

Order Sheet
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.S-238 of 2024

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For orders on office objection
2. For hearing of M.A. No. 723/2024
3. For hearing of main case

09.07.2024

Mr. Mumtaz Alam Laghari advocate for petitioner.
Ms. Nasim Abbasi advocate for respondent No.3.
Mr. Muhammad Ismail Bhutto, Addl. A.G Sindh.

Briefly stated, order dated 31 August 2023 was passed by the Court of Commissioner for Workers' Compensation & Authority under the Sindh Payment of Wages Act, Hyderabad in Application 39 of 2023 u/s 15(2)(3) of the Sindh Payment of Wages Act 2015. The operative part of the same is reproduced herein below:

3. The Applicant side advanced final arguments, simple perusal of the records of the case shows that the employer / employee relationship was admitted in main application and affidavit in evidence on ex-parte proof of the Applicant and the same found from the record available and status of permanent employment of employed person that was neither challenged nor defended by the respondent, therefore, applicant is entitled for the payment of his claimed amount on ex-parte proof / proceedings.

4. Thereafter, I allow the instant application of the applicant and his claim amounting to Rs. 265,000/- in favour of the applicant as apparently the same has been withheld illegally not paid since 2021, I therefore impose two-time compensation on the principle amount. The Respondent is directed to deposit the awarded amount of Rs.(262,500*2)=526,500+262,500 which becomes to Rs.787,500/- in words (seven hundred eighty-seven thousand five hundred only) in this court within 30 days for onward payment to the applicant.

Admittedly, this order was appealable and yet never appealed, however, application for recall of the order was made and the same was dismissed vide order dated 15.02.2024. It is considered illustrative to reproduce the operative constituent herein below:

That notice dated 21.09.2023 admittedly served upon respondent, who engaged counsel and filed application in hand on 30.11.2023.

That in their application respondent not denied the relationship of employer and employee with applicant. But only took plea that "**applicant filed his main application with wrong address of respondent to avoid the delivery of the notices and just get to the Ex-party Decree**".

That from careful perusal of respondent's application and Authority letter given by Group Company Secretary to respondent authorized officer namely Mehboob Ahmed Qaim Khani S/o Sakhawat Ali, the address of respondent mentioned in it also found same as mentioned in applicant's main application as "Security Organising System Pakistan (Pvt) Ltd 1131-C Mumtazabad Multan". Which means that respondent deliberately avoid the process of this authority. That proposition of law is clear that Law helps for vigilant not to the indolent.

That applicant filed reply of respondent's application and also filed application for direction to the respondent to first comply the order of this authority. This authority also noticed that respondent failed to show his grace and fair intention as he appeared in response of notice for deposition but till yet respondent has not deposited order amount in this authority.

In the view of above discussion and the material present before me, this court is satisfied to allow the application of applicant for direction to the respondent for compliance of order dated:31-08-2023 without further delay, and the application of respondent found meritless hence dismissed with no order as to cost.

Ms. Nasim Abbasi advocate files power on behalf of respondent No.3 and immediately draws attention to Section 17 of the Sindh Payment of Wages Act, 2015 and submits that the original order was appealable per Section 17 of the Act and since the recourse to the statutory remedy had already been abjured, no case is made out to entertain the petition. Learned AAG also supports her.

Section 17 of the Sindh Payment of Wages Act, 2015 reads as follows:

17. Appeal. (1) An appeal against a direction made under sub-section (3) or sub-section (4) of section 15 may be preferred within thirty days of the date on which the direction was made before the Labour Court constituted under the Industrial Relations Act, 2013 (Act XXIX of 2013), within whose jurisdiction the cause of action to which the appeal relates arose-

(a) by the employer or other person responsible for the payment of wages under section 3, if the total sum directed to be paid by way of wages and compensation exceeds three hundred rupees:

Provided that no appeal under this clause shall lie unless the memorandum of appeal is accompanied by a certificate of the authority to the effect that the appellant has deposited with the authority the amount payable under the direction appealed against; or

(b) by an employed person or, if he has died, by any of his heirs, if the total amount of wages claimed to have been withheld from the employed person or from the unpaid group to which he belonged exceeds fifty rupees; or

(c) by any person directed to pay a penalty under sub-section (4) of section 15.

(2) All appeals pending before any court under this section immediately before the commencement of this Act, shall on such commencement, stand transferred to, and be disposed of by, the Labour Court within whose jurisdiction the cause of action to which the appeal relates arose.

(3) Save as provided in sub-section (1), any direction made under sub-section (3) or sub-section (4) of section 15 shall be final.

Admittedly, there was a provision of appeal which was never exercised. The effect of the same is that the order attained finality. The subsequent application before the concerned forum was entertained and dismissed and no infirmity in such regard could be demonstrated before this Court. In view of the forgoing, this petition is found to be misconceived, hence, dismissed.

Judge