

ELB REPORT

MONTHLY REPORT BASED ON INFORMATION OF LABOUR LAWS

March, 2016.

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SC-1317, VOL- 7, of 03.

SHAHID PERVAIZ. V/S. GLAXO KLIN PAKISTAN LTD.

HABITUAL LATE COMER: (2016 SCMR 30)SUPREME COURT OF PAKISTAN.

Employer-company issued a show cause notice to appellant/worker stating the facts that as to how during the years 1991 to 2001, he had been found habitual late comer and his delayed arrival had been marked on 223 days. During such period worker was also warned on 26 different occasions by sending him advisory letters. Worker did not deny the factum of delay in his attendance, but tried to justify it for different reasons. Employer-company held inquiry against the worker and dismissed him from service with immediate effect. Punishment of dismissal from service awarded to the worker in the present case by employer-company was neither illegal nor arbitrary, but was according to the spirit of the law (Standing Order 15 (3) (f) of Industrial and Commercial Employment (Standing Orders) Ordinance, 1968). Appeal was dismissed accordingly.

MCB BANK LTD. V/S. ABDUL WAHEED ABRO & OTHER.

STOPPAGE OF INCREMENT: (2016 SCMR 108)SUPREME COURT OF PAKISTAN.

Dismissal order of worker converted into stoppage of increments for three years. Worker, who was performing his duties as a cashier at a Bank, was dismissed from service on the allegation of embezzlement/misappropriation. Labour Court ordered worker's reinstatement in service on the ground that during the inquiry proceedings conducted by the employer-Bank six witnesses were produced, but the worker was allowed to cross-examine only one such witness. Appellate Tribunal maintained reinstatement order passed by Labour Court but ordered stoppage of worker's increments for three years. Supreme Court maintained orders passed by Appellate Tribunal and High Court and observed that it was the prerogative of the management of the employer-Bank to decide the designation/ posting of the worker in accordance with their norms and indoor management.

SINDH EMPLOYEES SOCIAL SECURITY INS. V/S. RAJWANI APPAREL (PVT) LTD.

SHORT PAYMENT OF SOCIAL SECURITY: (2016 PLC 01)SINDH HIGH COURT.

Institution's Inspection Team found underpayment of Social Security Contribution by the establishment for the period from July, 1995 to June, 2000 and on account of non-production of record for the period from January, 1993 to June, 1995, the said Inspection Team also assessed the contribution in terms of S.22(3) of the Ordinance. Director of the Institution raised the demand towards short payment of Social Security Contribution. Establishment filed objections to the said demand under S. 57 of the Ordinance, which was registered as complaint. Commissioner of the Institution ordered rechecking, but the establishment/company failed to produce record for the period from January, 1993 to June, 1995. Establishment had neither rebutted the demand nor produced any evidence in that regard, therefore, establishment was liable for the short/underpayment of Social Security Contribution. Appeal was partly allowed by High Court and order of Social Security Court was set aside and the order of Commissioner was modified to the extent that assessment and demand raised by the Institution for period from January 1993 to June 1995 was excluded from the liability of establishment to pay Social Security Contribution awarded by the Commissioner.

TARIQ ZAMIR SIDDIQUE. V/S. MCB LIMITED.

LIMITATION: (2015 TD (LAB) 244)NIRC, KARACHI.

Grievance petition filed with two days delay giving no plausible application in explanation under S. 5, Limitation Act, 1908, seeking condonation of such delay dismissed as time-barred as it was well-settled law that each day's delay has to be explained by plausible explanation and in absence of plausible explanation, such delay cannot be condoned.

IESCO. V/S. MUKHTAR AHMED QURESHI.

CHANGE OF DATE OF BIRTH: (2015 PLC 255)PUNJAB LABOUR TRIBUNAL.

Appellant/employer impugned order of Labour Court whereby grievance petition of the employee was allowed, and change in date of birth in the service record of the employee was allowed. Employee was appointed on 1-6-1973 and his date of birth was recorded as 1-6-1953 and 9-10-1954 and perusal of record showed that at the time of joining, he was neither matriculate nor had a CNIC and the employee on 21-5-2014, approached the Labour Court for correction of his date of birth. Only a civil court could make a declaration in relation to determination of date of birth. Contention of correction of date of birth at such belated stage was not warranted under the law. Order of Labour Court was set aside and appeal of employer was allowed, accordingly.

AKRAM ALI. V/S. MISALI ZAKARIA HIGHER SCHOOL.

EMPLOYMENT: (2015 PLC 130)PUNJAB LABOUR TRIBUNAL.

Appellant claimed to be the employee (English teacher) of the respondent-institution and owing to a dispute regarding monthly salary, the gate of the institution was closed for him. Appellant filed grievance petition before the labour court, where respondent institution took the plea that the appellant was not employee of the institution and Labour Court had no jurisdiction to adjudicate upon the matter. Respondent institution by not producing attendance register, salary register and other record had withheld best evidence to prove that the appellant was not the employee of the institution. Respondent-institution had not raised any objection regarding employment card (Exhibited) and the finding of Labour Court that the appellant was not employee of the respondent-institution was set aside. Labour Court ignored documentary evidence produced by the appellant in support of his pleadings and on account of mistake of court, party could not be penalized. Order of the Labour Court was set aside and appeal was accepted in circumstances.