

order/judgment dated 27.03.2018. Hence the instant Revision petition.

3. Arguments heard and record perused.

4. The record transpires that during the pendency of this Labour Revision the petitioner namely Muhammad Haroon died, and as such, his legal heirs were brought on the record through C.M No. 37-P/2022. The CM is accordingly allowed, the names of the legal heirs be inserted in the memo of main petition. Besides, the claim of the deceased petitioner was with respect to his terminal dues, as such, in the interest of justice instead of abating this petition it is heard on merit.

5. The Wages Court earlier while entertaining the claim petition of the petitioner pertaining to his terminal benefits/dues has vide order dated 18.07.2017 allowed the petition and held the said petitioner entitled only to Gratuity, total amounting to Rs. 1,65000/- only. The said order was, however, reversed by the learned Labour Court vide the impugned order dated 27.03.2018 on the ground that the deceased petitioner failed to prove himself to be a workman in accordance with law.

6. The jurisdiction of the Wages Court within the meaning of Khyber Pakhtunkhwa Payment of

Wages Act, 2013 is very exhaustive and deals with delayed or deducted wages. The term "wages" has specifically been defined in the ibid Act.

7. It is pertinent to mention here that the jurisdiction of the Wages Court has not been restricted to the workman only rather its application has been extended to "persons" employed in factories or industrial and commercial establishments and thus the word "person" used in the "Act" also include a non-workman. However, in the case in hand, the claim of the petitioner pertains to Gratuity, Leave Encashment and Bonus and such rights are secured and guaranteed under the Khyber Pakhtunkhwa Industrial and Commercial Employment (Standing Orders) Act, 2013 (hereinafter to be referred as "Standing Orders Act 2013"). The application of the Standing Order Act 2013 has, however, been restricted to the workers employed, directly or through any other person or in any industrial or commercial establishments. Thus, in order to avail the benefits provided under the Standing Orders Act 2013, such, person must also prove himself to be a worker in accordance with Section-2, Sub Section (n) of the Standing Orders Act 2013, which provides the definition of "worker" as follows: -

“worker” means any person employed in any industrial establishment or commercial establishment or a mine to do any skilled or unskilled, manual or clerical work for hire or reward and includes permanent, probationer, badlis, temporary, apprentices and contract workers”.

8. It thus follows that for other benefits i.e. arrears of salaries etc. a non-workman can also approach the Wages Court, however, to avail the benefits flowing from the Standing Order Act, 2013 such claimant/person must prove himself to be a worker as provided in the Act *ibid*.

9. Now coming to the case of the deceased petitioner it appears that initially while submitting his claim petition he never alleged himself to be a workman nor referred to any of his manual or clerical duties, similarly, when he appeared as PW-1, he admitted in cross-examination to having been posted as Finance Manager. It was in view of such scanty evidence of the petitioner that the Wages Court further allowed him opportunity to submit his additional evidence on his status as a workman, thereto he miserably failed to prove himself to be a worker. The record placed on file clearly suggests that he was

heading the accounts Section and his name appeared on the top of the list of employees provided.

10. It is by now well settled that where a person claiming certain rights flowing from the Standing Order Act 2013, he has to prove himself to be a workman within the provision of ibid Act, but the evidence produced by the petitioner is too scanty and he failed to dispel the impression of his high sounding post of Finance Manager to be a non-workman. It is also by now well settled that the initial burden to prove a person to be a workman is on the person, who alleges himself to be a workman and such burden will be shifted only to the respondents when once such person proved himself to be a workman.

11. In the instant case, despite providing the petitioner sufficient opportunity by the Wages Court, deceased petitioner has miserably failed to demonstrate that he was a workman within the meaning of law. In this view of the matter, he failed to prove himself to be a workman within the meaning of Standing Order Act 2013, as such, it has no application to the case of the petitioner.

12. In view of the above, I find that the learned Labour Court has rightly appreciated the question of fact as well as of law and has rendered a proper and



elaborate judgment, which requires no interference in the revisional jurisdiction of this Court.

13. This petition being bereft of any merit is accordingly dismissed.

Announced
Dt:16.01.2023



JUDGE

(SB) Hon'ble Mr. Justice Ijaz Anwar

Amir Shehzad