**JUDGMENT SHEET**
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**
**JUDICIAL DEPARTMENT**

**W.P. No. 2635 of 2020**

**Chief Editor Daily Khabrain**

Versus

**Syed Maqsood Ali Shah & another.**

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| Date of Hearing | : | 29.06.2022. |
| Petitioner by | : | Ms. Shaista Altaf, Advocate |
| Respondents by | : | Syed Mustafa Ishtiaq Bukhari, Advocate. |

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**ARBAB MUHAMMAD TAHIR, J.** The instant writ-petition emanates from order dated 20.08.2020, passed by the learned Chairman, Implementation Tribunal for Newspaper Employees (*respondent No. 2*) whereby, objection petition filed by the petitioner (*Daily Khabrain*) was dismissed by observing as under:-

> *"4. The petitioner has filed the execution petition before the Tribunal for payment of decretal amount from the respondent Daily Khabrain, Lahore A CPLA has also been filed before the Hon'ble Supreme Court of Pakistan by the respondent but no stay order till date has been produced before the Tribunal. Therefore, the Tribunal has already issued notice to DC/District Collector, Lahore to recover the amount through Land Revenue Act, 1968. At this belated stage when the execution of decretal amount is underway the objection petition wherein objections of the employment of the petitioner has been raised has no force at all. The respondent establishment should raise these objections during the trial proceedings. Moreover the executing Court cannot go beyond the main judgment. Therefore, this objection petition is dismissed."*

2. The dispute primarily relates to non-payment of salaries to the respondent No.1 (*Syed Maqsood Ali Shah*) for the period July, August, 2010 and May to August 2011, at the rate of Rs. 13,000/- per month.

3. For the recovery of above stated salaries, the respondent No.1 filed application (**Case No. IT/P/963/12/C**) before the learned respondent No.1, which was accepted vide Judgment dated 30.12.2013 **with the direction to the petitioner to make payment of Rs. 760,235/- to the respondent No.1 in terms of wages, salary and other benefits under the Wage Board Award within a period of one month and submit compliance report on 30.01.2014**.

4. Against the above stated judgment, petitioner filed Writ Petition No. 512 of 2015 before this Court which was dismissed vide Judgment dated 07.03.2016. The petitioner then assailed the Judgment dated 07.03.2016 in Appeal (**ICA No. 160 of 2016**) which was dismissed through consolidated Judgment dated 19.09.2018 passed in **ICAs 152, 156, 157, 158, 159, 160, 162, 191 of 2016 and W.P No.2 761 of 2016**. The petitioner against the decision in ICAs filed **CPLA No. 4739 to 4741 of 2018** against the consolidated Judgment dated 19.09.2018 which was dismissed by the Hon'ble apex Court vide Judgment dated 27.02.2019.

5. After having favourable orders of the learned respondent No. 2, this Court and in appeal, the respondent No.1 filed Execution Petition before the learned respondent No. 2 while at that time CPLA, referred above, filed by the petitioner was pending before the Hon'ble apex Court. In execution petition, the petitioner filed objection petition which was dismissed by the learned respondent No.2 vide order dated 20.12.2013 also being impugned through the instant writ petition.

6. The learned counsel for the petitioner contended that the order-in-original was patently illegal as the respondent No.1 had never been employee of *print-media* rather belonged to *electronic-media* therefore, as the learned respondent No. 2 had no jurisdiction in the matter, the subsequent proceedings in the form of execution petition, are not maintainable; that the respondent No.1 did not implead proper and necessary parties; that the

proceedings before the learned respondent No. 2 are to be regulated under the Code of Civil Procedure and that in the first round of litigation, the respondent No.1 was held entitled to recover salaries for the period of 5 months but the learned respondent No. 2 ordered the petitioner to pay Rs. 760235/- without any just calculation or clarification which are liable to be rectified. Learned counsel placed reliance upon case law reported as **2014 SCMR 322, 2003 YLR 428 and 2020 CLC 47**.

