**JUDGEMENT SHEET**

**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**

**JUDICIAL DEPARTMENT**

**Writ Petition No. 2997 of 2026**

Muslim Commercial Bank, etc.

**VERSUS**

Full Bench NIRC, etc.

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| PETITIONER BY: | Mr. Farooq Zaman Qureshi, Advocate |
| RESPONDENT BY: | Respondent No.3 in person. |
| DATE OF HEARING: | 18.09.2026 |

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***AYYAZ SHAUKAT, J:-*** The petitioners are officers of MCB Bank Limited (the **"Bank"**), acting through their constituted attorney. Through this petition, they assail the order dated 04.06.2026 passed by the learned Single Bench of the National Industrial Relations Commission (the **"Commission"**) at Peshawar (respondent No.2) in Case No.7(03)/2025-P, being a complaint instituted by respondent No.3 for the implementation of a decision of the Commission.

2. By the impugned order, the learned Member directed two officers of the Bank to appear in person on the next date of hearing. By a postscript recorded the same day, the learned Member further directed learned counsel for the Bank to release the salaries of respondent No.3 before that date. The personal appearance of the officers was to stand exempted upon such release.

3. By this petition, the petitioners seek a declaration that the impugned order is illegal and pray that it be set aside. They further pray that the complaint itself be dismissed with special compensatory costs. In the alternative, they pray that the proceedings before respondent No.2 be suspended until the Full Bench of the Commission becomes available.

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4. Learned counsel for the petitioners submitted that respondent No.3 was employed by the Bank as an Officer Grade-IV, Sales Processor, in the Auto Loans unit of its Consumer Lending Department at Peshawar. She was dismissed from service on 15.01.2021 upon the conclusion of disciplinary proceedings. She impugned her dismissal by way of a grievance petition under section 33 of the Industrial Relations Act, 2012 (the **"Act"**). The learned Single Bench at Peshawar allowed that petition on 27.04.2023 and reinstated her with back benefits. The Bank's appeal was dismissed by the learned Full Bench on 29.11.2023.

5. Thereafter, the Bank invoked the constitutional jurisdiction of this Court in W.P. No.486 of 2024, which was partly allowed by judgment dated 02.12.2024, the operative part of which reads as follows:

> *"9. For the above reasons, instant petition is partly allowed and the impugned orders dated 27.04.2023 & 29.11.2023 are partly modified to the extent that award of back benefits to respondent No.3 is held to be without lawful authority and/or in accordance with law. However, decisions by respondents No.1 & 2 with respect to reinstatement of respondent No.3 in service need no interference. In the backdrop of above findings, respondent No.3 shall be deemed to be in service from the date of reinstatement i.e. 27.04.2023, however, she shall not be entitled to any back benefits for the period she was terminated from service."*

6. It was submitted that the Bank has assailed that judgment through C.P.L.A. No.962 of 2025, filed before the Hon'ble Supreme Court of Pakistan on 07.02.2025, which remains pending. Earlier, vide its letter dated 09.01.2025, the Bank restored respondent No.3 to duty.

7. Learned counsel then referred to the first complaint of respondent No.3, registered as Case No.7(23)/2023-P, instituted on 16.06.2023 under section 33 read with section 69 of the Act for the implementation of the

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decision dated 27.04.2023. That complaint was disposed of on 14.01.2025 by the following order:

> *"Hina Ali petitioner in person present. Mr. Iftikhar Amin, Law Officer on behalf of respondents present submitted letter dated 09.01.2025, the order passed by the Islamabad High Court in writ petition No. 486/24 dated 02.12.2024 and the Full Bench dated 29.11.2023, has been implemented, condition to the outcome of the CPLA pending in Supreme Court of Pakistan. The order is satisfied; therefore, this petition is filed without proceedings. File be consigned to record room."*

8. It was contended that, although the CPLA remained pending, respondent No.3 instituted a fresh complaint dated 12.03.2025, registered as Case No.7(03)/2025-P, wherein she prayed that the Bank be proceeded against for disobedience of the decision, and be directed to release her salaries for the period from 27.04.2023 to 09.01.2025. On 26.05.2025, the learned Member recorded her claim to the salaries for that period and directed learned counsel for the Bank to compute and pay the same on 26.06.2025. The Bank assailed that order before the learned Full Bench in Appeal No.12A(16)/2025-P, praying that it be set aside, that it be permitted to file a reply to the complaint, and that the learned Single Bench be directed to take into consideration the order dated 14.01.2025 before proceeding further in the matter.

