single judgment, we intend to decide Civil Appeal Nos.10-K to 17-K of 2019 (hereinafter referred to as "CA") as they involve a common question of law.

2. By way of the instant appeals, the Appellants have challenged the consolidated judgment of the Sindh Service Tribunal, Karachi dated 28-08-2018 passed in Service Appeal Nos. 1015 of 2015, 1063 of 2015, 1156 to 1159 of 2015, 1161 of 2015 and 1164 of 2015 (hereinafter referred to as the

**“Impugned Judgment”**). Through their Service Appeals, the Appellants had filed an application under Section 12(2) of the Code of Civil Procedure, 1908 (hereinafter referred to as **“CPC”**)contending that the litigation Respondents were engaged in before the Service Tribunal claiming to be employees of the Irrigation Department of the Government of Sindh was fraudulent and erroneous since they were not Civil servants but Public servants and employees of the Sindh Irrigation and Drainage Authority (hereinafter referred to as **“SIDA”**). The Service Tribunal dismissed the application of the Appellants vide the Impugned Judgment. Aggrieved, the Appellants have approached this Court.

3. The brief facts giving rise to this *lis* are that the Respondents were employed against different posts in the Tube Well Division(s) of SIDA by the Executive Engineer(s). The Respondents filed a Writ Petition before the High Court for release of their salaries. The said Writ Petition was remitted to the Service Tribunal. The Service Appeal of the Respondents was disposed of vide orders dated 14.05.2015 with directions to the Department to process the case of the Respondents’ salaries in view of different letters issued by the Finance Department. The directions of the Service Tribunal were allegedly not complied with, prompting the Respondents to file execution applications. During pendency of the execution proceedings, the Appellants filed an application under Section 12(2) of the CPC before the Service Tribunal for setting aside the order dated 14.05.2015 claiming therein

that the Service Tribunal did lacked jurisdiction to adjudicate the matter since the Respondents were public servants and not civil servants. The application of the Appellants was dismissed vide the Impugned Judgment. Aggrieved thereof, the Appellants filed Civil Petitions for leave to appeal before this Court against the Impugned Judgment.

4. Leave to appeal was granted by this Court vide order dated 03.04.2019 in the following terms: -

*"Mr. Malik Naeem Iqbal learned Sr. ASC for the petitioner submits that the impugned judgment has been rendered by the Sindh Service Tribunal under a grave misconception that the private respondents herein were civil servants employed by the Government of Sindh. Such was held for the purported reason that the appointments of the respondents were made by the Executive Engineer of the Irrigation Department. Learned Counsel submits that indeed, it is true that the appointments were made by the Executive Engineer however at the relevant time the said Engineers were not working for the Irrigation Department but were discharging their duties for the Water Management Board on deputation. Learned counsel refers to Section 29 of the Sindh Water Management Ordinance, 2002, to show the Water Management Board is a corporate body independent of the Government of Sindh and in order to show the functions prescribed for the Board the learned Counsel refers to Section 32 and also to Section 16 of the Ordinance which provide that in order to carry out the purpose of the Ordinance, SIDA may from time to time, employ officers, staff and experts etc with such qualification and expertise, and on such terms and conditions as may be prescribed by SIDA. The learned Counsel further submits that in terms of Section 39 certain provisions of SIDA, including Section 16 are to apply mutatis mutandis to the Board as well. He submits that the terms and conditions of the persons employed or sought to be employed were/are, in terms of Section 16, to be determined by SIDA, its employees cannot be termed as Civil servants for which it is essentially required that their terms and conditions be settled through the relevant statute."*

5. Arguments of the learned counsel for the Appellants have been elaborately spelt out in the leave granting order of this Court noted above and need not be repeated.

6. The learned Counsel for the Respondents has supported the Impugned Judgment. He has argued that the Service Tribunal rightly non-suited the Appellants since Respondents were Civil servants and were employed by the Irrigation Department of the Government of Sindh. He has further argued that the Respondents were employed by the Executive Engineer who was an official of the Government of Sindh, hence, the Respondents for all intents and purposes were Civil servants. In this respect, the learned Counsel for the Respondents has relied upon the appointment letters of the Respondents.

