

**ORDER SHEET**  
IN THE HIGH COURT OF SINDH AT KARACHI

**C.P. No. D-1461 of 2018**

(Deceased Abdul Kaleem & others v Federation of Pakistan & others)

**C.P. No. D-3136 of 2016**

(The Customs House Common Pool Trust v The Sindh Labour Appellate Tribunal at Karachi & others)

**C.P. No. D-3137 of 2016**

(The Customs House Common Pool Trust v The Sindh Labour Appellate Tribunal at Karachi & others)

**C.P. No. D-3138 of 2016**

(The Customs House Common Pool Trust v The Sindh Labour Appellate Tribunal at Karachi & others)

**C.P. No. D-5640 of 2016**

(The Customs House Common Pool Trust v The Sindh Labour Appellate Tribunal at Karachi & others)

**C.P. No. D-5641 of 2016**

(The Customs House Common Pool Trust v The Sindh Labour Appellate Tribunal at Karachi & others)

**C.P. No. D-5642 of 2016**

(The Customs House Common Pool Trust v The Sindh Labour Appellate Tribunal at Karachi & others)

**C.P. No. D-5643 of 2018**

(The Customs House Common Pool Trust v The Sindh Labour Appellate Tribunal at Karachi & others)

Date	Order with signature of Judge(s)
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Before:  
Mr. Justice Adnan-ul-Karim Memon  
Mr. Justice Zulfiqar Ali Sangi

**Date of hearing and Order: 13.04.2026**

Mr. Imran Khan, Advocate for the Petitioners in C.P No.D-1461 of 2018 and for private Respondents in other petitions.

Mr. Shahab Imam, Advocate for petitioners in C.P Nos.D-5640, 5641, 5642, 5643 of 2016 and for Respondent in C.P. No.D-3138 of 2016.

Mr. Ch. Azhar Illahi, Advocate for the Respondents in C.P. No.D-1461 of 2018.

Ms. Wajiha Mahdi, D.A.G.

Mr. Abdul Jaleel Zubedi, A.A.G.

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**ORDER**

**Adnan-ul-Karim Memon, J.** The petitioners in C.P. No. D-1461 of 2018 have invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, seeking directions to Respondents No. 2 and 3 for the release of their pensionary benefits and other legal dues following their retirement upon attaining the age of superannuation, in accordance with the order passed by the Commissioner for Workmen Compensation and Authority under the Payment of Wages Act, 1936 (South). The petitioners further pray for directions to Respondents No. 4 and 5 to initiate appropriate recovery proceedings against the defaulting establishment, along with any other relief deemed just and proper in the circumstances of the case.

2. The petitioner's case in C.P. No. D-1461 of 2018 is that they are lower-grade retired employees of the respondent establishment, who, after attaining the

age of superannuation at 60 years, were relieved from service. However, despite retirement, their pensionary benefits and other lawful dues were not released by Respondents No. 2 and 3, giving rise to repeated legal proceedings for recovery of their arrears.

3. The petitioners initially pursued their remedy under Section 15 of the Payment of Wages Act, 1936, before the competent authority in Karachi, which culminated in a judgment dated 25.06.2014 in their favour, directing the respondent establishment to deposit the due amount within one month. The respondent preferred appeals before the Labour Court, which were dismissed vide order dated 15.10.2014, and thereafter further revision petitions were also rejected by the Sindh Labour Appellate Tribunal vide judgment dated 19.01.2016, thereby affirming the petitioners' entitlement. Pursuant to the said decisions, recovery proceedings were initiated, and certificates were issued to the Deputy Commissioner for recovery under the law. Notices under the Sindh Land Revenue Act were also issued to the respondent establishment for payment of the outstanding amounts. During the pendency of proceedings, some petitioners passed away, and their legal heirs continued pursuing their claims, seeking implementation of the order passed by the Commissioner for Workmen Compensation and Authority under the Payment of Wages Act, 1936 (South) Division Karachi.