9. The Full Bench heard that appeal on 17.11.2025. It noted that respondent No.3 had not appeared despite repeated notices and despite the offer of the facility of joining the proceedings through video link from Peshawar, and held in the following terms:

> *"The learned Single Member in the order dated 14-01-2025 provided reference of the above order and pendency of CPLA and by appreciating the stance of the appellant that order mentioned above and of Full Bench dated 29-11-2023 has been implemented with the*

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*condition of outcome of the CPLA pending before honourable Supreme Court of Pakistan. ... We fail to understand that, once the learned Single Member held conclusively that the order satisfied then why the learned Single Member without even providing reference to his earlier order entertained the petition and passed the impugned order. The order impugned before us on the face of it is without lawful authority, unwarranted and besides the settled law, therefore, same is set aside. The appeal is allowed in the above terms. File be consigned to the record room after due completion."*

10. Learned counsel submitted that, notwithstanding this order, the learned Single Bench continued with the same complaint and, on different dates, called upon the Bank to pay salaries to respondent No.3 from the date of dismissal till the date of reinstatement. Against this backdrop, the impugned order came to be passed. It reads in full:

*"Petitioner in person present. No one is present on behalf of respondents. Petitioner submits that she was reinstated in service vide order dated 30.03.2023 and she was reinstated in service by the respondents but her salary w.e.f 07.04.2023 to 13.01.2025 has not been paid so far. Despite repeated calls no one is present on behalf of the respondents. Respondent No.2 and 4 are directed to appear in person on the next date of hearing, failing which strict disciplinary action shall be taken against the respondent No.2 and 4 under the law. To come up on 01.07.2026 for compliance. Copy of this order be also sent to the respondent No.2 and 4 through TCS/UMS.*

**Postscript**.

*04.06.2026. Learned counsel for the respondent Mr. Ahmed Farooq, advocate appeared at 01:30 pm and submits that he is traveling from Lahore and due to heavy traffic, he could not reach on time. He further requested for his attendance which request is allowed. He is further directed to release the salaries of the petitioner till next date of hearing. If the salaries of the petitioner are released till next date then personal appearance of respondent No. 2 and 4 will be exempted. Learned counsel for the petitioner also present."*

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11. The Bank has also assailed the impugned order before the learned Full Bench in Appeal No.12A(41)/2026-P under section 58 of the Act, together with C.M.A. No.01/2026-P for its suspension. In that appeal, it prays that the impugned order be declared illegal and contrary to the directions contained in the order dated 17.11.2025, that the proceedings before the Single Bench be declared a nullity and coram non judice, and that the complaint be kept in abeyance till the final decision of the CPLA. Learned counsel stated that the appeal is pending but cannot be taken up because the members of the Full Bench are not available, which is why the petitioners have approached this Court.

12. On the merits, learned counsel contended that the impugned order is without lawful authority, coram non judice, perverse and biased. He submitted that the learned Single Bench has disregarded its own order dated 14.01.2025, by which the matter stood settled subject to the outcome of the CPLA, as well as the order of the Full Bench dated 17.11.2025, and that the petitioners are left with no adequate and efficacious alternate remedy.

13. Notice was issued to the respondents on 29.06.2026 and the application for exemption was allowed. Respondent No.3, who appeared in person, opposed the petition. She submitted that she joined duty in January 2025 pursuant to the Bank's letter dated 09.01.2025. She further stated that she does not seek back benefits for the period during which she remained under dismissal, that period having been excluded by the judgment of this Court. The claim of respondent No.3 is confined to the salary for the period from 27.04.2023 to 08.01.2025. During that period, she stood deemed to be in service under the same judgment, but was neither called for duty nor paid. She contended that no order suspending

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the judgment of this Court has been passed, and that the present petition is merely a further step calculated to defer compliance.