7. We have heard the arguments of the learned Counsel for the parties and have perused the record. The questions which fall before this Court for determination are as follows: -

- (i) Were the Respondents "Public servants" or "Civil servants" and, the consequences thereof?
- (ii) What was the legal significance of the appointments made by the then Executive Engineer(s)?
- (iii) Did the Service Tribunal have jurisdiction to entertain an application under Section 12(2) of the CPC?

**WERE THE RESPONDENTS "PUBLIC SERVANTS" OR "CIVIL SERVANTS" AND, THE CONSEQUENCES THEREOF?**

8. The learned Counsel for the Appellants has argued that, since the Respondents were employees of SIDA, they were deemed to be public servants and not as civil servants because they were employees of an authority, which was a body corporate. In this respect, he has relied upon Section 4(1)(a) of the Sindh Water Management Ordinance,

2002(hereinafter referred to as “**Ordinance, 2002**”). As such, he has argued that the Government of Sindh, Irrigation Department was a separate entity from the Appellant-Authority. We have before us Section 4(1)(a) of the Ordinance, 2002 which reads as under: -

*“1) The SIDA*

- a. Shall be a body corporate, having perpetual succession and a common seal and shall by the same name, sue and be sued”*

The term “Authority” is defined in Section 3 Ordinance, 2002 which reads as follows: -

*“As soon as may be, after the commencement of this Ordinance, there shall be established an Authority known as the SIDA, provided that the SIDA existing immediately before the commencement of this Ordinance shall continue to function until the SIDA reconstituted under this Ordinance.”(Underlining is ours)*

A bare perusal of the aforementioned provisions of the Ordinance, 2002 makes it clear that the SIDA is a separate legal entity which, as per the provisions of the Ordinance, 2002, is different from the Irrigation Department of the Government of Sindh. The Sindh Irrigation Department on the other hand is a department of the Government of Sindh, which is governed by a separate legal regime. The fact that the legislature has in its wisdom sought to incorporate SIDA as a body corporate Authority in the Ordinance, 2002 shows its clear intention of not merely making it a department of the Government of Sindh. A Department of the Government generally operates under the control of the Government. This essentially means that the autonomy of a department is limited insofar as its operations and management are concerned. An Authority on the other hand is generally

autonomous. It can regulate its internal affairs and formulate policies after seeking approval from the governing body of the Authority in question. This is evidenced by the fact that there is a separate Board of Management of SIDA provided *inter alia* in Section 12(1) of the Ordinance, 2002 which reads as follows: -

*"1) Subject to the overall control and guidance of the SIDA, the affairs of the SIDA shall be managed by the Board of Management consisting of the Managing Director and such number of General Managers, as may be appointed by the SIDA on the advice of a committee comprising of four members of the SIDA, provided that at least one of them shall be an elected member.*

The aforementioned provision makes it clear that SIDA is an autonomous body, which operates as an Authority, managed by a Board of Management. The use of the word "shall" in Section 12(1) makes it evident that SIDA is to govern its own affairs as an autonomous body.

9. The learned Service Tribunal has conceded that, as per Section 106 of the Ordinance, 2002, the Respondents are public servants. It has further been held that since the appointment orders of the Respondents were issued by the Executive Engineer of the Irrigation Department; as such, it cannot be said that the Respondents were not Civil servants since the appointment orders of the Respondents were issued by a representative of the Irrigation Department. We are unable to agree with the findings of the learned Service Tribunal. Section 106 of the Ordinance, 2002 specifically provides that employees of SIDA shall be public servants which reads as follows: -

*"The Chairman, Members of the Board, Officers and employees of the Regulating Authority, SIDA, AWB, FO and*

*other bodies constituted under this Ordinance shall, when acting or purporting to act in pursuance of any of the provisions of this Ordinance, be deemed to be public servants within the meaning of Section 21 of the Pakistan Penal Code."*

The aforementioned provision of the Ordinance, 2009 clearly establishes that the Respondents shall be public servants for a limited purpose spelt out in Section 106 itself. The fact that this has been mentioned categorically within the Ordinance, 2009 itself leaves no room for the Service Tribunal to read into the Ordinance, 2009 something which is not provided therein. Such an interpretation is *ultra vires* not only to the Ordinance but also, the powers of the Tribunal. A civil servant is someone who has been employed by the competent authority i.e., either the Provincial or Federal Public Service Commission, in the prescribed manner after following due process of law and having gone through the process of competition. Reliance in this regard is placed on **Muhammad Mubeen us Salam and others v. Federation of Pakistan (PLD 2006 Supreme Court 602)** the relevant portion of which reads as under: -

