

ORDER SHEET
LAHORE HIGH COURT
MULTAN BENCH, MULTAN
JUDICIAL DEPARTMENT

Punjab College Multan Vs. Commissioner Wages Court,
Multan, etc.

<i>Sr. No. of order/ proceedings</i>	<i>Date of order/ Proceeding</i>	<i>Order with signature of Judge, and that of Parties' counsel, where necessary</i>
12.12.2024		<p>Mr. Fayyaz Ahmad Khan Balouch, Advocate for applicant/petitioner.</p> <p>Malik Muhammad Bakhsh Khakhi, A.A.G.</p> <p>Mr. Kashif Nadeem Malik, Assistant Attorney General for Pakistan.</p>

C.M. No. 8247 of 2024

This is an application for placing certain documents on record. **Allowed** subject to all just and legal exceptions.

C.M. No. 8248 of 2024

2. Dispensation sought for is allowed subject to all just and legal exceptions.
 3. At the request of learned counsel for the petitioner, main case is taken up for hearing today.

Main Case

4. Through this petition, petitioner has called in question order dated 14.03.2024 passed by Commissioner Wages Court, Multan constituted under Payment of Wages Act, 1936 ('Act') who has dismissed the application filed by the petitioner for rejection of claim of respondent No.2 (Mushtaq Ahmad) filed under Section 15(3) of the Act by refusing to declare the same as barred by law.

5. The claim of the petitioner is that Punjab College, Multan is a trans-provincial institution, therefore, only National Industrial Relation Commission (N.I.R.C.) has jurisdiction to entertain matters relating to the same and authorities

constituted under laws of Punjab lack jurisdiction to proceed in claims against trans-provincial authorities. Seeks setting aside of the said order and rejection of claim of the respondent as barred by law on the ground that respondent No.1 lacks jurisdiction to entertain the same.

6. Perusal of the record shows that on 02.11.2019 respondent No.2 by claiming to be an employee of Punjab College, Multan filed claim for payment of his wages amounting to Rs.1,041,000/- along with ten times compensation for unlawfully deducting his wages which was controverted by the petitioner by filing reply on 15.09.2020 based on various factual and legal grounds *inter alia* including the ground that respondent No.1 lacks jurisdiction to try the same as the petitioner being an educational institution does not fall within the ambit of labour laws but in the said reply petitioner had not claimed that it was a trans-provincial institution. Subsequently, on 26.07.2023 petitioner filed an application for rejection of claim on the ground that petitioner is a trans-provincial institution and respondent No.2 has no jurisdiction to entertain the same as proceedings could only be initiated before the N.I.R.C. under Section 35 of Industrial Relations Act, 2012. Respondent No.2 contested the said application by claiming that petitioner was precluded for raising the said objection as not only issues had been framed but evidence had already been recorded and matter had been listed for final hearing when said application was filed. Respondent No.1 after hearing the arguments of respondent No.2 on 14.03.2024 through the impugned order dismissed the application filed by the petitioner for rejection of claim by observing

that the petitioner did not produce any document showing it to be a trans-provincial institution nor his counsel argued the matter despite various opportunities. The petitioner then challenged the said order through this constitutional petition and through order dated 18.11.2024 he was required by this Court to show documents as to how petitioner was a trans-provincial institution. Today through application additional documents have been filed which has been allowed. Through the said documents petitioner claims that Educational Excellence Limited is a registered company which owns and manages the petitioner-college and the said company is a trans-provincial corporation having various educational institutions in different provinces under its umbrella, hence, the status of Punjab College, Multan is also to be treated as trans-provincial institution.

7. As regards the objection taken by the respondent No.2 in his reply to the application for rejection of claim filed before respondent No.1 that at the final stage of proceedings when the matter is fixed for final arguments, plea of jurisdiction cannot be raised for the first time, it is observed that the same was without any substance for the reason that it is an established principle of law that question as to whether the Court, Tribunal or Authority was not properly constituted, hence, proceedings must be held to be *coram non judice* is a question relating purely to jurisdiction of Court which could be raised and decided at any stage if the dictates of justice so require. Reliance is placed upon judgment reported as (**1971 PLC 499**) “*Chittaranjan Cotton Mills Ltd. Vs. Staff Union*” and (**1998 SCMR 2029**) “*Syed Javaid Iqbal Bukhari Vs. Government of Pakistan and*

another." However, this is also subject to the condition that question of law can be determined summarily if for the said determination facts are either not disputed or if disputed are such that without determination of factual controversy raised in the matter question of jurisdiction can be decided, however, where some disputed facts are required to be determined before question of jurisdiction can be addressed and without such determination jurisdiction could not be ascertained then the Court may decline to determine the same in a summary manner.

8. There is also no cavil to the preposition that in terms of judgments reported as **(2018 SCMR 802)** "*Messrs Sui Southern Gas Company Ltd. and others Vs. Federation of Pakistan and others*" and **(2023 PLC 163)** "*President, The Bank of Punjab and 2 others Vs. Authority Under Payment of Wages Act, Vehari and another*" only the N.I.R.C. has jurisdiction to entertain claims of employees/workers relating to trans-provincial organizations and provincial laws are not applicable but the same is subject to the condition that matter in issue relates to a trans-provincial organization and not otherwise.

9. It is yet to be determined that whether and under what capacity the Educational Excellence Limited, Lahore holds the Punjab College, Multan under its umbrella for which neither ground was raised through original reply filed against the claim of respondent No.2 nor issues were got framed or evidence was led. Even otherwise, there is no document available on the record whereby the said question could be determined with certainty without requiring deeper appreciation into the internal affairs of the petitioner and Educational

Excellence Limited, Lahore which cannot be done in constitutional jurisdiction of this Court. The appointment letter of respondent No.2 shows that his services as Security Guard had been engaged by Punjab College of Science, Multan and not by Educational Excellence Limited. Even the show-cause notice was issued to the petitioner on 28.06.2019 and disciplinary proceedings were conducted by Punjab College of Information Technology, Rasheedabad Chowk, Multan, therefore, it is yet to be established that the petitioner was an employee of Educational Excellence Limited, Lahore for treating him to be an employee of a trans-provincial organization which being a disputed fact cannot be summarily decided through constitutional jurisdiction of this Court. Consequently, presently there is no material substance available to hold the petitioner-institution as a trans-provincial organization and declare that respondent No.1 was not vested with jurisdiction to entertain the claim filed by the respondent No.2, hence, the impugned order does not suffer from any jurisdictional defect of illegality for this Court to warrant interfere in the same which is upheld. However, the afore-referred observation is purely tentative in nature and would not be a hindrance in the way of any court of authority to pass appropriate orders in proceedings pending before it. This constitutional petition being devoid of merit stands **dismissed**.

**(Muzamil Akhtar Shabir)
Judge**

*Muzamil Mohsin**

Approved for reporting.