14. The scope of this challenge is narrow, and it is appropriate to begin by examining what the impugned order actually does. It determines nothing finally. It records that no one appeared for the Bank despite repeated calls. It requires two officers of the Bank to appear in person. It calls upon the Bank, through its counsel, to release the salaries of respondent No.3 before the next date, and excuses personal appearance if that is done. It then adjourns the complaint for compliance. It is, in every sense, an interlocutory order made in pending proceedings by a forum which remains seized of them, and the petitioners have already assailed it before the Full Bench, where it awaits decision.

15. The Bank falls within the exclusive jurisdiction of the Commission under section 54(i) of the Act, which is not in dispute. Section 55 provides the machinery through which the Commission functions. The Chairman constitutes a Full Bench of not less than three members, and as many single-member Benches as he deems fit. Under sub-section (4), he may reconstitute a Bench if a member is absent or otherwise unable to attend. Under sub-section (5), no act or proceeding is rendered invalid merely by reason of a vacancy or a defect in its constitution. Section 56(2) provides that anything done by a Bench in accordance with the Act is deemed to have been done by the Commission.

16. Section 57 confers additional powers upon the Commission. Its material provisions read as follows:

> *"57. Additional powers of the Commission.- ... (2) The Commission may, on the application of a party, or of its own motion, (a) initiate prosecution, trial or proceedings, or take action, with regard to any*

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*matter relating to its functions; ... (c) grant such relief as it may deem fit including interim injunction."*

17. The Act provides a remedy within the Commission itself against the orders of its Benches. Section 58 reads, in relevant part, as follows:

*"58. Appeals.-(1) Notwithstanding anything contained in this Act, or in any other law for the time being in force, 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 Commission, may, within thirty days of such award, decision, sentence or order prefer an appeal to the Commission.*

*(2) An appeal preferred to the Commission under sub-section (1) shall be disposed of by the Full Bench of the Commission which shall-*

*...*

*(c) The decision of the Full Bench shall be delivered as expeditiously as possible, within a period of sixty days following the filing of the appeal, provided that such decision shall not be rendered invalid by reasons of any delay in its delivery.*

*(d) The Full Bench 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."*

18. Section 59 then provides:

*"59. Finality of order.- No Court shall entertain any plea as to the jurisdiction of the Commission or as the legality or propriety of anything done or purporting to be done by the Commission or any of its Benches, and no order, decision, judgment or sentence of the Commission shall be called in question in any manner, whatsoever, in or before any Court or other authority."*

19. The Commission is armed with the power to secure compliance with its decisions and to punish the disobedience of its orders. The Act also establishes a complete hierarchy within the Commission. Section 58(1)

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provides an appeal against an award, decision or sentence of a Bench. Section 58(2)(d) goes further, and enables the Full Bench, of its own motion and at any time, to call for the record of any case in which a Bench has passed an order, and to satisfy itself as to its correctness, legality or propriety. Section 57(2)(c) empowers the Commission to grant such relief as it deems fit, including interim injunction. No order of a single-member Bench, final or interlocutory, therefore lies beyond the corrective reach of the Full Bench.

20. Section 59 is couched in the widest terms. It is, however, trite that a sub-constitutional ouster clause cannot curtail the jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (the **"Constitution"**), and that such a clause does not protect an order which is without jurisdiction, coram non judice or mala fide. Reference may be made to ***Federation of Pakistan and another v. Malik Ghulam Mustafa Khar*** **(PLD 1989 SC 26)** and ***Khan Asfandyar Wali and others v. Federation of Pakistan*** **(PLD 2001 SC 607)**.

21. Section 59 is nonetheless not without significance. It expresses a clear legislative policy that disputes arising within the domain of the Commission are to be resolved within its own hierarchy. This Court gives effect to that policy by confining its interference to the class of cases which the clause cannot protect. Against this background, the petition may now be taken up.

