JUDGMENT SHEET

ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

1. Writ Petition No.449 of 2025

M/s Global Pharmaceutical
Versus
Assistant Commissioner Rural and others

2. Writ Petition No.450 of 2025

M/s Global Pharmaceutical
Versus
Assistant Commissioner Rural and others

3. Writ Petition No.451 of 2025

M/s Global Pharmaceutical
Versus
Assistant Commissioner Rural and others

Petitioner by:	M/s Riasat Ali Azad, Shahid Bashir, Zafar Hussain, Muzzamil Hussain Shad and Muhammad Umar Mukhtiar Gujjar, Advocates. (in all petitions)
Respondents No. 1 & 2 by:	Mr. Muhammad Asif Javed and Mr. Yasir Mehmood, State Counsels. Iqbal Yousaf, AD (Labour). (in all petitions)
Respondent No.3 by:	Mr. Muhammad Tahir Jalal Wattoo, Advocate in W.Ps No.449 & 451/2025. Respondent No.3 in person in W.P No.450/2025.
Date of Hearing:	**03.06.2025.**

INAAM AMEEN MINHAS, J:- This single judgment shall decide the above titled writ petitions involving similar questions of law and facts.

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2. In all the writ petitions, petitioner (M/s Global Pharmaceutical Pvt. Ltd.) has assailed the orders dated 10.12.2024 & 30.12.2024 **("Impugned Orders")**, passed by respondent No.1/Authority under Payment of Wages Act, ICT, Islamabad **("the Authority")**, whereby the complaints filed by respondents No.3 under the Payment of Wages Act, 1936 **("Act, 1936")** were allowed.

3. The facts, in brief, which necessitated filing of the titled writ petitions are that the petitioner is a registered company with Securities and Exchange Commission of Pakistan dealing with the business of manufacturing of medicines. Respondent No.3 Arghman Arshad Kiani (in W.P No.449/2025) was initially employed with the petitioner as an Admin Officer, who was subsequently promoted to Assistant Manager. On 18.12.2023 he absented himself from the duty without any reason and intimation to his high-ups, which finally resulted into his termination from the job. Respondent No.3 Rahat Ullah (in W.P No.450/2025) was employed with the petitioner as a Senior Sales Promotion Officer. On 03.06.2024, he was transferred as per routine from Islamabad to Jaccobabad but he instead of joining new workplace absented himself from the duty without any reason and intimation to his high-ups, which resulted into his termination from the job. Respondent No.3 Nisar Ahmed Khan (in W.P No.451/2025) was initially employed with the petitioner as a Data Entry Operator, who was subsequently promoted to Admin Officer. On 29.12.2023 he was transferred as per routine but he instead of joining his new workplace, absented himself from the duty without any reason and intimation to his high-ups, which finally resulted into his termination from the job. Respondents No.3 filed their complaints under the Act, 1936 for non-payment of their salaries before the Authority. The petitioner appeared before the Authority and filed applications for rejection of the complaints as respondents No.3 do not fall within the definition of "workman" and the Authority lacks jurisdiction to entertain the matter, however, the said applications were dismissed. Thereafter, the petitioner filed replies to the complaints. The Authority framed the issues, recorded the

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evidence and allowed the complaints filed by respondents No.3 through the Impugned Orders directing the petitioner to pay: an amount of Rs.204,000/- on account of outstanding dues along with three times compensation to respondent No.3 in W.P No.449/2025: an amount of Rs.45,000/- on account of outstanding dues along with two times compensation to respondent No.3 in W.P No.450/2025 and an amount of Rs.100,000/- on account of outstanding dues along with three times compensation to respondent No.3 in WP No.451/2025.

4. The learned counsel for the petitioner contended that the Impugned Orders are against the law; that the Impugned Orders are non-speaking orders as the same lack reasoning; that respondents No. 3 held the posts of Assistant Manager, Senior Sales Promotion Officer and Admin Officer as such do not fall within the definition of "workman" under the law and despite this, the Authority wrongly assumed the jurisdiction, ignored material facts and evidence including duly maintained salary records submitted by the petitioner and instead relied upon vague and inflated claims by respondents No. 3 and that the Authority while passing the Impugned Orders failed to appreciate the fact that the relationship between the petitioner and respondents No.3 is of master-servant and competent forum for redressal of grievance of respondents No.3, if any, was Civil Court. In support of his arguments, the learned counsel relied upon *Getz Pharma (Pvt.) Limited, Karachi vs. Muhammad Nafees and others*, (2021 SCMR 1785), *Habibi Bank Limited vs. Gulzar Khan*, (2019 SCMR 946), *Messrs Halcrow-ULG, Engineering Consultants, Pat Feeder Canal Rehablitation and Improvement Project, WAPDA and others vs. The Authority under the Payment of Wages Act, Quetta and others*, (1999 PLC 362) & *Development in Literacy vs. Assistant Commissioner (City)/Authority under Payment of Wages Act, ICT, Islamabad and another*, (2020 PLC 164).

