

matter.

**44. Labour Court:** (1) The Government may, by notification in the official Gazette, establish as many Labour Courts as it considers necessary and, where it establishes more than one Labour Court, shall specify in the notification the territorial limits within which or the industries or classes of cases in respect of which, each one of them shall exercise jurisdiction under this Act.

(2) A Labour Court shall consist of one Presiding Officer appointed by the Government.

(3) A person shall not be qualified for appointment as Presiding Officer unless he has been is, or is a District Judge or an Additional District Judge.

(4) A Labour Court shall--

(a) adjudicate and determine an industrial dispute which has been referred to, or brought before it

- (b) enquire into and adjudicate any matter relating to the implementation or violation of a settlement which is referred to it by the Government;
- (c) try offences under the Act and such other offences under any other law as the Government may, by notification in the official Gazette, specify in this behalf;
- (d) try offences punishable under Section 64;
- (e) to deal with cases of unfair labour practices specified in Sections 17 & 18 on the part of employers, workers, trade unions, of either of them or persons acting on behalf of any of them, whether committed individually or collectively; in the manner laid down under Section 33 or Section 42 or in such other way;
- (f) exercise and perform such other powers and functions as are or may be conferred upon or assigned to it by or under the Act or any other law; and
- (g) grant such relief as it may deem fit including an interim relief.

(4) An interim order passed by a Labour Court shall stand vacated on the expiration of twenty days unless, for reasons to be recorded in writing, it is, from time to time for a period not exceeding twenty days, extended by the Labour Court.

### COMMENTS

Disciplinary proceedings were initiated and concluded against employee at place 'J' where he was posted. Employee thereafter was transferred at place 'F' where order of dismissal from service was served on him. Employee filed grievance petition against order of his dismissal from service in Labour Court at place 'J' which was objected to by employers on ground of territorial jurisdiction of Labour Court contending that order of dismissal from service having been served upon employee at place 'J' where he was transferred, Labour Court at place 'F' had jurisdiction in the case.

Validity. Charge-sheet was served on employee while he was posted at place 'J' and even inquiry was concluded while he was posted there. Order of dismissal from service also was not passed within territorial jurisdiction of Labour Court at place 'F' where employee was transferred, but only was conveyed to him when he was posted after transfer at place 'F'. Since neither impugned order was passed at place 'F' nor any proceedings were taken against employee at place 'F', Labour Court at place 'J' did not have jurisdiction in the matter. Employee had rightly invoked jurisdiction of Labour Court at place 'J'. 2008 PLC 47.

Grievance petition against order of dismissal from service. Territorial jurisdiction of Labour Court. Determination of Respondent/employee while posted as Accountant in the Bank at District "J", disciplinary proceedings, including issuance of charge-sheet, and holding of inquiry etc., were initiated and concluded against him at District "J". Subsequently employee was transferred to another District "F" where order of his dismissal from service was served upon him. Employee, after addressing a grievance notice, filed grievance petition before Labour Court at District "J". Bank objected territorial jurisdiction of Labour Court at District "J" in its application, which application was dismissed by Labour Court holding that cause of action having arisen within territorial jurisdiction of Labour Court at "J" said Court had jurisdiction to decide grievance petition. Impugned dismissal order was not passed within territorial jurisdiction of Labour Court at District "F" where employee subsequently was transferred, but said order was only conveyed to him there. Since neither impugned order was passed at District "F" nor any proceedings were taken against him at "F", Labour Court at "F" did not have jurisdiction in the matter. Employee, in circumstances had rightly invoked jurisdiction of Labour Court at District "J". Order of dismissal was the culmination of inquiry against employee and entire proceedings taken against him gave cause of grievance within contemplation of S. 46 of Industrial Relations Ordinance, 2002 (Now Sec. 33 of Punjab Industrial Relations Act, 2010). Contention of Bank that cause of action arose only on of employee, was not acceptable. Definition of "cause of action" and grievance had connoted a right of action, Accepted meaning of "cause of action" was whole bundle of facts which would entitle a party to sustain action and give him right to seek judicial remedy. 'Right of action' necessarily would include "cause of action". 2006 PLC 48.