*"In the above definition of the civil servant, the expression "All Pakistan Service or of a civil service of Federation" has been included, therefore, section 5 of CSA, 1973 defines the competent authority for appointment. According to which "Appointments to an All-Pakistan Service or to a civil service of the Federation or to a civil post in connection with the affairs of the Federation, including any civil post connected with defence, shall be made in the prescribed manner by the President or by a person authorized by the President in that behalf." To meet the requirements of this provision of law, Federal Public Service Commission Ordinance, 1977 was promulgated in pursuance whereof the Commission was authorized to conduct tests and examinations for recruitment of persons other than officers of the Armed Forces of Pakistan, etc."*

There is nothing on the record to suggest that the Respondents were ever declared civil servants by the

competent authority or, that they were appointed by the Public Service Commission of Sindh. Rather, it has been alleged that they were appointed by the Executive Engineer, therefore, they were civil servants. We are unable to agree with this conclusion or the reasons given by the Tribunal for such a conclusion, for reasons discussed above.

10. The relevant definition of a Civil servant for the purposes of this controversy is provided in the Sindh Civil servants Act, 1973, Section 2(1)(b) of which reads as follows: -

*“civil servant” means a person who is a member of a civil service of the Province or holds a civil post in connection with the affairs of the Province, but does not include -*

- (i) a person who is on deputation to the Province from the Federation or any other Province or authority; or*
- (ii) a person who is employed on contract, or on work charged basis, or who is paid from contingencies; or*
- (iii) a person who is “worker” or “workman” as defined in the Factories Act, 1934 (XXV of 1934), or the Workmen’s Compensation Act, 1923 (VIII of 1923)”*

The aforementioned provision defines a civil servant. It is clear from the record placed before us that the Respondents do not fall within the aforementioned definition. They were not employed by the Provincial or Federal Public Service Commission neither is there any notification or any other document on the record that confers on them the status of civil servants. A public servant may be a person who is employed in the public sector. However, not all public servants are civil servants unless they are appointed in the prescribed manner discussed above.



**WHAT WAS THE LEGAL SIGNIFICANCE OF THE APPOINTMENTS MADE BY THE THEN EXECUTIVE ENGINEER(S)?**

11. The learned ASC for the Appellant-Authority has argued that the Executive Engineer(s) at the time in question was not working for the Irrigation department. Rather, he was working for SIDA on deputation. It has further been argued that the Executive Engineer did not have authority to employ the Respondents under the provisions of the Ordinance, 2002. In support of his arguments, the learned ASC for the Appellant-Authority has drawn our attention to the notifications dated 14.09.2012, 30.05.2012 and 29.07.2011 wherein it has been mentioned that various Executive Engineers were transferred and posted as Executive Engineers on OPS basis to the Tube Well Division(s) where the Respondents were employed. It is to be noted that the Tube Well Division(s) fell under the jurisdiction of the Area Water Board, Gothki, the control of which stood transferred from the Government of Sindh to the SIDA. In this respect we have on record a notification dated 28.11.2001 which reads as follows: -

*"1. The Government of Sindh is pleased to designate under Section 23(1) of the Sindh Irrigation and Drainage Authority Act, (IV of 1997), the entire Gothki Feeder Canal Circle and Left Bank Canal Circle from Head to Tail as Gothki Feeder Canal Area Water Board and Left Bank Area Water Board.*

*2. All the Canals, Drains, Public Tube Wells, Appurtenant structures, assets and liabilities falling within the jurisdiction of both canals command stand transferred to Gothki Feeder Canal Area Water Board and Left Bank Canal Area Water Board.*

*3. The Gothki Feeder Canal and Left Bank Canal Area Water Boards shall be governed by the Rules and Regulations framed by the Authority."*

