

ORDER SHEET  
**IN THE HIGH COURT OF SINDH,**  
CIRCUIT COURT, HYDERABAD

CP No. S- 134 of 2014

Iftikhar Ahmed ----- Petitioner

VERSUS

M/s. Zeal Pak Cement Factory Limited  
and others ----- Respondents

Date of Hearing : 14.9.2020  
& Decision

Petitioner present in person  
Mr. Allah Bachayo Soomro, Addl.A.G.

**ORDER**

**ADNAN-UL-KARIM MEMON, J:-** Basically, the Petitioner has approached this Court for implementation of the Compensation Award as determined by learned Commissioner Workmen's Compensation vide order dated 10.05.2012. Record does not reflect as to whether the appropriate proceedings were undertaken by the management of Respondent- Factory. This court vide order dated 22.3.2018 directed the Additional Registrar of this Court to communicate with the management of Respondent-Factory for attachment of their bank accounts to the tune of Rs.789758.25 payable to the Petitioner through the Award dated 10.05.2012, as discussed supra. Record reflects that in compliance of the aforesaid order, the Additional Registrar of this Court communicated the order to the Respondent-Factory who replied vide letter dated 3.4.2018 with the assertion that they complied with the order passed by the learned Commissioner Workmen's Compensation by depositing the amount which has been duly collected by the Petitioner. However, in further compliance of the order dated 22.3.2018 passed by this Court, the Respondent-Factory has deposited pay order amounting to Rs.789759 dated 3.4.2018 as security for the satisfaction of the order of this Court, which factum is disclosed in the order dated 5.9.2019.

2. I have noticed that several notices have been issued to Respondent-Factory for assistance but none has turned up. On the last date of hearing

i.e. 31.08.2020 learned A.A.G sought time to procure the attendance of Private Respondent and the matter was adjourned for today.

3. Record reflects that the private respondent has been given ample opportunities to defend their case but they failed to appear and assist the court. Today the matter is fixed but no one is present on behalf of Respondent-Factory. Record further reflects that in compliance of order dated 22.3.2018 passed by this court, Respondent-Factory deposited pay order for an amount of Rs.789758.23/- with the Additional Registrar of this Court. Since no one has come forward to contest on behalf of Respondent-Factory, and if this is the attitude of private respondents, this court is left with no option but to hear the petitioner in presence of learned A.A.G.

4. Petitioner who is present in person has submitted that he was working in the respondent-Factory since 1.6.1978 as Khalasi/Welder; that upon announcement of golden hand shake scheme in the year 1999 he tendered resignation and consequently a cheque of Rs.293616 was issued; however the same was bounced; that he being aggrieved by and dissatisfied with the aforesaid action of the respondent-Factory filed his claim under section 15(2) of Payment of Wages Act, 1936 before the competent authority for recovery of Rs.293,616.00 and the same was allowed vide order dated 18.11.2008. However the same amount was paid to him after ten years and nine months. In the meanwhile he also filed claim before the competent authority for profit accrued on the aforesaid amount the same was allowed vide order dated 10.05.2012. Since the same was not implemented he approached this court for the aforesaid purpose in the year 2014 and this court vide order dated 22.3.2018 directed the Additional Registrar of this court to communicate with the management of the respondent-Factory for attachment of their Bank Account to the tune of Rs.789758.25 payable to the petitioner through Award dated 10.05.2012 as discussed supra; that the respondent-Factory has deposited pay order amounting to Rs.789749.

5. Learned A.A.G has argued that since the Award has been passed in favour of the Petitioner and nothing is available on record to suggest whether the aforesaid Award was assailed before the appellate forum or otherwise therefore the petitioner may be allowed to collect the amount deposited with the Additional Registrar of this court subject to furnishing P.R Bond in the like amount to the satisfaction of the Additional Registrar of this court for the reason that if the respondent-Factory come forward and make statement contrary to the claim of petitioner then petitioner shall be directed to return the amount so received.

6. I have heard the petitioner who is present in person as well as learned A.A.G on the issue involve in the matter.

7. The main grievance of the Petitioner is delay of his service dues due to lethargic attitude of the Respondent-factory for that he has suffered more than ten years and nine months in litigation, for releasing his dues therefore, he is entitled for the increases on the payment as mentioned in the schedule of payment discussed supra. Petitioner gave various reasons to claim the interest on the delayed payments. Respondent-factory has submitted that the Petitioner had initially claimed Rs. 293616 from the Respondent-factory and he has been paid by the Respondent-factory and now Rs.789758.25 is in excess of Rs. 293616/-, as such there is no present outstanding amount to be paid to the petitioner as claimed by him.

8. Upon perusal of the pleadings of the parties and submissions made by the petitioner on the instant petition, I am not satisfied with the calculation made by the respective parties, even I do not agree with the contentions of the Respondent-factory. Apparently the payment of the service benefits to the Petitioner has been delayed for which the Petitioner cannot be held responsible.

9. In view of the facts and circumstances of the case and for the reasons alluded as above this petition is disposed of with direction to the Additional Registrar of this Court to consult with the District Accounts Officer Hyderabad, to assist him to undertake the exercise of recalculation of the service benefits of the Petitioner including delay in payment to the Petitioner if any accrued, in accordance with rules and regulations within a period of one week from the date of receipt of the order of this court. And after recalculation allows the petitioner to withdraw the recalculated amount as per his entitlement under the law, lying in the office of Additional Registrar of this Court duly deposited with him by the respondent-factory.

10. This petition is dispose of in the above terms.

**JUDGE**