

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

CP D 2141 of 2023

Date	Order with signature of Judge(s)
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1. For orders on CMA No.10344/2023.
2. For orders on office objection No.10.
3. For orders on CMA No.10345/2023.
4. For hearing of main case.

10.05.2023

Mr. Muhammad Saleem Khan, advocate for the petitioner.

1. Granted. 3. Granted; subject to all just exceptions. 2&4. Briefly stated, vide order dated 06.10.2021 the Court of the Commissioner for Workers Compensation & authority under the Payment of Wages Act had held against the petitioner. The petitioner's counsel made a written submission before the Court that the petitioner had conceded to payment of the legal dues, sought in the proceedings, hence, the application under consideration may be allowed. Rested on the express admission, the claimed dues and compensation were adjudged against the petitioner. In appeal, vide order dated 07.02.2022, the learned Labour Court, deeming the order under appeal to be a consent order, dismissed the appeal. In revision, vide order dated 15.11.2022, the learned Sindh Labour Appellate Tribunal upheld the award of dues, as consented to by the petitioner, however, set aside the award of compensation since no consent in such regard had been placed on record. The petitioner assails all three orders before the Court in its writ jurisdiction.

At the very onset the petitioner's counsel was asked to address the Court on the issue of maintainability, *inter alia*, as to the office objection with regard to the issue of *laches* and as to what jurisdictional error / manifest illegality had been committed by the fora below to merit this petition. The learned counsel remained unable to satisfy the Court on either count.

The only argument articulated before us was that the petitioner's counsel had submitted its written consent before the relevant court without proper authorization of the petitioner. Upon specific query, it was unequivocally stated that the petitioner had initiated no proceedings against the concerned advocate, either for damages or before the bar council, till date. Respectfully, such a bald assertion could not be made the basis to re-agitate a *lis*, post exhausting a myriad to appellate fora, before the writ jurisdiction of this Court.

It is settled law that the ambit of a writ petition is not that of a forum of appeal, nor does it automatically become such a forum in instances where no appeal is provided¹, and is restricted *inter alia* to appreciate whether any manifest illegality is apparent from the order impugned. It is trite law² that where the fora of subordinate jurisdiction had exercised its discretion in one way and that discretion had been judicially exercised on sound principles the supervisory forum would not interfere with that

¹ Per *Ijaz ul Ahsan J* in *Gul Taiz Khan Marwat vs. Registrar Peshawar High Court* reported as *PLD 2021 Supreme Court 391*.

² Per *Faqir Muhammad Khokhar J.* in *Naheed Nusrat Hashmi vs. Secretary Education (Elementary) Punjab* reported as *PLD 2006 Supreme Court 1124*; *Naseer Ahmed Siddiqui vs. Aftab Alam* reported as *PLD 2013 Supreme Court 323*.

discretion, unless same was contrary to law or usage having the force of law. The impugned orders are well reasoned and no infirmity in respect thereof could be identified before us by the learned counsel. Even otherwise, the learned counsel made no endeavor to displace the objection of *laches* raised vide the office objection.

Therefore, the present petition is found to be misconceived, hence the same is hereby dismissed in *limine*, with costs of Rs. 10,000/- to be paid in the account of the Sindh High Court Clinic within 7 days hereof.

JUDGE

JUDGE