

ORDER SHEET  
THE HIGH COURT OF SINDH AT KARACHI

C.P No.S-210 of 2022.

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Date:           Order with signature(s) of the Judge(s)  
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Hg/Priority Case.

1. For Hearing of MA No.1397/2022.
2. For Hearing of Main Case.

12<sup>th</sup> October, 2023.

Mr. Shaukat Ali Chaudhry advocate for the Petitioner.  
Mr. Arsalan Wahid advocate for Respondent No.1.

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By order dated 04.02.2022 application filed by the present Petitioner with regard to dismissal of Case No. 36/2015[15] on the plea that pension is not falling within the term of wages, however, that application was declined and parties were directed to adduce evidence and this objection as raised by Petitioner will be considered with the final order. Whereas, application under Section 15 of the Payment of Wages Act, 1936, wherein Para-8 clearly states that:

***“Be that as it may and prejudice to the above it would not be out of context to mention here that at the time of final settlement the Respondent had settled the pension amount while equating with the month basic pay i.e. at the rate of 1.0, while the other employee of the company i.e. Sher Khan (10142), Muhammad Hamid Khan (10407), Muhammad Farooq Naqvi (10640) have/had been paid at the rate of 1.5 even after being promoted to the MPT cadre let alone the rising the basic pay, which also affects and has the direct bearing on the overall final settlement of the applicant including the pension amount”.***

Learned counsel for Petitioner contends that law point was required to be decided first; thereafter, evidence. He also contends that ratio of pension amount was reduced from 1.5 to 1.0. He further contends that Petitioner’s company is intra-provincial and therefore, Commissioner for Workmen’s Compensation & Authority was not having jurisdiction.

Para-8 reflects that on same analogy various employees received pension @ of 1.5. Since this is a mix question of law and fact which

requires evidence. Since the Petitioner has right to challenge that aspect at the time of final argument after adducing the evidence and Respondent No.1 shall be allowed to submit documentary evidence as well as board meeting with regard to reduction of pension thereafter, Commissioner for Workmen's Compensation & Authority shall decide the fate of the case in view of juxtaposition of legal point whether authority was coram non judice to decide this issue or was competent to decide the same as the Petitioner is claiming intra-provincial. This exercise shall be concluded within two months.

In view of above, instant petition is disposed of alongwith pending application[s].

At this juncture learned counsel for Respondent No.1 contends that Workmen's Compensation & Authority is lying vacant. Accordingly, Chief Secretary, Govt. of Sindh shall ensure that all Presiding Officers of Workmen's Compensation & Authority are posted within fifteen [15] days. Copy of this order shall be communicated to Chief Secretary, Government of Sindh for compliance.

JUDGE

M.Zeeshan