

**JUDGMENT SHEET**  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,**  
**HYDERABAD.**

**C.P. No. S — 206 of 2023.**

Date of Hearing: 06.11.2023.  
Date of Judgment: 06.11.2023.

Petitioner: Wateen Telecom (Pvt) Limited Through Barrister Rafey Altaf along with Jawad Ahmed Qureshi Advocates .

Respondents: Abdul Sattar Khoso and others Through Mr. Kewal Kumar Advocate.

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**ORDER**

**MUHAMMAD FAISAL KAMAL ALAM, J.-** The Petitioner has impugned the Decision dated 10.03.2023, in which while accepting the Application of private Respondents 1 and 2, for Claim of Difference of Wages, a five times compensation is also awarded, to the tune of Rs.79,48,422/-.

2. On a specific query, the Petitioner's counsel states that the Petitioner has not availed the Appeal remedy under Section 17 of the Statute – The Sindh Payment of Wages, Act, 2015, because, *firstly*; the impugned Decision is without jurisdiction, *secondly*; it has not discussed the serious objections with regard to maintainability, and *thirdly*; the Inquiry as required under Sub-section (3) of Section 15 of the above Statute, was not done and the Decision is given in a slipshod manner; *fourthly*, the Respondent No.4, under an arrangement provides human resource services to Petitioner, has preferred an Appeal, being Appeal No.13 of 2023, before the learned Labour Court, and the same is still *sub judice*. Contended by referring to paragraphs 5, 8 and 11 of the impugned Decision, that at least being a Statutory Authority-Respondent No.3 is required to apply its mind to the facts and record produced; contended that Petitioner being a Trans-Provincial Entity, the above Law is not applicable to Petitioner and if private Respondents had any grievance, could have

invoked the remedy provided under the Industrial Relations Act 2012, which is promulgated for those workers who are part of the Trans-Provincial Entities, like Petitioner. It is also stated that the entire amount awarded is already deposited in the Administrative Office of the Respondent No.3, as per the requirement of Section 17 [*ibid*], for maintaining an Appeal [filed by Respondent No.4]. In support of his arguments he has cited *SUI SOUTHERN GAS COMPANY LTD and others v. FEDERATION OF PAKISTAN and others* [2018 SCMR 802] and *K. ELECTRIC LIMITED through Authorized Personnel v. MUHAMMAD ASLAM SHAH and others* [2021 PLC Lab. 108]. In the last reported Decision, the learned Division Bench of this Court has held, that since petitioner [of the reported Judgment] is a trans-provincial establishment, the applicable law is the Industrial Relations Act 2012 [IRA]; consequently, the impugned Order of the Full bench of the National Industrial Relations Commission (NIRC) was maintained, whereby, K-Electric was directed to release the outstanding salaries and the case was remanded to the Single Bench of the NIRC to determine the dispute relating to the unfair labour practice.

3. The above line of arguments is vehemently opposed by Mr. Kewal Kumar, Advocate, appearing for the private Respondents. To a specific question about awarding compensation to a large number of employees who even did not appear before the Respondent No.3, the counsel has referred to paragraph-3 and read the entire Judgment, to show that a fair opportunity has been provided to the Petitioner, but, they failed to prove their case. He has vehemently opposed the Petition on grounds mentioned in his Objections. Secondly, he has stated that Respondent No.3 has the jurisdiction to decide all such matters. He has cited *LAWRENCEPUR WOOLEN AND TEXTILE MILLS LTD v. GOVERNMENT OF THE PUNJAB and others* [PLD 2004 S.C 416], ruling, that Respondent No.3-the Commissioner, is not required to follow strict rule of procedure and evidence; a claim can be decided, “*keeping in view the rules of reason, justice and fair play.*”

4. Arguments heard and perused the record.

5. The Application of private Respondents before the Respondent No.3 was for payment of wages at the enhanced rate of Rs. 25,000/-, as per the Notification of the Government. The Application was filed on behalf of 91 employees/ workers. It is not disputed during proceedings that the Notification issued by the Sindh Government about increasing the minimum wages to Rs.25000/- was set-aside by the Honourable Supreme Court in number of CPLAs, including 5800 of 2021, reported in 2022 PLC 124- Federation of Pakistan and others versus Province of Sindh [**Employers' Case**]. A careful reading of the impugned Decision shows that it has not dealt with the objections with regard to jurisdiction in a proper manner. Secondly; sub-section (2) of Section 15, states about Inquiry to be conducted by Respondent No.3, if required. In this matter where two Applicants are pleading the case of 91 other employees, it was necessary to hold an Inquiry to verify the claim of purported aggrieved workers, which admittedly, was not done. Thirdly; in paragraph-13, it is stated that Respondent has not disputed the applicability of Labour Laws, however, this finding is completely contrary to the record, in view of the above discussion, *inter alia*, that written objection with regard to jurisdiction was taken, which was not considered in the impugned Decision properly. Fourthly; this finding of paragraph-13 is self contradictory to the impugned Decision itself in which the objection about maintainability has been discussed in a slipshod manner. Fifthly, the statement of the Petitioner's Representative, that wages are paid to the private Respondents and the other workers at the enhanced rate of Rs.25,000 with effect from September 2022, upon issuance of the Notification by the Government, was not appreciated properly, rather it was accepted as an admission of default; however, a proper course should have been to ascertain that whether the Competent Authority responsible for fixing the minimum wage, as ruled in the above reported *Employers' case* by the Honourable Supreme Court, has decided the objections of the Sindh Government, and what is the effective date of the

Notification with regard to increasing the minimum wages from rupees nineteen thousand to rupees twenty five thousand; but, the above course was not adopted because no inquiry as required by Section 15 [*supra*] was done. This gross illegality is to be corrected in this writ jurisdiction.

6. With regard to non-filing of the Appeal. Since, admittedly, Respondent No.4 has filed an Appeal against the impugned Decision, so also the entire amount awarded is also deposited [as mentioned above] and considering the above discussion, in these peculiar circumstances, it can be held, that there is no circumvention of the alternate and adequate remedy principle.

7. In view of the above discussion, the Petition is accepted only to the extent, that the Impugned Decision is set-aside. Case is **remanded** to the Respondent No.3 for decision afresh, in accordance with law. Decision should be given within four [04] weeks and issue of jurisdiction should be decided first.

In view of the above, the amount deposited with the Additional Registrar of this Court [as ordered earlier] can be released to the Petitioner as per Rules.

JUDGE

A.