22. Article 199(1) of the Constitution confers jurisdiction upon this Court "if it is satisfied that no other adequate remedy is provided by law". The condition is not a mere formality. Ever since ***Tariq Transport Company, Lahore v. The Sargodha-Bhera Bus Service*** **(PLD 1958 SC 437)**, it has

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been consistently held that the constitutional jurisdiction is not a substitute for the remedies which the law itself provides.

23. Where the remedy is one created by a special statute for a special class of disputes, the rule is applied with greater rigour. In ***Indus Trading and Contracting Company v. Collector of Customs (Preventive) Karachi and others*** **(2016 SCMR 842),** the august Supreme Court held:

> *"... where a special law provides legal remedy for the resolution of a dispute, the intention of the legislature in creating such remedy is that the disputes falling within the ambit of such forum be taken only before it for resolution. Such bypass of the proper forum is contrary to the intention of the provisions of Article 199(1) of the Constitution which confers jurisdiction on the High Court only and only when there is no adequate remedy is available under any law. Where adequate forum is fully functional, the High Court must deprecate such tendency at the very initial stage and relegate the parties to seek remedy before the special forum created under the special law to which the controversy relates."*

24. This Court has applied these principles to the orders of the Commission itself. In ***Pearl Continental Hotels National Labour Union v. National Industrial Relations Commission and others*** **(2023 PLC 206)**, the order impugned had been made by an officer authorised by a single-member Bench. It was held that such an order is to be treated as an order of a Bench within the meaning of section 56(2), that it is appealable to the Full Bench under section 58, and that the constitutional petition was for that reason not maintainable.

25. The principle applies with particular force to interlocutory orders passed in proceedings which are still pending. Such orders are steps in the proceedings. They are ordinarily open to correction within the statutory hierarchy, or in an appeal against the final order. If each of them were

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brought to this Court, the special forum would never be able to conclude any proceeding.

26. In the particular field of industrial relations, these principles have been applied to orders made by a single-member Bench in proceedings for the implementation of its own decision. In ***Ghulam Qadir Wadyo v. National Industrial Relations Commission and others*** **(C.P. No.S-83 of 2021, decided on 16.05.2022)**, the orders impugned before the High Court of Sindh had been passed on contempt applications. After reproducing section 58 of the Act, the Court held:

> *"9. In the case in hand, the petitioner, being aggrieved by orders passed by a Single Bench of the Commission, has a remedy before the Full Bench of Commission under Section 58(2)(b) and (d) but he had not availed such remedy and filed the instant Constitutional Petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973. Since the petitioner has an appropriate and alternate remedy against the impugned order passed by any learned Member Bench of NIRC before a Full Bench of the Commission as has been discussed above, therefore, the present writ petition under Article 199 of the Constitution is not maintainable."*

27. The rule is not, however, of inflexible application, and the exceptions to it are equally well settled. The Hon'ble Federal Constitutional Court recently reiterated them in ***Muhammad Qutub-ud-Din and others v. Province of Sindh through Chief Secretary and others*** **(Civil Appeal No.103-K of 2024, decided on 21.05.2026**):

> *"11. ... the mere existence of an alternate remedy does not constitute an absolute bar to the invocation of constitutional jurisdiction under Article 199 of the Constitution. Rather, it is merely one of the factors to be taken into consideration by the High Court while exercising its discretionary jurisdiction. The rule regarding exhaustion of alternate remedies is essentially a rule of policy, convenience, and judicial restraint, and not one of rigid or inflexible*

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*application. ... Apart from the above, the constitutional jurisdiction under Article 199 of the Constitution can validly be invoked where fundamental rights are infringed, where the alternate remedy is neither adequate nor equally efficacious, where the impugned action is coram non judice or without lawful authority, or where the proceedings suffer from mala fide and jurisdictional defects or violation of the principles of natural justice."*

28. The petition must be tested against these exceptions. No infringement of a fundamental right is alleged, nor is any denial of a hearing alleged. The case of the petitioners rests upon three of the remaining exceptions: that the statutory remedy has become inefficacious because the Full Bench is not available; that the impugned order is coram non judice or without lawful authority; and that it is actuated by bias. Before turning to them, there is a threshold matter peculiar to this case.

