

**THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD.**

C.P.No.S- 637 of 2022

**Mst. Muneera and 299 others Vs. Province of Sindh and 04 others**

1. For orders on MA 3411/2022 to 3626/2022.
2. For orders on office objections.
3. For orders on MA 2108/2022.
4. For orders on MA 1477/2023.
5. For hearing of MA 1333/2023.
6. For hearing of main case. -

Date of hearing: 23.10.2025.

Date of Order: 23.10.2025.

Mr. Faizan Ahmed Memon, Advocate for 224 petitioners.

Muhammad Siddique, attorney of 76 petitioners.

Mr. Mumtaz Alam Leghari, Advocate for respondents No.4 & 5.

Mr. Wali Muhammad Jamari, Assistant A.G, Sindh alongwith  
Kamaluddin Khuwaja, Assistant Director Labour.

**ORDER**

**JAWAD AKBAR SARWANA, J.:** The 300 petitioners in this writ petition intend to ride on the coattails of the petitioners impleaded in C.P. No.S-248/2022,<sup>1</sup> which this Court decided in terms of two Orders dated 20.05.2022 and 02.06.2022.

2. The background of the matter is that before the 300 petitioners filed this C.P.No.S-637/2022, one Muhammad Siddique and eight different petitioners, as well as the widow of petitioner no.3, Abdul Waris, filed C.P. No.S-248/2020, being aggrieved by the Sindh Labour Court No.VI, Hyderabad Order dated 12.10.2018 passed in complaint no.02/2017 under section 10(2) of the Sindh Terms of Employment (Standing Orders) Act ("SO"), 2015, filed by the complainant/respondent no.3, i.e. Assistant Director Labour & Inspector of Factories (Inspection-I) Hyderabad against the accused nos.1 and 2 (impleaded as respondent no.4 in the two

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<sup>1</sup> For removal of doubt, it may be mentioned here that the respondents impleaded in CP No.S-637/2022 are the same, including their serial numbers as per the title page of the two petitions. as those respondents impleaded in CP No.S248/2020.

petitions), Dewan Mushtaq Textile Mills Limited ("DMTML"). The complainant/respondent no.3, alleged non-payment/delay in payment of wages to certain workers/workmen by DMTML/the accused/respondent no.4, on account of some complaints received against DMTML to resolve the issue of alleged non-payment/delay in payment of wages to certain workmen/workers from March 2016 to December 2016, as reported in January 2017. On 12.10.2018, after hearing the parties, the Presiding Officer of Sindh Labour Court No.VI, Hyderabad, based on the admission of DMTML/the accused/respondent no.4, disposed of the complaint with awarding a penalty of Rs.25,000/- against DMTML with directions to deposit the same in the accounts office of the said Labour Court as a fine, and giving further directions to DMTML/the accused/respondent no.4, to pay wages to its workers on or before 10<sup>th</sup> day of each month.

3. The petitioners in CP No.S-248/2020, namely, one Muhammad Siddique and eight different petitioners, as well as the widow of petitioner no.3, Abdul Waris, filed the said petition aggrieved by the non-compliance of the Vith Labour Court's Order dated 12.10.2018 directions to DMTML/the accused/respondent no.4, the said petitioners/petitioner's legal heirs had not received their wages. The petitioners approached the High Court directly in CP No.S-248/2020 without availing their remedy under the Sindh Payment of Wages Act, 2015 ("Act of 2015"), and its rules framed thereunder. Notwithstanding the foregoing, the High Court proceeded to hear the parties in CP No.S-248/2020 without consideration of the fact that the said petitioners had frog-leapt the Payment of Wages Authority established under section 15(1) of the Act of 2015, and were seeking relief directly from the High Court in writ jurisdiction. After hearing the parties, the bench disposed of the petition in terms of two

orders dated 20.05.2022 and 02.06.2022, passed in C.P. No.S-248/2020.

The final order is reproduced herein below.