12. All appointments made in SIDA were supposed to be made pursuant to Section 16 of the Ordinance, 2002. It has been argued that in terms of Section 39 of the Ordinance, 2002, certain provisions *inter alia*, Section 16 of the Ordinance, 2002 shall apply *mutatis mutandis* to the Area Water Board. Section 39 of the Ordinance, 2002 reads as follows: -

*"The provisions of sections 6, 7, 8, 9, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 27 shall mutatis mutandis, apply to an AWB"*

The aforementioned provision of the Ordinance, 2002 clearly mentions that Section 16 of the Ordinance, 2002 shall apply *mutatis mutandis*, i.e., without any substantial changes, to the Area Water Board. Section 16 of the Ordinance, 2002 reads as follows:

**"16. Staff\_1)** *In order to carry out the purpose of this Ordinance, the SIDA may, from time to time, employ officers, staff, experts, advisers and other employees with such qualifications and expertise and on such terms and conditions as may be prescribed by SIDA.*

*2). The Staff transferred from the Irrigation and Power Department to SIDA shall serve on such terms and conditions as prescribed by SIDA; provided that such terms and conditions shall not be less favourable than the terms and conditions admissible to them immediately before their transfer to SIDA.*

*3). The staff transferred from the Irrigation and Power Department shall continue to be governed by the provisions of the Civil Service Pension Scheme, unless they opt not to be so.*

*4) The Managing Director shall be responsible for the personnel management for all the SIDA staff in accordance with regulations framed by the SIDA.*

*5) In cases of dismissal, promotion, demotion, removal, termination, punishment(s) and all other matters connected with the terms and conditions of service, staff in the SIDA shall have a right of appeal, in accordance with the regulations framed by the SIDA. (Underlining is ours)*

A bare perusal of the aforementioned provision makes it abundantly clear that the powers to *inter alia* appoint the staff of SIDA vested with the Board of Management of SIDA since the Board has powers as per Section 12(1) of the Ordinance, 2002 to administer all matters of SIDA including employment of its staff. Section 12(1) read with Section 16 clearly indicates that any and all appointments shall be made by the Board of Management of SIDA. As such, no other authority/person could have exercised such powers without express authorization given by the Board. As such, any and all powers exercised by the Executive Engineer could only have been exercised if the same were delegated by the Board of Management of SIDA under Section 12(4) which reads as under: -

*"4) The Board of Management of may, by general or special order, delegate to the Managing Director or any other member of the Board, or to any officer of the SIDA, any of its powers under this Ordinance, subject to such conditions or limitations as it may impose."*

There is nothing on the record to suggest that such powers were ever delegated to the Executive Engineer(s) in question. Even if it is assumed that the Executive Engineer had the authority to appoint staff, the said appointments could not have been made in contravention of Section 16 of the Ordinance, 2002 or, any other provision of the Ordinance, 2002. It is settled law that legislation must be given a harmonious reading where possible. As such, all those lawfully employed under Section 16 of the Ordinance, 2002 would be public servants (for limited purposes) when Section 16 is read with Section 106 of the Ordinance, 2002, noted

above. Hence, the appointments made the Executive Engineer(s) (if legal) could have only conferred the status of public servants onto the Respondents and under no circumstances, that of Civil Servants.

13. A similar provision within the Ordinance, 2002 with regards to the Area Water Board is Section 34 which reads as under: -

**"34. Board of Management.** 1) Subject to the overall control and guidance of the AWB Board of an AWB, the affairs of that AWB shall be managed by a Board of Management formed by the Director and as many Managers as that AWB may reasonably require for the purpose.

2) Sub-section 2) to 4) of Sub-section 12 shall mutatis mutandis apply to the Board."

Section 34 of the Ordinance, 2002 read with the notification dated 28.11.2001 clearly establishes that in any case, it was either the Board of Management of the Area Water Board or, the SIDA, which was to employ the Respondents and not the Executive Engineer. The Respondents have been unable to show us anything from the record to the effect that the Executive Engineer(s) had been delegated with the authority to appoint any staff in the Tube Well Division(s) under the control of the Area Water Board as per Section 32 of the Ordinance, 2002. Even in the best case scenario, the Executive Engineer could only be empowered to employ the Respondents as public servants within the meaning of Section 106 and not as Civil Servants. It is settled law that an official can only exercise as much power as is granted to them by law. The Executive Engineer could not have gone beyond the powers he had or acted in violation of