29. This is not a case in which a statutory remedy exists and has been bypassed. It is a case in which the statutory remedy has been invoked and remains pending. Appeal No.12A(41)/2026-P is directed against the very order impugned here, and it is accompanied by an application for the suspension of that order. The prayers in the appeal and in this petition are substantially identical. What the petitioners seek here, in truth, is the interim relief which the Full Bench has not yet been able to consider, together with a decision upon the very questions which the appeal raises.

30. The law does not permit a litigant to pursue coexistent remedies against one and the same order before two fora at the same time. In ***Trading Corporation of Pakistan v. Devan Sugar Mills Limited and others*** **(PLD 2018 SC 828)**, the august Supreme Court explained the doctrine of election in the following terms:

"8. ... The moment suitor intends to commence any legal action to enforce any right and or invoke a remedy to set right a wrong or to

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> vindicate an injury, he has to elect and or choose from amongst host of actions or remedies available under the law. ... Once choice is exercised and election is made then a suitor is prohibited from launching another proceeding to seek a relief or remedy contrary to what could be claimed and or achieved by adopting other proceeding/action and or remedy, which in legal parlance is recognized as doctrine of election ... such rule of prudence has been evolved by courts of law to curb multiplicity of proceedings. As long as a party does not avail of the remedy before a Court of competent jurisdiction all such remedies remain open to be invoked. Once the election is made then the party generally, cannot be allowed to hop over and shop for one after another coexistent remedies."

31. The petitioners made their election when they filed Appeal No.12A(41)/2026-P. Simultaneous proceedings before the Full Bench and before this Court against the same order entail the obvious risk of conflicting decisions. That is precisely the mischief which the doctrine is designed to prevent.

32. Nor would the position improve if it were contended that an appeal under section 58(1) does not lie against an interlocutory order. The Full Bench would still retain its power under section 58(2)(d) to examine the correctness, legality and propriety of any order passed by a Bench, and the Bank itself invoked that corrective jurisdiction against the order dated 26.05.2025. And if it were urged that the statute provides no remedy at all against an interlocutory order, the principle stated in ***Syed Saghir Ahmed Naqvi v. Province of Sindh and another*** **(1996 SCMR 1165)**, followed in ***Muhammad Iftikhar Mohmand v. Javed Muhammad and 3 others*** **(1998 SCMR 328)**, supplies the answer: the order cannot, for that reason alone, be assailed before this Court.

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33. The only reason assigned for approaching this Court is that the members of the Full Bench are not available. That circumstance does not render the statutory remedy inadequate. It does not follow that every delay in the sitting of a Bench transfers the jurisdiction of that Bench to this Court. The Commission is a standing body of not less than ten members. The Full Bench is a Bench which the Chairman constitutes, and may reconstitute, under section 55. It decided the Bank's earlier appeal as recently as 17.11.2025. Nothing placed before this Court shows that the Full Bench has ceased to exist, or that the present difficulty is of indefinite duration.

34. No real and irreversible prejudice is shown here. The impugned order requires the Bank to pay the salary of a period which this Court has declared to be one of deemed service, and requires two of its officers to attend a hearing. Neither consequence is irreversible. Whatever is paid remains subject to the outcome of the Bank's pending C.P.L.A., which is the very footing upon which the Bank itself stated on 14.01.2025 that it had implemented the decision.

35. The High Court of Sindh was confronted with this very situation in ***Omar Jibran Engineering Industries Ltd. v. The National Industrial Relations Commission Bench at Sukkur and 2 others*** **(C.P. No.D-515 of 2023, decided on 07.03.2023)**. An appeal under section 58 was pending before a Full Bench which was then non-functional, and the employer apprehended coercive measures. The learned Division Bench did not examine the order itself. It observed:

> *"5. In principle, the learned Single Member Bench of NIRC could seek implementation of its order, if there is no restraining order passed by the Full Bench of NIRC, at Karachi, and the petitioner-company is under a legal obligation to make conditional compliance with the order of the learned Single Bench of NIRC ... and that would be subject to the outcome of the decision of the Full Bench of NIRC at*

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> *Karachi in the aforesaid appeal, for the reason that right of appeal cannot be denied to an aggrieved person. However, such right is to be adjudicated by the appellate forum ... Let the Full Bench of the NIRC take up the matter of the petitioner and decide the subject issue within a reasonable time including the application for interim relief."*

The same course commends itself to this Court in the present case.

