JUDGMENT SHEET
ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No.3870 of 2016

Daily Khabrian
Vs.
Nasir Iqbal and another

Petitioner by: Ms. Shaista Altaf, Advocate.

Respondents by: Syed Ishteyaque Mustafa Bukhary and Mr.Ehtasham Aslam, Advocates

Date of Hearing: 18.02.2025.

INAAM ANEEN MINHAS, J:- This judgment shall decide the instant writ petition as well as the writ petitions mentioned in the Annexure-A involving common questions of law and facts.

2. The petitioners in these writ petitions are organizations or companies involved in printing and publishing newspapers throughout Pakistan known as *"Daily Khabrain"*. The private respondents **("Respondents")** are either current or former employees of these newspapers and were appointed in different categories like Cameraman, Camera Operator, Art Editor / Page Marker, Sub-Editor, and Reporter. They filed applications before the Implementation Tribunal **("Tribunal")** under the Newspaper Employees (Conditions of Service) Act, 1973 **("ITNE, Act, 1973")** seeking enforcement of the 7th Wage Board Award **("Award")** for salary payments, including arrears. After considering the responses of the petitioners, the Tribunal identified the key issues, examined evidence from both sides and decided the matter in favor of the respondents/employees. Through these petitions under Article 199 of the Constitution of Islamic Republic of Pakistan, the petitioners have challenged the Tribunal's orders dated 08.12.2015,

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28.03.2016, 10.05.2016 & 31.05.2016 , whereby salary payments and other dues were granted to them.

3. Learned counsel for the petitioners argued that the applications for enforcing the Wage Board Award filed by former employees, part-time workers and contract employees were hopelessly time-barred in view of the judgment of this court reported as ***Daily Khabrain v. Iqbal Mustafa*** **(2019 PLC (CS) 541);** that the Tribunal lacks jurisdiction to decide the matter in the light of Supreme Court's judgment in ***Associated Press of Pakistan Corporation through Managing Director v. Federation of Pakistan and others, (*****PLC 2010 CS 1003)**; that the applications before the Tribunal were not maintainable in as much as the respondents were no longer in service; that the Impugned orders are against the law and facts of the case.

4. On the other hand, learned counsels for the respondents vehemently opposed these petitions and contended that fundamental rights of the respondents had been violated; that the applications before the Tribunal were within time and that the Tribunal had jurisdiction to hear the applications for implementing the Award as confirmed by the Supreme Court in (PLD 2012 SC 1); that the respondents were neither part-time nor contract workers and their claim is based on evidence and legal grounds, therefore, they are entitled to receive the amount determined by the Tribunal.

5. I have heard the arguments of learned counsel for the parties and perused the record with their able assistance.

6. The key issues to be determined by this Court are (i) whether the Tribunal had the jurisdiction to decide the applications filed by the respondents (ii) whether the applications of the respondents were maintainable before the Tribunal and (iii) whether the applications filed by the respondents before the Tribunal were within time.

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7. Section 12-A of the ITNE, Act, 1973 defines the Tribunal's Authority.

> *"12-A.—(1) The Federal Government may, by notification in the official Gazette, constitute a Tribunal consisting of one or more members to implement the decision of the board under section 11.*
>
> *(2) The Chairman and members of the Tribunal shall be appointed by the Federal Government on such terms and conditions as it may determine.*
>
> *(3) Where the Tribunal consists of one member only, that member, and, where the Tribunal consists of more members than one, the member designated by the Federal Government, shall be the Chairman of the Tribunal.*
>
> *(4) The Chairman of the Tribunal shall be a person who has been, or is, or is qualified to be, a Judge of a High Court.*
>
> *(5) The qualifications for appointment as a member of the Tribunal shall be determined by the Federal Government"*

8. A careful reading of this section shows that the Tribunal has the Authority to hear complaints of individuals /employees relating to wage recovery. Under Section 13 of the ITNE, Act, 1973, the Tribunal can implement the Award or facilitate wage recovery by issuing directions, including recovery of unpaid wages as arrears of land revenue as stated in subsection (1) of Section 51 of the Industrial Relations Ordinance, 1969 **(IRO, 1969")**.

9. The Tribunal follows the procedure under the Newspaper Employees (Procedure and Function) Rules, 1977 **("NE, Rules, 1977")**. Rule 17 of NE, Rules 1977 provides that the Tribunal should follow the procedure as prescribed in Code of Civil Procedure, 1908 **("CPC")** as much as possible. Also, under sub-rule (2) of Rule 16 of NE, Rules 1977, if the Tribunal finds it necessary to issue recovery directions after hearing both the parties, it can do so under subsection (1) of Section 51 of the IRO, 1969.

