ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

ICA No. 301/2022

National Commission for Human Rights of Pakistan

Versus

United Bank Limited

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	11.02.2025	Mr Adeel Wahid and Mr Salaar Khan, Advocates for Appellant.

KHADIM HUSSAIN SOOMRO, J.- This Intra-Court Appeal (ICA) has been filed against the judgment dated 16.06.2022, rendered by the learned Single Judge in Chambers, whereby Writ Petition No. 4797/2016, filed by the respondent/UBL, was allowed.

2. The brief facts relevant to the instant appeal are that the appellant, the National Commission for Human Rights (NCHR), is a federal statutory body established under the NCHR Act, 2012. The Commission was created to promote and protect human rights as enshrined in the Constitution of the Islamic Republic of Pakistan and various international instruments. It is empowered to investigate complaints regarding human rights violations, abetment thereof, or negligence in preventing such violations by public servants.

3. In the instant case, a complaint was filed by a retired employee of United Bank Limited (UBL) through Petition No. 08 of 2016. Upon such a complaint, the appellant/NCHR issued an order on 05.09.2016. The

respondent/UBL challenged this order before the Court, and the learned Single Judge in Chambers set aside the order through the impugned judgment dated 16.06.2022. Aggrieved by this decision, the appellant has filed the present appeal.

4. Learned counsel for the appellant submits that as per Section 9(a)(i) and (ii) of the Act, the Commission is empowered to inquire into the complaints regarding violation of human rights or abetment thereof and jurisdiction of the Commission is not restricted to fundamental rights under the Constitution; that Section 18 provides the list of steps that may be taken pursuant to inquiry; that NCHR order is not a decision of the Commission. Learned counsel further submits that all these grounds have not been considered by the learned Single Judge in Chambers and passed the impugned judgment while wrongly placing reliance upon case law reported as **2018 SCMR 736**.

5. We have heard the learned counsel for the appellant and pursued the material available on the record.

6. Before going to the merits of the case, we feel it appropriate to discuss human rights, constitutional rights and service rights. Human rights are universal rights inherent to all human beings, regardless of nationality, ethnicity, gender, or any other status. They are based on principles of dignity, equality, and fairness. These rights are recognized internationally through instruments such as the Universal Declaration of Human Rights (UDHR), the International Covenant on

Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Human rights are often protected by international bodies like the United Nations, but they can also be incorporated into national laws and constitutions.

7. Constitutional rights are rights guaranteed by the constitution of a country. They are specific to the legal framework of that nation and are enforceable through the judiciary, particularly the superior courts, viz the Supreme Court and High Courts. In Pakistan, the Honourable Supreme Court, under Article 184(3) of the Constitution, has original jurisdiction to enforce fundamental rights. High Courts, under Article 199, can also be approached for the enforcement of constitutional rights. In the case of Benazir Bhutto v. Federation of Pakistan (PLD 1988 SC 416), the Supreme Court emphasized the judiciary's role in protecting constitutional rights and ensuring that state actions do not violate fundamental rights.

8. In Pakistan, the service rights of civil servants are primarily governed by the Civil Servants Act of 1973 and the rules and regulations framed thereunder. These rights include, but are not limited to, the right to fair treatment, the right to be considered for promotion, the right to security of tenure, the right to receive a salary and pension, and the right to be heard in case of disciplinary action.

9. The case in hand deals with a dispute between the appellant and respondent that arose over an employee of UBL Bank on a pension issue who is neither a civil servant nor a public servant. They are a private sector employee working for a commercial bank. Their rights, duties, and remedies in case of disputes are governed by private sector labour laws and their employment contract, not by the laws applicable to civil or public servants.

10. Now, turning towards the jurisdiction of the NCHR is a statutory body established to promote and protect human rights, as defined under the National Commission for Human Rights Act, 2012. Its mandate includes investigating complaints of human rights violations, abetment thereof, or negligence in preventing such violations by public servants. However, pension-related disputes, such as the enhancement of pension amounts, are governed by employment contracts, banking regulations, and other laws to which UBL and that employees are subject. These matters fall within the jurisdiction of specialised forums provided by the laws. The NCHR's directive to enhance the pension amount is, therefore, beyond its statutory authority and constitutes an overreach of its jurisdiction.

11. The NCHR's order is not legally sustainable, as it encroaches upon the jurisdiction of other competent forums. While the retired employee's grievance regarding the inadequacy of his pension may be genuine, it should have been addressed through the

appropriate legal channels and appropriate forum under the law. The NCHR's intervention in this matter sets a problematic precedent, potentially leading to the misuse of its authority in areas outside its statutory mandate. This undermines the role of specialized tribunals and courts, which are better equipped to handle such disputes. The right to a dignified life is indeed a fundamental right under Article 9 of the Constitution of Pakistan. However, pension disputes are primarily contractual and statutory in nature, and the NCHR's role is not to adjudicate such matters but to address broader human rights violations. The retired employee's remedy lies in approaching the relevant forum.

12. For the reasons stated above, the NCHR's order directing UBL to enhance the pension amount of the retired employee is found to be beyond its statutory mandate and jurisdiction. The NCHR's intervention in this matter is not legally sustainable. Hence, the ICA of the appellant is ***dismissed in limine***, and the order passed by the learned single judge is maintained. However the retired employee is at liberty to pursue his grievance through the appropriate legal forum, if so advised.

(INAAM AMEEN MINHAS)
JUDGE

(KHADIM HUSSAIN SOOMRO)
JUDGE

Approved for Reporting

Zahid