**45. Procedure and powers of Labour Court: (1)**  
Subject to the provisions of this Act, while trying an offence, a Labour Court shall follow as nearly as possible summary procedure as prescribed under the Code of Criminal Procedure, 1898 (V of 1898).

(2) A Labour Court shall, for the purpose of adjudicating and determining any industrial dispute, be

deemed to be a Civil Court and shall have the same powers as are vested in such Court under the Code of Civil Procedure, 1908 (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 and material objects; and
- (c) issuing commissions for the examination of witnesses or documents.

(3) A Labour Court shall, for the purpose of trying an offence under the Act or the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 (VI of 1968), have the same powers as are vested in the Court of a Magistrate of the First Class empowered under Section 30 of the Code of Criminal Procedure, 1898 (V of 1898).

(4) No court-fee shall be payable for filing, exhibiting or recording any document in a Labour Court.

(5) If the parties to a case, at any time before a final order is passed by the Labour Court, satisfy the Labour Court that the matter has been resolved by them amicably and that there are sufficient grounds for withdrawing the case, it may allow such withdrawal.

### COMMENTS

1. **Procedure and power of Labour Court:** Procedure and power of Labour Court. Labour Court was deemed to be a Civil Court with all the powers of Civil Court. Filing of *lis* before a Labour Court was not merely a matter of procedure, it was referable and included power of a Labour Court to take cognizance of a *lis* brought before it. Nature of jurisdiction of Labour Court was civil and in absence of any specific provision in Industrial Relations Ordinance, 2002 (Now Punjab Industrial Relations Act, 2010). Section 20 of Civil Procedure Code, 1908 would apply to determine territorial jurisdiction of Labour Court. Industrial Relations Ordinance, 2002 (Now Punjab Industrial Relations Act, 2010) being a beneficial Legislation, had to be interpreted with same object and in case of doubt, provisions of said Ordinance (Now Act) had to be interpreted in favour of the workmen. 2005 PLC 147.

2. **Summary procedure of trials:** The Labour Court shall have the powers of a Civil Court as well as those of a Criminal Court. While trying

offences it shall follow the summary procedure of trials prescribed in the Criminal Procedure Code as nearly as possible. While adjudicating an industrial dispute it shall be deemed to be a Civil Court and shall have all the powers of a Civil Court as are vested in such Courts under the Civil Procedure Code.

Where the special Acts confer on litigants certain rights or remedies, but the power to decide, try or adjudicate the case is conferred on the Tribunals acting under the Industrial Relations Ordinance, 1969, and no procedure is prescribed as to how they will dispose of the case, the Labour Tribunals acting as Courts of general jurisdiction under the Ordinance can apply their own procedure. **1981 PLC 307.**

Decision and order of Labour Court is not only to be pronounced but must be written and signed when pronounced. Sanctity of judicial records raises presumption as to the decision having been recorded and announced on day when it purports to have been given unless such presumption is eroded by strong circumstances. **1981 PLC 58.**

**3. Interim injunction--Grant of:** Labour Court being fully empowered under the Ordinance to grant full and final relief, was also competent to grant *ad interim* relief under its inherent power and also under provisions of S. 36 of the Ordinance. **1995 PLC 44.**

Adjournments were allowed at the request of the party even on payment of costs and again adjournment was granted as a last opportunity. Still another request was made for adjournment on grounds that counsel had missed the plane. Counsel himself was negligent in reaching airport in time. Refusal by the Labour Court to grant further adjournment, in circumstances was not un-judicious and interference in revision was refused by the Appellate Tribunal. **1985 PLC 212.**

As regarding recording of additional evidence the powers of Appellate Tribunal and Labour Court are co-extensive in such regard. Scope of Section 25-A (Now Section 33) is wide and unfettered by technicalities as to mode of trial. **1982 PLC 148.**

Labour Court would be deemed to be a Civil Court and would be governed by Civil Procedure Code as envisaged under S. 36 of Industrial Relations Ordinance, 1969 (Now Sec. 45 of Punjab Industrial Relations Act, 2010). Provisions of Civil Procedure Code like O. I, Rr. 9, 10 & 12 and also O. II, R. 6 and various others should be kept in views by Labour Court while disposing of application under S. 25-A of Industrial Relations Ordinance, 1969 (Now Sec. 33 of Punjab Industrial Relations Act, 2010). **1996 PLC 505.**

**4. Grant of adjournment:** Labour Court had no discretion to grant adjournment as a matter of course. Adjournment was granted if a just cause was shown. Adjournment due to non-availability of counsel was

justified on one or two dates but not always. Eight adjournments were already granted for same reasons. Refusal to grant further adjournment on ground that the Manager of establishment (respondent) was ill and no medical certificate was produced, the Labour Court, in circumstances, was justified in refusing adjournment and proceeding *ex parte*. 1984 PLC 518.