7. On the other hand, learned counsel for respondent No.1 repelled the above submissions by arguing that the respondent No.1 is waiting for his legitimate right of salaries since 2010 and 2011 while the petitioner had made every attempt to frustrate the orders and directions of the Court and that the matter had already been finally settled by the Hon'ble apex Court while the grounds being pressed did not fall within the ambit of jurisdiction of the learned Executing Court as the decree had already attained finality, therefore, petition is liable to be dismissed.

8. Heard, record perused.

9. The objection of the petitioner on the proceedings in Execution Petition is twofold, one with regard to jurisdiction of the learned respondent No.2 and the other that the amount determined that is to be recovered, had been without calculation as the respondent No.1 had only claimed salaries of 5 months at the rate of Rs. 13,000/- per month.

10. In support of the first limb of the objection, learned counsel asserted that in the proceedings of execution of a decree, the Executing Court while exercising jurisdiction in terms of Section 47 CPC can question the executability of a decree, if it is satisfied that the decree is a nullity in the eyes of law or it has been passed by a court having no jurisdiction or the non-execution of a decree would not infringe the legal rights of the decree-holder or the decree had been passed in violation of any provision of law.

11. It is significant to note that on the point of jurisdiction in the instant matter, the Hon'ble apex Court has finally decided the issue in CP No.4739 of 2018 in terms that "***We have read through the pleadings of the petitioner which do not challenge the jurisdiction of the learned Tribunal. Equally the impugned order of the learned ITE dated 20.12.2013 does not deals with the such objection. The writ petition filed by the petitioner does allege that the respondent-employee was working for Interact Private Limited which operates Channel-V. The writ petition was filed on the other hand by the "daily Khabrain" without impleading either its sister Company or the Channel. We consider that the objection, if any, should have been raised before the learned ITNE or the learned High Court. That has not been done. Subsequent efforts made by an associated entity of the employer are in vain. This petition is dismissed****."*

12. It is clear from the above order that the objection with regard to the jurisdiction of learned respondent No.2 has finally been repelled in terms noted above, therefore, it cannot be re-agitated, particularly when the gracious observations of the Hon'ble apex Court in the instant matter, still holds the field and retain binding authority in terms of Article 189 of the Constitution. Thus, the petitioner is precluded from agitating the objection on the jurisdiction of learned respondent No. 2 again in the Execution Petition.

13. Adverting to the second ground that the calculation of the amount, to be recovered from the petitioner, had not been done in accordance with the prayer of the respondent No.1 who claimed salaries for the period of 5 months at the rate of Rs.13,000/- per month.

14. The perusal of order-in-original dated 20.12.2013 clearly indicates that the respondent No.1 was held entitled to recover Rs. 760,235/- as his **wages salary and other benefits**

**from the petitioner under the Wage Board Award**. The claim that was decreed was not limited to the extent of salary rather it included wages besides other benefits. It is necessary to mention that it is nowhere the stance of the petitioner either in writ petition, in appeal or before the Hon'ble apex court in CPLA therefore, cannot agitate the same in execution petition where the authority of the learned respondent No. 2 is restricted to get execute the decree in letter and spirit and not more or less the same. The objection to this effect is also repelled.

15. It is point of worth consideration that the respondent No.2 is waiting for his legitimate right of salaries **for more than a decade** and had been subjected to series of litigation with fresh round initiated in the form of objection petition, dismissed vide impugned order therefore, this aspects warrants imposition of suitable costs at the petitioner. Consequently, the instant writ petition is **dismissed** with costs of Rs. 50,000/- to be recovered from the petitioner together with the decretal amount in due course. The matter as noted above pertains to the year 2013 therefore, learned respondent No. 2 shall make every endeavour to culminate the execution proceedings within period of two months from the receipt of this judgment.

**(ARBAB MUHAMMAD TAHIR)**
**JUDGE**

Announced in an open Court on _____08.2022.

**JUDGE**

**//Kamran//**