

2020 S C M R 471

[Supreme Court of Pakistan]

Present: Gulzar Ahmed, C.J., Ijaz ul Ahsan and Sajjad Ali Shah, JJ

BASHIR AHMAD and others---Petitioners

Versus

The DIRECTOR GENERAL, LAHORE DEVELOPMENT AUTHORITY, LAHORE and others---Respondents

C.Ps. Nos. 2800-2801 of 2019, 2926-2927, 1830-L, 2067-L, 2253-L to 2255-L and 2800-L of 2019, decided on 20th January, 2020.

(Against the order dated 21.5.2019 of the Lahore High Court, Lahore passed in Writ Petitions Nos. 9693/16, 159063/18, 159053/18, 159059/18, 28373/16, 5846/16, 9696/16, 3901/17, 7590/17 and 7585/17)

(a) Punjab Industrial Relations Act (XIX of 2010)---

---S. 33---Punjab Employees Efficiency, Discipline and Accountability Act (XII of 2006), Ss. 4(1)(b)(iv) & 4(1)(b)(vi) ---Industrial and Commercial Employment (Standing Orders) Ordinance (VI of 1968). S. 1(4), proviso---"Workman"---Grievance petition before Labour Court---Maintainability---Employees of Lahore Development Authority proceeded against under the Punjab Employees Efficiency, Discipline and Accountability Act, 2006 ("PEEDA 2006") and dismissed from service---Whether remedy for such employees lay before Labour Court---Contention of employees that despite the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 being not applicable to them, still they could maintain a grievance petition under S. 33(1) of the Punjab Industrial Relations Act, 2010, and that the word 'law' used in S. 33(1) also included the PEEDA 2006---Held, that employees were unable to establish that S. 33(1) of PEEDA, 2006 although containing the word 'law', would stand alone provide remedy to the employees before the Labour Court--Section 33(1) did not use the word 'law' in isolation, rather the provision clearly provided that "a worker may bring his grievance in respect of any right guaranteed or secured to him by or under any law ...", thus, the redressal of an individual grievance of a worker could be redressed under S. 33(1), where right was guaranteed or secured to a workman under any law---In the present case, the complaint of the employees was not that any of the laws under which they had been proceeded against, had been violated nor was such the argument before the High Court---High Court had rightly held that PEEDA 2006 being itself a statute under which the employees had been proceeded against, they could not have brought their grievance before the Labour Court---Petitions were dismissed.

(b) Constitution of Pakistan---

---Art. 199---Constitutional petition before High Court---Maintainability---Employee proceeded against under a statute or statutory rules of service---In case an employee was proceeded against under a statute or any statutory rules and such statute or statutory rules were violated, his remedy lay before the High Court by filing of a writ petition under Art. 199 of the Constitution, and not any other remedy---When an employee had been proceeded against under a statute or statutory rules of service and the same did not provide any remedy before a specific forum, his remedy would lay before the High Court by way of a Constitutional petition.

Mahmood Ahmed Qazi, Advocate Supreme Court and Syed Rifaqat Hussain Shah, Advocate-on-Record for Petitioners (in C.Ps. Nos. 2800-2801 of 2019).

Barrister Haris Azmat, Advocate Supreme Court and Ch. Akhtar Ali, Advocate-on-Record for Petitioners (in C.Ps. Nos. 2926-2927 of 2019).

Khalid Ismail, Advocate Supreme Court for Petitioners (in C.P. No. 2067-L of 2019).

Salman Riaz Chaudhry, Advocate Supreme Court for Petitioners (in C.Ps. Nos. 2253-L to 2255-L of 2019 and C.P. No. 2800-L of 2019).

Petitioner in person (in C.P. No. 1830-L of 2019).

Nemo for Respondents (in all C.Ps.).

Date of hearing: 20th January, 2020.

ORDER

GULZAR AHMED, C.J.---The petitioner (in Civil Petition No.1830-L of 2019) is present in person and states that his counsel is not well but when we told him that we are hearing learned counsel for other petitioners in the connected petitions, he stated that his case may also be decided accordingly.

2. We have heard the learned counsel for the parties. Admittedly, the petitioners were employees of Lahore Development Authority (LDA). They were proceeded against under the Punjab Employees Efficiency, Discipline and Accountability Act, 2006 (PEEDA). After meeting with all codal formalities, they were imposed penalties of dismissal from service as well as of compulsory retirement. The petitioners filed departmental appeals which were rejected by the departmental authority and thereafter, they filed grievance petitions before the Labour Court. The Labour Court allowed the grievance petitions which were also maintained by the Punjab Labour Appellate Tribunal but the High Court, vide the impugned judgment dated 21.05.2019, came to the conclusion that PEEDA being itself a statute under which the petitioners have been proceeded against, they could not have brought their grievance before the Labour Court, for that, their remedy was barred in terms of first Proviso to subsection (4) of section 1 of the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 (the Standing Orders Ordinance). Learned counsel for the petitioners have referred to a Division Bench's judgment of the High Court of Sindh passed in the case of Ali Murad v. National Bank of Pakistan (2012 PLC 347) and the judgment of this Court passed in the case of Executive Council Allama Iqbal Open University v. M. Tufail. Hashmi (2010 SCMR 1484) to contend that despite the Standing Orders Ordinance being not applicable to the employees of LDA, still they could maintain a grievance petition under section 33(1) of the Punjab Industrial Relations Act, 2010 (the Act of 2010). Section 33 of the Act of 2010 reads as under:-

33. Redress of individual grievances.---(1) A worker may bring his grievance in respect of any right guaranteed or secured to him by or under any law or any award or settlement to the notice of his employer in writing, either himself or through his shop steward or collective bargaining agent within three months of the day on which the cause of such grievance arises."

The main thrust of the argument of the learned counsel for the petitioners is that the word 'law' used in the above provision also includes PEEDA. Although such an argument has been made by the learned counsel for the petitioners but they have not been able to establish

before us that section 33(1) *ibid*, although containing the word 'law', will stand alone provide remedy to the petitioners before the Labour Court. It may be noted that section 33(1) *ibid* does not use the word 'law' in isolation, rather the provision clearly provides that "a worker may bring his grievance in respect of any right guaranteed or secured to him by or under any law". Thus, the redressal of an individual grievance of a worker could be redressed under this provision, where right is guaranteed or secured to a workman under any law. The complaint of the petitioners' counsel was not that any of the law under which they have been proceeded against, has been violated nor was such the argument before the High Court. Even in the grounds mentioned in the memos of petition filed before this Court, no such ground has been urged.

3. It has been held by the High Court in the impugned order that in case an employee is proceeded against under a statute or any statutory rules and such statute or statutory rules are violated, his remedy lie before the High Court by filing of a Constitution Petition or a Writ Petition under Article 199 of the Constitution, and not any other remedy. The counsel for the petitioners have not been able to substantiate their arguments before us as this Court, time and again, has held that when an employee has been proceeded against under a statute or statutory rules of service and the same do(es) not provide any remedy before a specific forum, his remedy will lie before the High Court by way of a Constitution/Writ Petition under Article 199 of the Constitution, and apparently, such law is a good law which still holds the field.

4. In the circumstances, we find no illegality in the impugned judgment which is maintained. These petitions are, therefore, dismissed and leave refused.

MWA/B-3/SC

Petitions dismissed.