4. Learned counsel for Respondent No. 3, the Custom House Common Pool Trust (CPF), submitted that the Trust is a registered charitable entity established through a Deed of Trust dated 27.04.1989 for the welfare of employees serving in various customs-related offices and their dependents. The affairs of the Trust are administered by a Board of Trustees, and the utilization of funds is strictly regulated by the Unified CPF Rules dated 18.04.2006, as revised on 27.08.2014. It was emphasized that the Common Pool Fund can only be expended in accordance with these Rules and not otherwise. Counsel further contended that the petitioners were appointed as employees of the Trust and not as Federal Government servants. Consequently, they are not entitled to pension or other benefits admissible to government employees. It was also pointed out that Petitioner No. 1 had retired on 03.11.2013 and has since passed away. The claims for pension and General Provident Fund were therefore stated to be misconceived and contrary to the terms of their appointment letters. It was argued that the constitutional petition is not maintainable under Article 199 of the Constitution, as the petitioners had already availed remedies under the Payment of Wages Act, 1936. The employees had filed applications between 2012 and 2014 seeking recovery of alleged dues, asserting that the Trust functioned as an industrial or commercial establishment, an assertion denied by the respondent, who maintained that the Trust is a non-profit welfare organization operating on limited income. Counsel also informed this Court that the

Trust had challenged the judgment of the Sindh Labour Appellate Tribunal dated 19.01.2016 through Constitution Petition No. D-5642/2016, which remains sub judice before this Court. It was reiterated that the Trust faces financial constraints and that all expenditures must conform to the Unified CPF Rules. Notwithstanding the above contentions, learned counsel acknowledged that, pursuant to the order of this Court dated 25.09.2023, the Trust agreed to calculate and pay gratuity to certain retired employees namely Abdul Kaleem, Rehmanuddin Mughal, Mehboob Khan, Sahadullah Khan, Naseerruddin, Muhammad Munawar, and Muhammad Siddique subject to the outcome of the pending petitions filed by respondent No.3 before this Court. However, the gratuity amounts were/are to be determined in accordance with the applicable rules. It was further submitted that an amount of Rs. 10,405,264/- was deposited with the Nazir of this Court pursuant to the order dated 30.03.2021. Counsel agreed that the gratuity payable to the aforementioned employees may be disbursed from this deposited amount after proper verification in accordance with the relevant rules. Accordingly, this Court directed the Nazir to distribute the gratuity to the entitled respondents based on the calculations provided by the Customs Department. In light of these submissions, Respondent No. 3 prayed for dismissal of the constitutional petition in the larger interest of justice.

5. The petitioner, the Customs House Common Pool Trust (CPF), also invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, challenging the legality of the orders dated 25.06.2014, 15.11.2014, and 19.01.2016 passed respectively by the Authority under the Payment of Wages Act, 1936, the Sindh Labour Court No. V, and the Sindh Labour Appellate Tribunal. It was contended that the petitioner's counsel the petitioner is a charitable welfare trust established to serve employees of various customs offices, and that its employees were appointed under contractual terms governed by the Trust's Deed and decisions of its Board of Trustees. The employees, therefore, were not Federal Government servants and were not entitled to pension, General Provident Fund (GPF), or other benefits admissible to government employees. The Trust further asserted that its financial resources were limited and regulated by the Unified CPF Rules, 2006, restricting the expenditure of funds. He submitted that certain former employees, including Mehboob Khan, Rehmanuddin Mughal, Sahadullah Khan, Naseerruddin Khan, Muhammad Munawar, Abdul Kalam, and Muhammad Siddique, filed applications under Section 15 of the Payment of Wages Act, 1936, seeking recovery of alleged arrears of salary and other retirement benefits. The Authority, vide order dated 25.06.2014, allowed the applications and directed the Trust to deposit the determined amounts along with the penalty within one month. Aggrieved, the petitioner preferred appeals before the Sindh Labour Court under Section 17 of the Act. However, the appeals were dismissed on 15.11.2014 for being time-barred and for non-