36. The second exception now falls for consideration, namely whether the impugned order is coram non judice or without lawful authority. The distinction between a forum which has no jurisdiction at all and one which has jurisdiction but is said to have exercised it wrongly is material at this stage. The former acts without lawful authority. The latter commits, at most, an error within jurisdiction, and the remedy for such an error lies within the statutory hierarchy.

37. The learned Single Bench is a Bench of the Commission. The complaint before it was instituted by the workman in whose favour the decision dated 27.04.2023 was given, and it concerns the implementation of that decision as modified by this Court. The Act confers upon the Commission, in express terms, the power to entertain such a complaint and to punish the disobedience of its orders. A forum acting within the class of matters committed to it by statute is not coram non judice.

38. The first objection under this head rests upon the order dated 14.01.2025. At the preliminary hearing it was described as having closed the earlier complaint on account of the pendency of the CPLA. The order does not so provide. It records the statement of the Bank's law officer that the decision had been implemented subject to the outcome of the CPLA, and upon that statement it records that "the order is satisfied". It disposed of the earlier complaint "without proceedings". That order did not adjudicate upon the salary of respondent No.3 for the period between 27.04.2023 and

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the Bank's letter dated 09.01.2025. Whether a disposal of this kind forecloses a later complaint directed to that period may well be a matter for adjudication. It is, however, a defence going to the merits of the complaint. It is not a circumstance which deprives the Single Bench of jurisdiction to entertain it.

39. The second objection rests upon the order of the Full Bench dated 17.11.2025. Learned counsel construed that order as having declared the complaint non-maintainable. The words of the order do not bear that construction. The Full Bench found fault with the order dated 26.05.2025 because it had been passed without reference to the earlier order dated 14.01.2025. It set that order aside and allowed the appeal "in the above terms". It did not dismiss the complaint, nor did it direct the Single Bench to close it.

40. Whether the Single Bench, in passing the impugned order, has acted in disregard of the letter or the spirit of the order dated 17.11.2025 is a question which the Full Bench is best placed to determine. It is the authority whose order is said to have been disregarded, and that very question is the principal ground of the appeal now pending before it.

41. The third objection concerns the pendency of the CPLA. The rule is well settled that an appeal does not, by itself, operate as a stay of the decree or order appealed from. Order XLI, rule 5(1) of the Code of Civil Procedure, 1908 embodies that rule.

42. The principle is not confined to appeals under the Code. A judgment of this Court continues to hold the field unless its operation is suspended by the competent Court. The august Supreme Court has itself reiterated, in ***Rashid Baig v. Muhammad Mansha*** **(2024 SCMR 1385)**, that the mere pendency of a petition before it does not, of itself, operate as a stay of

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proceedings, which may lawfully be restrained only by an express injunctive order. In ***Pakistan Services Limited v. Full Bench, National Industrial Relations Commission and others*** **(W.P. No.535 of 2022)**, this Court proceeded upon precisely that footing, noting that the judgment then under challenge before the apex Court had not been suspended. In **Omar Jibran Engineering Industries** (supra), it was held that a single-member Bench may seek implementation of its order in the absence of a restraining order, subject to the outcome of the appeal.

43. No order suspending the judgment dated 02.12.2024 passed in W.P. No.486 of 2024 has been placed before this Court. On the contrary, the Bank's own application for early fixation of its C.P.L.A., a copy of which is on the record, states that no date of hearing had been fixed. It relies upon the directions of the Single Bench as a ground of urgency and refers to no order of suspension. The pendency of that C.P.L.A. is, therefore, no bar to proceedings for the implementation of the judgment. Whatever is done by way of implementation will, of course, abide the result of that C.P.L.A..