the provisions of the Ordinance, 2002. Public functionaries owe a fiduciary duty to act in good faith and discharge their duties with honesty and in accordance with law. If a public functionary does not exercise such power in good faith and with honesty, the principle of merit gets compromised which damages the superstructure of merit, competence and good governance. There is no advertisement on the record to show that the posts in question were available to the general public and that the Respondents were appointed after having gone through open competition. This raises doubts over the entire appointment and recruitment process carried out by the Executive Engineer(s). There is nothing on the record to show that the recruitment process was carried out in accordance with the provisions of the Ordinance, 2002. As such, the findings of the learned Service Tribunal that the Respondents were employees of the Irrigation Department are clearly against the record which has totally been misread and misinterpreted. The Respondents were employees of SIDA and not the Irrigation Department because they were appointed by Executive Engineer(s) serving on deputation in SIDA. The learned Service Tribunal's findings in this regard are unsustainable in law and in fact.

**DID THE SERVICE TRIBUNAL HAVE JURISDICTION TO ENTERTAIN AN APPLICATION UNDER SECTION 12(2) OF THE CPC?**

14. After obtaining an order from the High Court for release of their salaries, the Respondents approached the Service Tribunal for implementation of the same, claiming to be civil servants. They filed their respective implementation

applications/petitions. As a response to the same, the Counsel for the Appellant-Authority filed an application under Section 12(2) of the CPC averring therein that the Respondents misrepresented the fact that they were employees of the Irrigation Department and claimed to be Civil Servants whereas, they were in fact Public Servants and governed by the principle of Master and Servant. The learned Service Tribunal dismissed the application of the Appellant-Authority as not maintainable vide the Impugned Judgment, holding that the Service Tribunal did not have powers to decide an application under Section 12(2) of the CPC. We are unable to agree with this finding of the learned Service Tribunal. Section 5 of the Sindh Service Tribunals Act, 1973 categorically provides that the Service Tribunal shall have all powers available to a Civil Court. Section 5 of the Sindh Service Tribunals Act, 1973 reads as under: -

**"5. Powers of Tribunals.-(1)** A Tribunal may, on appeal, confirm, set aside, vary or modify the order appealed against. **(2)**A Tribunal shall, for the purpose of deciding any appeal be deemed to be a Civil Court shall have the same powers as are vested in such Court under the Code of Civil Procedure, 1908 (Act V of 1908), including the powers of - (a) enforcing the attendance of any person and examining him on oath; (b) compelling the production of documents; (c) issuing commission for the examination of witnesses and documents; and (d) execution of its decisions. (3) No court-fee shall be payable for preferring an appeal to, or filing, exhibiting or recording any documents in, or obtaining any document from, a Tribunal." (underlining is ours)

15. The aforementioned provision makes it clear that the Service Tribunal has all the powers which are available to the Civil Court. This is further evidenced by the fact that the word "including" is in Section 5(2) which shows that the Tribunal's powers are broad and have not been limited by the Act. It has the same powers as available to a Civil Court. Deciding an

application under Section 12(2) is a power vested with the Civil Court. Reliance in this regard is placed on **Rahat Naseem Malik v. President of Pakistan and others (2003 PLC (CS) 759** which held as under: -

*"Now turning towards the next contention of the learned counsel namely that Federal Service Tribunal under section 5 of the Service Tribunals Act, 1973 exercises jurisdiction of a Civil court, therefore, it was its duty to have thoroughly examined the case of the petitioner. As far as the powers of the Tribunal to confirm, set aside, vary or modify an order operating against petitioner as well as to exercise powers of a Civil Court under the Code of Civil Procedure, 1908 is concerned there is no cavil with it. However, such power would be exercised by the Tribunal judiciously keeping in view the recognized principle of law."*

