HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Constitutional Petition No.S-263 of 2025

Present: Justice Jawad Akbar Sarwana

Petitioner	:	Pakistan Mobile Communication Ltd through Mr.Imdad Ali Sahito, Advocate. Nemo.
Respondent No.1	:	Learned Couse of Commissioner Workmen's Compensation & Authority, under the Pament of Wages Act, 2015 . Nemo.
Respondent No.2	:	Ramchand s/o Malhoo, Through Mr.Ali Akbar, Advocate
Respondent No.3	:	M/s National Spinning Mills Through Mr.Ayaz Hussain Chandio, Advocate. Nemo.
Date of hearing	:	**05.11.2025**
Date of decision	:	**11.11.2025**
Date of reasons	:	**16.11.2026**

O R D E R

JAWAD AKBAR SARWANA, J.: Petitioner/Pakistan Mobile Communication Ltd. ("PMCL") has invoked the writ jurisdiction of the Regular Bench of the High Court of Sindh Circuit Court, Hyderabad under the Constitution of the Islamic Republic of Pakistan ("1973 Constitution") as amended under the 26th Amendment. PMCL is aggrieved by the Order dated 05.06.2025 passed by the Commissioner Workmen's Compensation & Authority under the Payment of Wages, Act, Jamshoro @ Hyderabad ("the Authority") in Claim Application No.12 of 2021 filed by the respondent/applicant-Ram Chand s/o Malhoo, dismissing PMCL's application under Order 7 Rule 11 CPC. Counsel for PMCL contends that the respondent/applicant has no case against PMCL, and, in the circumstances, the Authority should have dismissed the complaint filed by the respondent/applicant.

2. The background of the matter is that the respondent/applicant filed an application under section 15(2) of the Sindh Payment of Wages Act, 2015, wherein the applicant claimed Rs.18,90,840/- towards unpaid wages, bonus and other dues, asserting that he had been employed as a Chowkidar since 14.10.2011. The application was

allowed *ex parte* by the Authority on 03.12.2021, whereafter execution proceedings commenced. Petitioner/PMCL subsequently sought to set aside the order through an application under section 12(2), CPC read with Order IX, Rule 13, CPC, which was dismissed on 08.07.2024. Its appeal before Labour Court No.VI, Hyderabad, was also dismissed on 05.11.2024. Thereafter, the petitioner/PMCL approached the High Court through C.P. No.S-519 of 2024, which was disposed of on 14.04.2025 by consent of the parties. The *ex parte* order dated 03.12.2021 was set aside, and the matter was remanded to the Authority for fresh decision after hearing both sides, preferably within three months.

3. Upon remand of the case to the Authority, as the second round of litigation was set to commence, the petitioner/PMCL, filed an application under Order VII, Rule 11, CPC, challenging the maintainability of the original claim on the grounds of limitation and absence of an employer-employee relationship. After hearing the parties, the Authority, by its Order dated 05.06.2025, rejected the application, holding that the disputed employment relationship involved mixed questions of law and fact requiring evidence from both parties, and directed the matter to proceed to evidence.

4. Heard Counsel. As per the terms of the compromise recorded before the High Court in the first round of litigation between the parties, the petitioner/PMCL had agreed upon remand of the matter to the Authority on merits. Yet, the record shows that, upon remand, the petitioner/PMCL raised a technical challenge under the Civil Procedure Code. Consequently, while on the one hand, this late challenge in 2025 to the maintainability of the respondent/applicant's application filed in 2021 does not inspire confidence in the conduct of the defence on the part of the petitioner/PMCL, yet, even otherwise, on the other hand, as a matter of law, the Supreme Court has consistently discouraged procedural objections based on the civil procedure code being raised during proceedings before the Authority under the Payment of Wages Act for the reason that the same interfere in the substantive justice of the dispute. In *Factory Manager, Burewala Textile Mills and Others v. Asghar Ali and Another*, 2005 SCMR 1144, the Supreme Court observed:

> "…the entire Civil Procedure Code has never been made applicable in view of the provisions as contemplated in section 18 of the Payment and Wages Act, 1936. The principle as enumerated under the various provisions of C.P.C. may be applied if circumstances so justify, which are lacking in this case. It is well-settled by now that the rules framed in the C.P.C. are for the advancement of justice and should not, as far as possible, be allowed to operate so as to defeat the ends of justice…."

5. Without prejudice to the above, the impugned Order dated 05.06.2025 must also be read, understood and reviewed in the context of the Supreme Court judgment in *Lawrencepur Woolen & Textile Mills Ltd. v. Government of Punjab, etc.*, PLJ 2004 SC 450, wherein the apex Court observed as follows:

> "5. The provisions of the Act would clearly show that the Authority appointed under Section 15 of the Act is not required to follow definite rules with regard to procedures and evidence. It is free to hold such inquiry as may be necessary for adjudicating the claim of certain employees. The procedure of adjudication by the Authority is not provided by law. It may decide the claim by providing an opportunity of hearing to the parties, keeping in view the rules of reason, justice and fair play. The Authority is free in the matter of deciding disputes without there being any guidance of procedural laws as to the conduct of proceedings as well as evidence. The Authority is empowered to exercise certain powers and to take judicial proceedings as are vested in a Civil Court under the Civil Procedure Code but only for a very limited purpose. The Authority does not have any inherent powers which are available to a Court of justice. It can not render binding judgments on complicated questions of law. The process of investigating or adjudicating the claims of certain employees for giving a direction for payment of wages is not a trial of suit at law. The normal Court procedure is not applicable to the Authority. All the necessary attributes and trappings of a Court of law are not satisfied in the case of the Authority….It does not act in a judicial capacity. It does not exercise a judicial power in the strict sense of the term and is not a constituent part of the judiciary…."

6. I have examined the contentions as agitated by the petitioner/PMCL in the light of the aforementioned judgments of the Supreme Court and the record of the case as available in this petition.

The Authority's order under the Payment of Wages Act, 2015, finding that the employment relationship is a mixed question of law and fact, can be decided only after hearing evidence from both sides, is on point, and does not require interference. Further, concerning the issue of limitation, as per paragraphs 2 to 4 of the counter-affidavit filed by the respondent/applicant to the petitioner/PMCL application under Order VII Rule 11 CPC, the respondent/applicant's entire claim is that after he was appointed as "Chowkidar" on 14.10.2011 and posted at "Tower" of Warid/Mobilink" situated in the premises of "the Occupier", i.e. M/s National Spinning Mills Site Kotri (also impleaded in the application filed before the Authority) until he rendered services with the Employer and the Occupier, he was neither issued appointment letter nor any pay slips were issued to him in relation to his wages/salary till 31.12.2020. As this is the respondent/applicant's case to prove non-payment of wages, it requires evidence and cannot be decided on legal grounds alone or dismissed summarily.

7. In view of the above, I dismissed the petition by my Short Order dated 11.11.2025, and the above are my reasons for its dismissal.

8. The observations made herein above are for the purpose of deciding this petition and may not be relied upon by the parties and/or the Courts below.

J U D G E

AHSAN K. ABRO