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10. The respondents filed their applications before the Tribunal under the relevant law, seeking unpaid salary arrears by claiming that the petitioners (newspaper) employers did not pay them according to the Award. The petitioners have not denied that the respondents were not employed by them. Therefore, the Tribunal had the Authority to award the unpaid salary / wage under the Award and rightly exercised its jurisdiction in favor of the respondents. This view is supported by the Supreme Court judgment reported as ***All Pakistan Newspaper Society v. Federation of Pakistan, etc*** **(PLD 2012 SC 01)**.

11. The second issue before this Court is whether contract or part-time newspaper employees can seek wage recovery through the Tribunal.

Section 2 (d) of the Payment of Wages Act, 1936 **("Act, 1936")** defines the term newspaper employee, which is reproduced as under:-

> *"2. In this Act, unless there is anything repugnant in the subject or context,-*
> *a……..*
> *b……..*
> *c……..*
> *d. "newspaper employee" means any person employed to do any work in, or in relation to, any newspaper establishment and includes—*
>
> *(i) A whole-time journalist, including an editor, a leader writer, news editor, feature writer, reporter, correspondent, copy tester, cartoonist, news photographer, calligraphist and proof-reader; and*
>
> *(ii) A whole-time non-journalist, including a manager, clerk, stenotypist, printing engineering, linotype operator, composer, type-setter, photo studio attendant, printing worker, an accountant and an office peon"*

12. The above referred section clearly shows that term employee includes full-time journalists such as editors, leader writers, news editors, and feature

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writers. The definition is broad and not limited to these roles rather it covers anyone employed in connection with a newspaper establishment.

13. A person working under a contract, contributing articles as part of his job or performing any work within a newspaper organization qualifies as an employee under this section. Section 2(d) (i) & (2) of the Act, 1936 lists various job positions included in this category. Furthermore, if a person leaves his job but later files a claim before the Tribunal for wage recovery, he is considered still a newspaper employee under Section 2(d) *ibid* because he was employed at the relevant time. Therefore, even if some of the respondents were no longer in the job with the petitioners, they could file their claim for wage recovery. This interpretation is supported by a judgment of this Court reported as ***Daily Khabrain v. Iqbal Mustafa*** **(2019 PLC (CS) 541).**

14. The third issue before this Court is whether the applications filed by the respondents before the Tribunal were within time or not. The Act, 1936 does not specify a deadline for filing of the applications to enforce the Award. Therefore, such applications fall under the general three-year limitation period outlined under Article 181 of the Limitation Act, 1908 as per its First Schedule. This view is also supported by this Court's judgment in ***Daily Khabrain v. Iqbal Mustafa*** **(2019 PLC (CS) 541).** Respondent No.1 in writ petition No.3997/16 remained with the petitioner's establishment till 06.06.2008, whereas he filed his application before the Tribunal on 11.05.2012, in writ petition No.3998/16 respondent No.1 remained with the petitioner's establishment till 09.05.2005, whereas he filed his application before the Tribunal on 23.04.2012 and in writ petition No.4001/16 respondent No.1 remained with the petitioner's establishment till September, 2007, whereas he filed his application before the Tribunal on

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28.09.2015. As such claim of these respondents before the Tribunal was time barred as they filed their applications beyond the period of three years as required under Article 181 of the Limitation Act, 1908.

15. In view of above discussion, writ petitions No.3997/2016, 3998/2016 and 4001/2016 are **allowed**, judgment/order impugned therein are **set aside**, whereas the instant writ petitions alongwith writ petitions No.958/2016, 3996/2016, 3999/2016, 4000/2016, 4002/2016 and 4003/2016 stand **dismissed,** judgment/order impugned therein are **upheld** as no illegality, infirmity has been found.

(INNAM AMEEN MINHAS)
JUDGE

Announced in open Court on 28.02.2025.

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Annexure-A

1	Writ Petition No.958 of 2016	Daily Azkar vs Raja Akmal Shehzad and another
2	Writ Petition No.3996 of 2016	Daily Khabrain vs Khurram Shahzad and another
3	Writ Petition No.3997 of 2016	Daily Khabrain vs Syed Imran Abbas and another
4	Writ Petition No.3998 of 2016	Daily Khabrain vs Rana Iftikhar Ahmed and another
5	Writ Petition No.3999 of 2016	Daily Khabrain vs Rana Zahid Sarfraz and another
6	Writ Petition No.4000 of 2016	Daily Khabrain vs Waseem Iqbal and another
7	Writ Petition No.4001 of 2016	Daily Khabrain vs Qazi Sami Ullah and another
8	Writ Petition No.4002 of 2016	Daily Khabrain vs Ishtiaq Ahmed and another
9	Writ Petition No.4003 of 2016	Daily Khabrain vs Shahbaz Gillani and another

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