**5. Transfer of case:** Disallowing question is within the power of Court itself and is not a sufficient ground for transfer of case. Labour Courts, however, were advised to show due consideration to counsel or parties, particularly senior counsel and nothing should be done or expressed suggesting remotely in minds of counsel or parties that Court was prejudiced. 1981 PLC 838.

**6. Appeal:** Appellate Order of Labour Court against decision of Junior Labour Court is not appealable before Labour Appellate Tribunal. 1981 PLC 344.

Application of Trade Union raising industrial dispute was dismissed by Labour Court on ground that strike notice to employer being belated application to Court was not maintainable on basis of invalid strike notice. Such issues, were *held*, directly connected with demands made by applicant Union hence decision of Labour Court dismissing application was appealable. 1981 PLC 336.

**7. Domestic enquiry:** Appeal lies against final decision of Labour Court under Section 25-A, Industrial Relations Ordinance, 1969 (Now Sec. 33 of Punjab Industrial Relations Act, 2010). Interlocutory order in disposal of petition under Section 25-A (Now u/Sec. 33) is not appealable. 1981 PLC 182.

Labour Court and Appellate Tribunal are competent to go behind domestic enquiry and to determine whether there was tangible evidence to support penalty order based upon findings of domestic enquiry. 1981 PLC 580.

Labour Court is another forum in determining grievance afresh after considering facts and can go into facts of case considered in domestic enquiry. 1981 PLC 51.

**46. Awards and decisions of Labour Court:** (1) An award or decision of a Labour Court shall be given in writing and delivered in open Court and two copies thereof shall be forwarded, forthwith to the Government, provided that if the Federal Government is a party, two copies of the award or decision shall be forwarded to that Government as well.

(2) The Government shall, within a period of thirty days from the receipt of the copies of the award or decision, publish it in the official Gazette.

(3) Any party aggrieved by a final award, decision or sentence under Section 33, Section 42 or Section 44, except an interim order, may, within thirty days of the communication of the final award, decision or sentence, prefer an appeal to the Tribunal, whose decision thereon shall be final.

(4) Save as otherwise expressly provided in this Act, all awards, decisions sentences of a Labour Court shall be final and shall not be called in question in any manner by or before any Court or other authority.

### COMMENTS

Appellant had assailed the order of Labour Court, whereby his grievance petition, was returned for lack of jurisdiction to entertain said petition, with an observation that appellant would be at liberty to seek remedy, if available in accordance with law. Ministry of Railways *vide* two notifications, had classified all railway lines as Ministry of Defence Lines, thereby excluding all the employees of Pakistan Railways to invoke the jurisdiction of the Labour Court. Appellant also being an ex-employee of Pakistan Railways was governed by its statutory rules. Only remedy for appellant was to invoke jurisdiction of the Federal Service Tribunal. Labour Court, in circumstances was right in not invoking the jurisdiction as appellant being ex-employee of Pakistan Railways and connected with Ministry of Defence Lines, was civil servant and only remedy available to him was to invoke jurisdiction of Federal Service Tribunal. **2008 PLC 184.**

Appellant who was M.Sc. Pharmacy and highly qualified, initially was inducted as Medical Information Officer in the organization and subsequently was promoted to the rank of Senior Information Medical Officer and his duty was to go to the Doctors and Chemists to introduce the product of the company and also to provide information relating to medicines prepared by the company. Appellant in other words was a Site Representative and as regards a Sale Representative, it was well-settled that he did not fall within the definition of a 'workman' or 'worker' Appellant being not workman, his grievance petition was rightly dismissed being not maintainable. **2008 PLC 188.**

Appellant was permanent employee and his services were terminated after charge-sheeting him and holding inquiry against him on charge of wilful absence from the duties unauthorizedly. Services of the appellant were not terminated verbally as alleged by appellant, but were terminated by written order after holding proper inquiry through an independent Inquiry Officer in which appellant participated. Inquiry Officer, after holding inquiry against appellant and completing all formalities, found appellant guilty of charge levelled against him. Labour Court, in circumstances had rightly

dismissed grievance petition of appellant; in such state of affairs, no justification existed to interfere in the order passed by the Labour Court. 2008 PLC 220.

