HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Constitutional Petition No.S – 115 of 2025

Present:
Mr. Justice Jawad Akbar Sarwana

Petitioner	:	M/s Dewan Khalid Textile Mills Ltd. through Mr. Mumtaz Alam Laghari Advocate
Respondent No.1	:	Ghulam Rasool S/o Muhammad Hashim through Mr. Abid Hussain Jamali, Advocate *Nemo*
Respondent No.2	:	Commissioner Workmen's Compensation and Authority, under Payment of Wages Act *Nemo*
		Mr. Wali Muhammad Jamari, A.A.G Sindh
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: On 18.03.2025, the petitioner-M/s. Dewan Khalid Textile Mills Ltd. ("DKTML") 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. The petitioner-DKTML is aggrieved by the order dated 12.02.2025 passed by the Commissioner Workmen's Compensation and Authority under the Payment of Wages Act, Jamshoro @ Hyderabad ("the Authority") in claim application No.580 of 2024 filed by the respondent No.1/applicant-Ghulam Rasool S/o Muhammad Hashim allowing the same and directing the petitioner-DKTML to deposit the awarded amount of Rs.179,444 + 179444 = Rs.358,888/- (Rupees Three hundred fifty eight thousand eight hundred eighty eight only) before the Authority within thirty days for onward payment to the respondent No.1/applicant. Counsel for the petitioner-DKTML 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".

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.
>
> (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

> (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. The petitioner-DKTML 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-DKTML. The petitioner remains at liberty to challenge the impugned order before the proper forum, including the claim for the one-time compensation awarded to the respondent/applicant, subject to all legal consequences.

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

JUDGE

AHSAN K. ABRO