“02.06.2022

In compliance of this Court's order dated 20.05.2022 counsel for respondent no.4 submits that they have already deposited pay order in the sum of Rs.2,268,896.00 bearing No.02427017 dated 27.05.2022 in favor of Additional Registrar of this Court. He states that he has no objection if the said pay order be realized and payments be handed out to the petitioners in accordance with the statement filed by the petitioner Muhammad Siddique in the tune of Rs.1,688,220/- to petitioner Muhammad Siddique and eight different petitioners as well as widow of petitioner no.3 Abdul Waris. In the circumstances, when compliance of this Court's order has already been made; payment has been deposited with this Court and the respondent no.4 concedes that the amount may be disbursed among the petitioners/legal heirs as per the statement, resultantly, the order of attachment and auction of the factory premises is hereby recalled. The remaining amount (2,268,896.00 – 1,688.220 = 580,676) will continue to be available with the Additional Registrar of this Court and in case any other aggrieved person appear before him, he shall release the amount after proper verification and identification as per respective claim with the prior permission of the Court.

The petition along with all pending applications stand disposed of in the above terms.”

4. In view of the above developments, the 300 petitioners in this petition (CP No.S-637/2022), prayed for the same relief as the petitioners of CP No.S-248/2020. Essentially, then, the 300 petitioners prayed as follows:

“PRAYER

The petitioners pray that this Honourable Court may be pleased:-

- A. To direct the respondents No.4 and 5 (Dewan Mushtaque Textile Mills) to pay the withheld/unpaid salaries to the petitioners in compliance of the Order dated 12.10.2018 passed by the Sindh Labour Court No.IV Hyderabad and further directed by this Hon'ble

Court vide order dated 20.05.2022 in similar C.P. No.S-248 of 2020.

B. . . .

C. . . . .”

Therefore, as per the prayer clause above, the 300 petitioners have sought compliance of the Labour Court No.VI's at Hyderabad Order dated 12.10.2018, on the one hand, and directions in terms of the final orders passed by this Court in C.P.No.S-248 of 2020, on the other hand.

5. At present, the representation of the 300 petitioners before this bench which heard the petition today is/was split between two authorised representatives, i.e. Muhammad Siddique and Muhammad Khalid Jabbar. However, at the time this petition was instituted, there was no such split. Today, the two authorised attorneys' submissions and legal positions of the petitioners are inconsistent with each other and divergent. Initially, the 300 petitioners authorised one Muhammad Siddique s/o Ghulam Haider, who was also a petitioner in CP No.S-248/2020 to represent them in this Petition (CP No.S-637/2022). However, subsequently, out of these 300 petitioners, 224 petitioners authorized one Muhammad Khalid Jabbar s/o Abdul Jabbar, through a special power of attorney dated 21.11.2022 to represent them. Several of these petitioners are also present in court today.

6. As per the Order dated 01.04.2024 passed by this bench and also argued before me today by the Counsel appearing for the 224 petitioners through attorney Muhammad Khalid Jabbar, who is the attorney of the 224 workmen/workers is that he submits that the 224 petitioners (workmen/workers) have received their full and final payment from DMTML. Counsel further submitted that, as the petitioners have received

their full and final payment, they do not wish to proceed further in this matter. In this connection, Counsel submitted that Muhammad Khalid Jabbar had filed halafnamas on behalf of 224 petitioners (workers/workmen), who had signed (but not sworn) the halafnamas, acknowledging that they had received their dues in full and final settlement from DMTML. He further contended that after receipt of such amounts, he had also filed an application for withdrawal of the petition supported by affidavits sworn before the Verification Branch by the same attorney of 224 petitioners, namely Muhammad Khalid Jabbar, on behalf of the 224 petitioners 224 times. He further contended that the acknowledgement of payment of wages disbursed in cash was also recorded through vouchers and receipts, as well as a video recording, which could be made available to the bench, as and when so ordered.

7. This contention raised by the Counsel appearing for the 224 petitioners through attorney Muhammad Khalid, who is the attorney of the 224 petitioners, was opposed by Muhammad Siddique, who is the attorney of the 76 petitioners (workers/workmen). Muhammad Siddique submitted that neither the 76 petitioners (workers/workmen), whom he represents, nor the 224 remaining petitioners, whom he alleged to continue to represent, several of whom are present in Court, have received their wages due. He submitted that DTML did not correctly compute the dues. Therefore, he opposed the application for withdrawal filed by the Counsel for the 224 petitioners and the 76 petitioners until the dues of all 300 petitioners are settled.

8. Counsel for DMTML contended that although this petition was filed without the petitioners availing the adequate alternate remedy available to them before the Payment of Wages Authority under the Act of 2015, and

the petition is/was liable to be dismissed, yet, out of respect and in deference to the Court, DMTML/respondent no.4 had voluntarily disbursed the alleged unpaid wages to all the 300 petitioners and that nothing was outstanding. He contended that pursuant to the orders of the Court dated 29.09.2025, the Court had nominated Mr Kamaluddin Khuwaja, Assistant Director Labour, to ascertain the veracity of the payment of wages made to the petitioners, and this petition was now pending on this limited point alone.

