[**Labour litigation**](https://www.dawn.com/news/1700223/labour-litigation)

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OVER the last decade and more, there has been a marked reduction in the number of cases filed in labour forums by individual workers for job reinstatement. Besides the delay in labour courts or the National Industrial Relations Commission (NIRC), which is the platform for seeking legal remedy in matters covered by the Act of 2012, the choice of wrong forums by litigants’ lawyers has led to problems of legal redress.

To explain the situation, we must describe the purpose behind a piece of legislation enacted by the federal government in 2012 to facilitate the management of industrial relations in trans-provincial companies.

Following the devolution of labour laws to the provinces via the 18th Amendment in 2010, a new class of trans-provincial companies emerged. To cater to their requirements, the federal government had appropriately promulgated the federal Industrial Relations Act, 2012, which defined such companies as “any establishment, group of establishments, industry, having its branches in more than one province”. Apart from this law, all provinces have their own industrial relations law. The federal Act recognised the status of trans-provincial establishments as separate entities from those which exist only in one province.

Like the provincial laws, the federal Act aims to regulate the formation of trade unions, provide for trade union activities, improve relations between employers and workmen and settle industrial disputes.

Lawyers are confused about which forum to approach.

The registration of new unions belonging to trans-provincial establishments across Pakistan takes place at one location — Islamabad. The registration of unions of other establishments is done in their respective provinces.

Coming back to the ordeal of labour litigants, Section 33 of the 2012 Act, prescribes a detailed procedure for redressing individual grievances. This provision is so evident that it should not leave any doubt in the mind of lawyers representing the workers whether to file a petition in the labour court or the NIRC.

According to Section 33, a worker dismissed from service by his employer should first bring it to the latter’s notice. If the worker is not satisfied with the response, he may take his grievance to the NIRC, which is expected to decide his case within seven days. In the case of provincial establishments, aggrieved workers may take their cases to the labour court and not the NIRC.

Even though there is no ambiguity, in most cases, lawyers of workers dismissed by trans-provincial establishments, file their cases in the labour court instead of the NIRC. Taking undue advantage, the opposing lawyers get the case delayed by the court on flimsy grounds, usually for over a year. Being disgruntled, the worker either does not proceed with the case or is financially drained by the time his case is transferred to the NIRC.

Such situations are quite common although during the last decade, the superior courts have pronounced several judgements holding that only the NIRC has got the jurisdiction to entertain all types of labour matters pertaining to trans-provincial establishments.

A recent judgement of June 2022 by the Lahore High Court has gone in favour of the Bank of Punjab, which is a trans-provincial establishment. Some employees of the bank had filed a claim for payment of overtime dues before the authority under the Payment of Wages Act, 1936, which decided the case in their favour. The court set aside the authority’s order, holding that the claim should have been filed before the NIRC.

In ‘Pakistan Telecommunication Company Ltd vs Member NIRC and others’, it was held by the Supreme Court in 2014 that “once it is established through any means that the employer or group of emp­loyers has an esta­blishment, group of establishments, industry, having its branches in more than one province, then the jurisdiction of the NIRC would be exclusive in nature and of overriding and super imposing effects over the provincial labour court for resolving industrial dispute… .”

Further, in ‘Sui Southern Gas Company Ltd and others vs Federation of Pakistan and others’, the apex court stated in 2018 that “the NIRC had jurisdiction to decide labour disputes relating to employees of companies, corporations or establishments functioning in more than one province”.

In the presence of such overwhelming case law, the lawyers representing the aggrieved workers, should not be confused as to where they should file the petition. The forum to seek legal remedy in matters covered by the 2012 Act is only the NIRC and not the labour court. For establishments that are operating at the provincial level only, it is the provincial industrial relations law that should apply.

It is ironic that the workers’ cases, which NIRC is supposed to dispose of within seven days, take years to decide.

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