HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Constitutional Petition No.S-485 of 2024

Present:
Mr. Justice Jawad Akbar Sarwana

Petitioner:	M/S Zeal Pak Cement Factory SITE Hyderabad through its Deputy Manager (Administration) Islamuddin son of Umaid Ali through Mr. Zubair Ahmed Khuhawar Advocate
Respondent No.1:	Syed Mazhar Ali S/o Mir Ali Shah through Mr. Ahmed Nawaz Chang Advocate
Respondent No.2 :	Commissioner Workmen's Compensation and Authority, under Payment of Wages Act *Nemo*
Date of hearing:	05.11.2025
Date of Short Order:	11.11.2025
Date of Reasons:	16.11.2026

O R D E R

JAWAD AKBAR SARWANA, J: Petitioner-M/s. Zeal Pak Cement Factory ("ZPCF") 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 Twenty-sixth Amendment. Petitioner-ZPCF is aggrieved by the order dated 18.05.2024 passed by the Commissioner Workmen's Compensation and Authority under the Payment of Wages Act, Hyderabad ("the Authority") in claim application No.101 of 2021 filed by the respondent No.1/applicant-Syed Mazhar S/o Mir Ali Shah allowing the same and directing the petitioner- ZPCF to deposit the awarded amount of Rs.665,800/- (Rupees Six hundred sixty five thousand eight hundred only) before the Authority within 30 days for onward payment to the respondent No.1/applicant. Counsel for the petitioner-ZPCF has argued that no case is made out for payment of any amount and that the order passed by the Authority "is without lawful authority and is of no legal effect". The respondent No.1/applicant has argued that the claim in the 2021 proceedings is an entirely different

claim from the earlier filing, as the respondent No.1/applicant was reinstated in compliance with the High Court's Order dated 20.03.2009 passed in C.P. No.D-217 of 2001. As such, the claim filed before the Authority in the second round of litigation is distinguishable from the first claim, and the order passed by the Authority is in accordance with law.

2. Heard the counsel and perused the record.

3. It is a trite proposition under the Labour Laws of Pakistan that an aggrieved worker/workman, in case of non-payment of wages, is required to approach the Payment of Wages Authority under Section 15 of the Payment of Wages Act, 2015. For the sake of convenience, Section 15 of the said Act reads as follows:-

> "15. Claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims. (1) Government may, by notification in the official Gazette appoint any Commissioner for Workmen's Compensation or any Officer of Directorate of Labour not below the rank of Grade-18 to hear and decide for any specified area all claims arising out of deductions from the wages, or nonpayment of dues relating to provident fund or gratuity payable under any law or delay in the payment of wages, of persons employed or paid in that area.
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> (2) Where contrary to the provisions of this Act any deduction has been made from the wages of an employed person, or any payment of wages or of any dues relating to provident fund or gratuity payable under any law has been delayed, such person himself, or any legal practitioner, or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector under this Act, or of any heirs of an employed person who has died or any other person acting with the permission of the authority appointed under sub section (1), may apply to such authority for direction under subsection (3):
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> Provided that every such application shall be presented within three years from the date on which the deduction from the wages was made or from the date on which the payment of the wages was due to be made, as the case may be:
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> Provided further that any application may be admitted after the said period of three years when the applicant satisfies the authority that he had sufficient cause for not making the application within such period.
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> (3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and employer or other person responsible for the payment of wages under section 3, or give them an opportunity of being heard, and, after such further inquiry, if any,

> as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person or, if the applicant is one of the heirs of an employed person, the payment to such applicant, of the amount deducted or the payment of the delayed wages together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted:
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> Provided that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to
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> (a) bona fide error or bona fide dispute as to the amount payable to the employed person; or
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> (b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of wages was unable, though exercising reasonable diligence, to make prompt payment; or the failure of the employed person to apply for payment of wages;
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> (c) the failure of the employed person to apply for or accept payment.
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> (4) If the authority hearing any application under this section is satisfied that it was either malicious or vexatious, the authority may direct that a penalty not exceeding five thousand rupees shall be paid to the employer or other person responsible for the payment of wages by the person presenting the application.
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> (5) Any amount directed to be paid under this section may be recovered –
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> (a) if the authority is a Magistrate, by the authority as if it were a fine imposed by him as Magistrate; and
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> (b) if the authority is not a Magistrate, by the authority as an arrear of land-revenue, or, in the prescribed manner, by the authority by distress and sale of the moveable property belonging to the person by whom the amount is to be paid, or by attachment and sale of the immoveable property belonging to such person to whom the authority makes application in this behalf as if it were a fine imposed by such Magistrate."

4. As per Section 15 of the Act of 2015, the authority has the power to record evidence and determine the wages due and payable to the worker/workman by the employer/establishment/occupier of the factory/establishment. In case any party is aggrieved by the direction of the Authority issued under Section 15 of the Act of 2015, then under Section 17 of the said Act, such worker/workman and/or establishment may prefer an appeal to the Labour Court and thereafter to the Labour Appellate Tribunal as well. The Supreme Court has consistently observed that the High Court should refrain from engaging in any fact-finding exercise in writ jurisdiction. An adequate alternative forum, in

the form of an appeal to the Labour Court, is provided under the Act. Accordingly, as per the wisdom of the Legislature, all matters arising out of, and relating to, wages are to be decided by the hierarchy provided under the Payment of Wages Authority under the Act of 2015, and none other.

5. The petitioner-ZPCF cannot frog leap the Statute and arrive before the Regular Bench of the High Court of Sindh exercising the constitutional jurisdiction under the Twenty-Sixth Amendment to contest the impugned order when the forum of appeal is available to the petitioner-ZPCF. The petitioner remains at liberty to challenge the impugned order before the proper forum, subject to all legal consequences, including the claim for one-time compensation awarded to the respondent/applicant.

6. Given the above, the petition was dismissed by my short order dated 11.11.2025 and the above are the reasons thereof.

JUDGE

Ahmed/Pa,