9. Over the course of this year (2025), this Court had handed over, from time to time, bundle of documents received from DMTML to the respondent no.3, i.e. the Assistant Director Labour & Inspector of Factories (Inspection-I) Hyderabad, to verify the entire record including the vouchers relating to payment of wages to determine whether the wages had in fact been paid to the petitioners or otherwise in full and final settlement of their dues. Today, Mr. Kamaluddin Khuwaja, who is present before this Court, submits that despite the best efforts on the part of the Labour Directorate to determine the veracity of payments made by DMTML to the 300 petitioners (workers/workmen), there still appear to be contradictions in the claims and counterclaims of the petitioners and DMTML. But neither sufficient material from the parties nor resources are available with the Labour Directorate to carry out and complete the task ordered by this Court. In the circumstances, he pleads that the verification task may be referred to the Payment of Wages of Authority, which is the proper forum under the Act of 2015 to decide and determine the outstanding liabilities, if any.

10. Heard counsel. Perused record. 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):

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:

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.

(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:

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) bond fide error or bona fide dispute as to the amount payable to the employed person; or

(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;

(c) the failure of the employed person to apply for or accept payment.

(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.

(5) Any amount directed to be paid under this section may be recovered –

(a) if the authority is a Magistrate, by the authority as if it were a fine imposed by him as Magistrate; and

(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.”

11. 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 workder/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. Furthermore, in the circumstances, an adequate alternative forum, in the form of a Payment of Wages Authority, remains available to the 300 petitioners. In the circumstances, it would not be appropriate for this regular bench of the High Court to engage the Labour Directorate to undertake the task in hand on which the parties are in variance, which task is/was meant for the Payment of Wages Authority. As per the wisdom of the Legislature, all matters arising out of and are in relation to wages are to be decided by the Payment of Wages Authority under the Act of 2015 and none other.

12. Given the above, the petition is liable to be returned to the petitioner to be filed before the component authority, i.e., the Payment of Wages Authority. For the purpose of limitation, the time spent by the petitioners before this Court may be excluded under Section 14 of the Limitation Act, 1908. Muhammad Siddique, attorney of 76 petitioners and Mr. Faizan Ahmed Memon, appearing for 224 petitioners through attorney Muhammad Khalid Hussain, who is attorney of 224 petitioners (workers/workmen), have contended that over the past three years, considerable material has been placed in this petition in original to facilitate the determination of payment of wages allegedly paid to 300 petitioners. It is common ground between them that such material available with the High Court in original will be of assistance to the Payment of Wages Authority and needs preservation to save time and facilitate expeditious disposal of the grievance of 300 petitioners regarding payment of wages. Therefore, they have sought facilitation by this Court in return for this petition to be filed before the proper forum, i.e., the Payment of Wages Authority.

13. In view of foregoing, to facilitate the return of the petition from the High Court to the Payment of Wages Authority under the Act of 2015, the Additional Registrar of this Court is directed to facilitate the process of returning this petition to the Authority by preparing a duplicate of the entire proceedings in C.P.No.S-637 of 2022 on the one part, and on the other part, prepare photocopies of all original documents submitted to the Court evidencing payment and acknowledgment receipt issued by the 300 petitioners of which photocopies may be retained by the High Court and the original files may be handed over to the concerned officer of the Payment of Wages Authority to be placed before the Authority with directions to the Authority to issue notices to all the parties and consider this matter returned to it with the facilitation of this Court, as a fresh cause, and after issuing notices to all the 300 petitioners and respondents at the addresses given in the title of the petition to commence proceedings u/s 15 of the Payment of Wages Act, 2015 and after hearing all the parties issue directions in terms of Section 15 of the Act of 2015. It is clarified further that with the disposal of this petition, the rights and remedies of the 300 petitioners will be governed by the Payment of Wages Act, 2015, including recourse to all the machinery of law provided therein, i.e. all the rules and regulations framed thereunder, as well as the right of appeal. The Authority shall issue directions as per Section 15 of the Act of 2015, as the case may be, within a period of 4 months from the date of this final Order.

14. The petition stands disposed of in the above terms along with pending applications.

JUDGE

Tufail