Grievance petition filed by respondent against order of his dismissal from service was allowed by the Labour Court and respondent was reinstated in service with full back benefits. Evidence on record had proved that respondent was not in league with cashier to cause misappropriation of amount. Allegation of misappropriation of amount in question though had not been proved against respondent, but an element of misconduct existed on his part. Cashier who actually misappropriated amount had been removed from service. Conduct of respondent having not been found to be altogether above-board, keeping in view that appellant was a Banking Company dealing with public money; where a small omission would lead to colossal loss to the appellant Bank and cause serious embarrassment, respondent could not be left unpunished and he could not be reinstated. Impugned order passed by the Labour Court, whereby respondent was reinstated in service with full back benefits, was set aside and in place of dismissal of respondent, imposition of penalty of compulsory retirement would meet the ends of justice as respondent would be able to receive all his retirement and pensionary benefits from the appellant Bank. 2007 PLC 75.

**47. Labour Appellate Tribunal:** (1) The Government may, by notification in the official Gazette, constitute as many Tribunals consisting of one member as it may consider necessary and, where it constitutes more than one Tribunals, it shall specify in the notification the territorial limits within which or the class of cases in relation to which, each one of them shall exercise jurisdiction under this Act.

(2) The member of the Tribunal shall be a person who is or has been a Judge or an Additional Judge of the Lahore High Court and shall be appointed on such terms and conditions as Government may determine.

(3) The Tribunal may, on appeal, confirm, set aside, vary or modify the award, decision or sentence given or passed under Section 33, Section 42 or Section 44 and shall exercise all the powers conferred by the Act to the Court, save as otherwise provided.

(4) The decision of the Tribunal shall be delivered as expeditiously as possible with a period of one hundred and twenty days following the filing of the appeal, provided that



such decision shall not be rendered invalid by reason of any delay.

(5) The Tribunal may, on its own motion at any time, call for the record of any case or proceedings under the Act in which a Labour Court 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.

(6) No order under this sub-section (5) shall be passed revising or modifying any order adversely affecting any person without giving such person a reasonable opportunity of being heard.

(7) The Tribunal shall follow such procedure as may be prescribed.

(8) The Tribunal may punish for contempt of its authority, or that of any Labour Court subject to its appellate jurisdiction, as if it is a High Court.

(9) Any person convicted and sentenced by the Tribunal under sub-section (8) to imprisonment for any period, or to pay a fine exceeding fifteen thousand rupees, may, within thirty days, prefer an appeal to the Lahore High Court.

(10) A Tribunal may, on its own motion or on the application of a party, transfer any application or proceeding from a Labour Court subject to its appellate jurisdiction to any other such Labour Court.

(11) Notwithstanding anything contained in sub-section (3), if in an appeal preferred to it against the order of a Labour Court directing the reinstatement of a workman and the Tribunal makes an order staying the operation of the order of the Labour Court, the Tribunal shall decide such appeal within ninety days.

(12) If an appeal under sub-section (11) is not decided within the period of ninety days, the interim order of the Tribunal shall stand vacated on the expiration of that period.

**COMMENTS**

Labour Tribunal, in appeal, can vary or modify the order. Commensurate with the extent of proving of charges. **NLR 1993 Labour 5 (SC); 1993 SCMR 126.**

Labour Tribunal has the power to review. **1999 TD (Labour) 334 Para 5.**

Labour Tribunal though was not competent to upset the decision of the Labour Court for the reason that memo. of appeal was signed by the Advocate of the Employer and not by any person duly authorized in that behalf but said order always be passed by PLAT in exercise of its revisional jurisdiction which had broader scope and was not restricted by the conditions of the exercise of appellate jurisdiction. **2000 PLC 74.**

Labour Tribunal is competent to vary, modify the order under Appeal. **1993 SCMR 126.**