44. The fourth objection concerns the direction to release salaries. The petitioners contend that this Court has denied back benefits to respondent No.3, and that the direction is therefore contrary to the judgment. The judgment dated 02.12.2024, however, speaks for itself. It declares that respondent No.3 "shall be deemed to be in service from the date of reinstatement i.e. 27.04.2023". The denial of back benefits is, in express terms, confined to "the period she was terminated from service".

45. Whether the salary for the period after 27.04.2023 falls within the one expression or the other, whether it runs to the date of the Bank's letter or to the date on which respondent No.3 reported for duty, and whether the dates recorded in the impugned order accord with the record, are questions

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for the Commission in the first instance and for the Full Bench in appeal. It is enough for present purposes to observe that a forum seized of the implementation of a decision which this Court has declared to operate from 27.04.2023 does not act without jurisdiction when it calls upon the employer to show that the decision has been given effect in respect of the period after that date. I say no more, lest anything observed herein might prejudice either side before the Full Bench.

46. The direction for personal appearance does not stand upon a different footing. It was made because no one appeared for the Bank despite repeated calls, in proceedings which the Commission had earlier described as criminal in nature. When learned counsel appeared later in the day, his attendance was marked, and the Bank was informed that the appearance of its officers would be excused upon compliance. A direction of this kind is an ordinary incident of the power to secure attendance. It causes no irreparable harm.

47. The last of the exceptions urged is mala fides. The allegations that the impugned order is biased, perverse and the outcome of extraneous considerations are unaccompanied by any particulars. No fact has been pleaded from which bias or an oblique motive could be inferred. It is a settled principle that mala fides must be pleaded with particularity, that the onus lies upon the person alleging it, and that a presumption of regularity attaches to official acts until it is rebutted (see *Saeed Ahmed Khan v. Federation of Pakistan* **(PLD 1974 SC 151)**. A bare allegation of that kind cannot be made the foundation of a finding of mala fides against a statutory forum. None of the recognised exceptions is, therefore, attracted.

48. The petitioners also pray that the complaint itself be dismissed. That prayer is misconceived. The complaint is pending before a forum competent

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to decide it, and the order made by that forum is the subject of an appeal before the Full Bench. This Court, in the exercise of its constitutional jurisdiction, does not withdraw a pending complaint from the forum seized of it and decide it upon the merits. The alternative prayer, that the proceedings be suspended until the Full Bench becomes available, seeks interim relief pending the appeal. The Act entrusts that relief to the Commission, and the petitioners have already applied to the Full Bench for it.

49. At this juncture, it is necessary to make an observation with regard to the question of expedition in the proceedings. The Act requires the Full Bench to decide an appeal within sixty days, and it enables the Chairman to reconstitute a Bench where a member is unable to sit. The grievance of the petitioners deserves to be heard expeditiously. So, too, does the claim of respondent No.3, which concerns the salary of a period that ended more than a year and a half ago. Neither side is served by a hierarchy which is unable to convene. It is therefore expected that the Full Bench shall be made available, through the exercise by the Hon'ble Chairman of his powers under section 55 of the Act, for the appeal at the earliest and that, once available, it shall first decide the application for suspension and thereafter the appeal. It is equally expected that the learned Single Bench, in the further conduct of the complaint, shall keep in view the judgment of this Court dated 02.12.2024 and the order of the Full Bench dated 17.11.2025, and shall record reasons engaging with both.

50. For the foregoing reasons, this petition is **dismissed**, subject to the observations contained in paragraph 49 above. Respondent No.1 shall take up Appeal No.12A(41)/2026-P along with C.M.A. No.01/2026-P as soon as the Full Bench is available, shall decide the application for suspension at its

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first sitting, and shall decide the appeal within the period contemplated by section 58(2)(c) of the Act.

51. Nothing observed in this judgment shall prejudice either party before the Full Bench, which shall decide the appeal on its own merits and in accordance with law. The office shall send a copy of this judgment to the Chairman, National Industrial Relations Commission, Islamabad, for information and for placing it before the Full Bench.

**(AYYAZ SHAUKAT)**
**JUDGE**

Announced in open Court on **08.10.2026.**

**JUDGE**

Saeed.

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