compliance with the mandatory requirement of depositing the amount directed by the Authority, as stipulated in the proviso to Section 17(1)(a). Subsequent revision applications filed before the Sindh Labour Appellate Tribunal were also dismissed on 19.01.2016, which held that the deposit of the directed amount was a condition precedent for maintaining an appeal and that bypassing this statutory requirement was impermissible. The Tribunal emphasized that the Payment of Wages Act is beneficial legislation intended to safeguard workers' rights and must be construed purposively. Reliance was placed on the judgments of the Supreme Court of Pakistan reported as *Syed Match Company (2003 SCMR 1493)* and *Mughal Surgical (Pvt.) Ltd. (2005 PLC 364)*, wherein it was held that the requirement of a deposit cannot be circumvented and that attempts to bypass this condition, including through constitutional or revisional jurisdiction, are not permissible. The Tribunal further observed that compliance with the deposit requirement is mandatory irrespective of the correctness of the order under challenge, and that it lacked jurisdiction to entertain revisions without fulfillment of this prerequisite. Consequently, all seven revision applications were dismissed as being devoid of merit. He prayed to allow the petitions filed by the Customs House Common Pool Trust

6. Learned counsel for the private respondents in petitions filed by Customs House Common Pool Trust supported the impugned judgments, contending that the orders of the Authority, the Labour Court, and the Appellate Tribunal were lawful and suffered from no illegality or jurisdictional defect. It was maintained that the statutory requirement of deposit under Section 17 of the Payment of Wages Act is neither unreasonable nor violative of constitutional guarantees, and that the petitioner Trust's challenge was misconceived. He prayed to dismiss the petitions filed by the Customs House Common Pool Trust.

7. We have heard the learned counsel for the parties, perused the record with their able assistance, and considered the case law cited at the bar.

8. The learned Sindh Labour Appellate Tribunal, through its common judgment dated **19.01.2016**, adjudicated upon seven revision applications filed by the Customs House Common Pool Trust. Through these applications, the petitioner sought the exercise of the Tribunal's suo motu revisional jurisdiction to set aside the orders dated 15.11.2014 passed by the Sindh Labour Court No. V, Karachi, whereby the petitioner's appeals filed under Section 17 of the Payment of Wages Act, 1936, were dismissed for failure to deposit the amount directed by the Authority, as mandated by the proviso to Section 17(1)(a) of the Act.

9. It appears that the petitioners in C.P. No. D-1461 of 2018 and respondents in petitions filed by the Customs House Common Pool Trust had instituted

applications under Section 15 of the Payment of Wages Act, 1936, seeking recovery of their legal dues. The competent Authority, vide order dated 25.06.2014, allowed the said applications and directed the petitioner to deposit the determined amounts along with penalty within one month. Aggrieved, the petitioner preferred appeals before the Labour Court without complying with the mandatory requirement of depositing the directed amount. Consequently, the Labour Court dismissed the appeals as time-barred and not maintainable. The Appellate Tribunal upheld the findings of the Labour Court, observing that the statutory requirement of depositing the amount directed by the Authority is a condition precedent for maintaining an appeal and does not constitute an unreasonable restriction on the right of appeal. Emphasizing that the Payment of Wages Act is a piece of beneficial legislation intended to safeguard the interests of workers, the Tribunal held that its provisions must be interpreted purposively and finally held that the requirement of deposit cannot be bypassed. As the Supreme Court disapproved attempts by employers to circumvent this statutory mandate, including the invocation of constitutional jurisdiction to avoid compliance. The Tribunal further observed that compliance with the deposit requirement is mandatory irrespective of the correctness or otherwise of the order under challenge. The appellate forum was/is competent to examine all questions of fact and law, including issues of jurisdiction, but only after the statutory precondition of deposit has been fulfilled. It was also held that the Tribunal could not exercise its revisional jurisdiction in a manner that would effectively bypass the appellate mechanism prescribed by law. Finding no illegality or impropriety in the orders passed by the Labour Court, the Tribunal concluded that the dismissal of the appeals for non-compliance with the statutory requirement was unexceptionable. Consequently, all seven revision applications were dismissed as being devoid of merit.

10. Upon a comprehensive examination of the record, we are of the considered view that the petitions filed by the Customs House Common Pool Trust are devoid of merit and are liable to be dismissed.

11. The contention of the petitioner Trust that its employees were not entitled to approach the Authority under the Payment of Wages Act, 1936, on the premise that the Trust is a charitable and non-commercial organization, is misconceived. The definition of “industrial or other establishment” under the Act is broad and encompasses organizations where persons are employed for remuneration, irrespective of the profit motive. The admitted relationship of employer and employee between the Trust and the respondents brings the matter squarely within the jurisdiction of the Authority under Section 15 of the Act. Therefore, the objection to jurisdiction raised by the Trust is untenable.

