

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

C.P. No.S-300, 303 of 2001
C.P. No.S-31 of 2003

DATE	ORDER WITH SIGNATURE OF JUDGE
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31.10.2023

Mr. Wali Muhammad Jamari Advocate for Petitioners.

M/s Mumtaz Alam Laghari and Muhammad Sachal R. Awan
advocate for Respondents.

On the last date of hearing the following order was recorded:

24-10-2023

*Mr. Wali Muhammad Jamari, Assistant A.G Sindh
M/s. Muhammad Sachal R. Awan and Waseem Hussain Jafferri,
advocates for respondents.*

It is submitted that the orders assailed in these petitions have been rendered per section 15 of the Payment of Wages Act, 1936. Per respondents' counsel these are appealable orders per section 17 of the Act, however, instead of filing an appeal at the relevant time the present petitions were preferred. Learned A.A.G is put on notice to satisfy this Court in respect of the maintainability of the petitions in view of the aforesaid observations.

To come-up on 31.10.2023.

Today, learned AAG is present and, while conceding that the impugned orders were appealable, rests his case on the averment that since the orders impugned were void, there was no reason to file an appeal there against, hence, a petition lies. Respectfully, this Court is unable to concur with such a proposition and notwithstanding the same there was absolutely no endeavor to point out any infirmity in the respective orders.

Irrespective of merits of the case, the primary question to be addressed by this court is with respect to jurisdiction as the impugned orders are *admittedly* appealable; for which an entire statutory hierarchy is provided and abjuring the said recourse unilaterally by a person could not be sustained¹.

It is manifest that there existed an alternate remedy, hence, the direct invocation of writ jurisdiction was unmerited. Article 199 of the Constitution contemplates the discretionary² writ jurisdiction of this Court and the said discretion *may* be exercised in appropriate circumstances. In the present matter no case has been set forth before us for invocation of writ jurisdiction. In view hereof, these petitions and pending application are hereby dismissed. The office is instructed to place a copy hereof in each connected petition.

Judge

¹ *Commissioner Inland Revenue v. Jahangir Khan Tareen* reported as . 2022 SCMR 92; approved in Judgment dated 15.09.2022 rendered in *DCIR vs. Digicom Trading (CA 2019 of 2016)*.

² Per *Ijaz Ul Ahsan J. in Syed Iqbal Hussain Shah Gillani vs. PBC & Others* reported as 2021 SCMR 425; *Muhammad Fiaz Khan vs. Ajmer Khan & Another* reported as 2010 SCMR 105.