16. As such, the learned Tribunal could not have held that the application of the Appellant-Authority was not maintainable in law. When the law categorically provides the Service Tribunal with powers to adjudicate a matter, it cannot restrict itself from doing what it is required by law to do. The Service Tribunal was required to decide the application under Section 12(2) of the Appellant-Interveners on merits, based on the material before it. This is so because the Appellant-Authority alleged that the Respondents misrepresented themselves as Civil Servants and tried to get relief from the Service Tribunal, which, according to Article 212 of the Constitution is empowered to deal with matters pertaining only to persons employed in the Service of Pakistan. It is settled law that fraud vitiates the most solemn of proceedings. Reliance in this regard is placed on the case of **Syed Mahmood Ali Shah v. Zulfiqar Ali and 5 others (PLD 2013 Supreme Court 364)**. In presence of a plea of misrepresentation and fraud, the learned Service Tribunal could not have summarily dismissed the application of the

Appellant-Authority as being not maintainable and, was duty bound to examine the same on the basis of the record. The findings of the learned Tribunal in this respect are held to be unsustainable in law and in fact.

17. The fact that there was a clear term in the appointment order(s) of the Respondents stating that their post was purely temporary and that their services could be terminated *simpliciter* also means that the Respondents were governed by the principle of "Master and Servant". As such, the learned Tribunal could not have interfered in this matter especially when it has been established from the record that the Respondents were not Civil Servants.

18. The learned counsel has agued that the superstructure of the execution is built upon a void order. The learned Service Tribunal has dismissed this argument and has held that the jurisdiction of the Service Tribunal did not suffer from any inherent defects. We are unable to agree with this conclusion. Section 4 of the Sindh Service Tribunals Act, 1973 clearly provides that, for an appeal to be competent before the Service Tribunal, the appellant must be a civil servant. Section 4 of the *ibid* Act reads as under: -

***"Appeals to Tribunals.-Any civil servant aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him or within twelve months of the establishment of a tribunal whichever is latter prefer an appeal to the Tribunal having jurisdiction in the matter. (Underlining is ours)***

A bare reading of the aforementioned provision makes it abundantly clear that the appeal of the Respondents before



the Service Tribunal was incompetent. As such, the Execution proceedings which were pursued to implement the order passed in the Appeal in question were also incompetent because the Respondents were not Civil Servants. Contrarily, anyone aggrieved of an order of SIDA or, the Area Water Board is required as per the Ordinance, 2002 to appeal to the Regulatory Authority defined in Section 2(m) of the Ordinance, 2002 as the Regulatory Authority of Irrigation, Drainage and Flood Protection established under the Ordinance, 2002. The relevant section under which an appeal may be filed is Section 82 which reads as under: -

*"An appeal against the order of the SIDA, an AWB of a FO shall lie to the Regulatory Authority within such period and in such manner as may be prescribed by Regulations framed by the Regulatory Authority"*

There is nothing on the record which shows that the Respondents approached the said Regulatory Authority or complained before the said Regulatory Authority. Even otherwise, in absence of a final order, their appeals were incompetent before the Service Tribunal in view of Section 4 of the Act of 1973. It is specifically provided in Section 83 of the Ordinance, 2002 that the Regulatory Authority is empowered to establish Tribunals for the resolution of contractual disputes between SIDA's staff and SIDA. There is nothing on the record to show that the said Regulatory Authority was ever approached by the Respondents. Rather, the Respondents filed a Service Appeal being Public Servants, which was incompetent and therefore not maintainable.

Section 83 of the Ordinance, 2002 reads as under:

**“83. Tribunals..1)** The Regulatory Authority, from amongst its professional staff, may establish Tribunals for resolving contractual disputes between the authorities and institutions managing the irrigation and drainage network as listed in this Chapter or such other matters as the Regulatory Authority may assign **2)** The Regulatory Authority shall frame regulations for the operation of such Tribunals.”

19. The learned Service Tribunal has proceeded on the incorrect interpretation of the law and has applied the incorrect principles of the law to the facts and circumstances of the case warranting interference of this Court. The reasons recorded and the conclusions drawn are patently erroneous, incorrect and give a mistaken interpretation of law. As such, the Impugned Judgment is unsustainable.

20. In view of the above, these appeals are allowed. The Impugned Judgment of the Sindh Service Tribunal at Karachi dated 28.08.2018 passed in Service Appeal Nos.1015 of 2015, 1063 of 2015, 1156 to 1159 of 2015, 1161 of 2015 and 1164 of 2015 is set aside.

**ISLAMABAD, THE**

24<sup>th</sup> of March 2021

Haris Ishtiaq LC/\*

~~Not~~ Approved For Reporting