12. The argument that the employees of the Trust are not Federal Government servants and, therefore, not entitled to pension or General Provident Fund (GPF) benefits, does not defeat their lawful claim for gratuity, arrears of wages, leave encashment, bonus, and other statutory dues. The Authority's order dated 25.06.2014 primarily concerned the recovery of withheld wages and legally admissible retirement benefits, which are enforceable under labour laws irrespective of the governmental status of the employer. Even otherwise, the Trust itself acknowledged its liability to pay gratuity pursuant to this Court's order dated 25.09.2023, thereby reinforcing the legitimacy of the employees' claims.

13. The dismissal of the Trust's appeals by the Sindh Labour Court and the subsequent rejection of revision applications by the Sindh Labour Appellate Tribunal were in strict conformity with the proviso to Section 17(1)(a) of the Payment of Wages Act, 1936, which mandates the deposit of the amount directed by the Authority as a condition precedent for maintaining an appeal. This statutory requirement is neither arbitrary nor violative of Article 10-A of the Constitution; rather, it serves to protect workers from dilatory tactics by employers and ensures expeditious enforcement of their rights. The Supreme Court of Pakistan has consistently upheld the mandatory nature of this requirement. The deposit of the amount ordered by the Authority is a prerequisite for the entertainment of an appeal, and any attempt to bypass this condition, including through constitutional jurisdiction, is impermissible. Similarly, the Supreme Court reaffirmed that non-compliance with the deposit requirement renders an appeal incompetent and not maintainable.

14. Furthermore, the argument that the Trust lacked financial resources to comply with the deposit requirement is legally unsustainable. Financial hardship cannot override an explicit statutory mandate. The law does not provide any exemption from compliance with the proviso to Section 17(1)(a), and accepting such a plea would defeat the very object of the beneficial legislation designed to safeguard workers' rights.

15. The plea that the Trust is a charitable organization governed by the Unified CPF Rules also does not absolve it of its statutory obligations towards its employees. Internal rules or financial constraints cannot supersede the mandate of labour legislation or judicial orders. It is a settled principle of law that private arrangements or administrative rules cannot override statutory rights.

16. Additionally, the challenge to the jurisdiction of the Authority under the Payment of Wages Act was rightly rejected by the Labour Court and the Appellate Tribunal. The Authority is competent to adjudicate claims relating to deducted or withheld wages and other legally enforceable dues arising out of the employment

relationship. The Tribunal correctly observed that issues of jurisdiction could have been examined by the appellate forum only after fulfillment of the statutory precondition of deposit.

17. It is also significant that an amount of Rs. 10,405,264/- was deposited with the Nazir of this Court pursuant to the order dated 30.03.2021, and the Trust subsequently agreed to the disbursement of gratuity to the retired employees. This conduct amounts to an acknowledgment of liability and further weakens the Trust's challenge to the impugned orders.

18. In view of the foregoing, the impugned orders dated 25.06.2014, 15.11.2014, and 19.01.2016 passed respectively by the Authority under the Payment of Wages Act, the Sindh Labour Court, and the Sindh Labour Appellate Tribunal are found to be lawful, reasoned, and in consonance with the settled principles of law. No jurisdictional defect, illegality, or perversity has been demonstrated, warranting interference by this Court in the exercise of its constitutional jurisdiction under Article 199 of the Constitution.

19. For the foregoing reasons, the petitions filed by the Customs House Common Pool Trust are dismissed, being devoid of merit, while Constitution Petition No. D-1461 of 2018 is allowed. The respondents are directed to ensure the release of the petitioners' lawful dues, including gratuity and other admissible benefits, from the amount already deposited with the Nazir of this Court, if not earlier released, in accordance with law and after due verification. Any pending recovery proceedings shall continue in accordance with the law, and the same shall be implemented in letter and spirit; in case of failure, consequences shall follow. However, with no order as to costs. All the pending applications are disposed of accordingly.

JUDGE

JUDGE