5. On the other hand, the learned counsel for respondents No.3 in W.Ps No.449 & 451 of 2025 controverted the arguments of the learned

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counsel for the petitioner and contended that the Impugned Orders have been passed in accordance with law.

6. I have heard the arguments of the learned counsel for the parties and perused the record.

7. It is clear and undisputed fact that respondents No. 3 were working as Assistant Manager, Senior Sales Promotion Officer and Admin Officer in the petitioner company. These positions are acknowledged by respondents No. 3 themselves in their complaints, leaving no room for doubt about their official designation. Section 1(4) of the Act, 1936 clearly states where and to whom the Act, 1936 applies. It specifies that the Act, 1936 governs the payment of wages to individuals employed in certain types of establishments, such as factories, railways, or those working under subcontractors. This provision sets the foundational scope of the law. Furthermore, Section 2(g) of the Act, 1936 provides additional clarity by describing the type of work such individuals must perform. It explains that the Act covers persons engaged directly or indirectly in skilled or unskilled, manual or clerical labour. This means that for someone to be protected under the Act, 1936, he must not only be employed in one of the specified establishments but must also be doing work that falls within the categories of manual or clerical labour, whether skilled or unskilled. These definitions are important because these ensure that only those who meet both criteria, place of employment and nature of work are entitled to claim benefits or protections under the Act, 1936. The positions on which respondents No.3 were working at the time to their termination as Assistant Manager, Senior Sales Promotion Officer and Admin Officer typically entail a higher degree of autonomy, decision-making authority and strategic duties, rather than manual or subordinate work. Therefore, respondents No. 3 do not fall within the scope of Section 2(g) as such the Act, 1936 do not apply to them. Hence, any claim or proceedings initiated against them under the Act, 1936 lack legal basis. Sections 1(4) and 2(g) of the Act, 1936 are reproduced here under for more clarity:-

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> *"1(4) It applies to the payment of wages to persons employed in any factory, industrial establishment or commercial establishment and to persons employed otherwise than in a factory upon any railway by a railway ad-ministration or, either directly or through a sub-contractor, by a person fulfilling a contract with a railway administration.*
>
> *2(g) establishment of a contractor who, directly or indirectly, employs persons to do any skilled or unskilled, manual or clerical labour for hire or reward in connection with the execution of a contract to which he is a party, and includes the premises in which, or the site at which, any process connected with such execution is carried on."*

8. Although the Wages Act, 1936 does not explicitly define the term "workman," Section 2(g) of the Act, 1936 refers to "a person employed in any industrial establishment" and further explains that such a person may be employed either directly or indirectly to perform skilled or unskilled, manual or clerical work for hire or reward but the definition of "workman" provided under Section 2(xxxiii) of the Industrial Relations Act, 2012 is more precise outlining the specific nature of duties and roles that qualify a person as a "workman", which is reproduced as under:-

> *"worker" and "workman" means person not falling within the definition of employer who is employed (including employment as a supervisor or as an apprentice) in an establishment or industry for hire or reward either directly or through a contractor whether the terms or employment are express or implied, and, for the purpose of any proceedings under this Act in relation to an industrial dispute includes a person who has been dismissed, discharged, retrenched, laid off or otherwise removed from employment in connection with or as a consequence of that dispute or whose dismissal, discharge, retrenchment, layoff, or removal has led to that dispute <u>but does not include any person who is employed mainly in managerial or administrative capacity</u>."*

9. When Section 2(g) of the Act, 1936 and Section 2(xxxiii) of the Industrial Relations Act, 2012 are read together, it becomes apparent that the phrase "person employed" under the Act, 1936 must be

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interpreted in light of the definition of "workman" under the Industrial Relations Act, 2012 meaning thereby only those who engage in manual, technical, or clerical labour as defined by law can claim protection or relief under the Act, 1936. Therefore, after a detailed analysis of respondents No.3's job description and responsibilities, it is clear that respondents No.3 do not perform the kind of duties that would bring them within the definition of "workmen" under either statute. As a result, respondents No.3 do not qualify for the legal protections or remedies available under the Act, 1936. As a result, the Authority under Section 15 of the Act, 1936, did not have the jurisdiction to hear or decide the complaints of respondents No.3. Therefore, the Impugned Orders have been passed without jurisdiction and not sustainable in the eyes of the law. Reliance is placed upon ***Getz Pharma (Pvt.) Limited, Karachi vs. Muhammad Nafees and others***, **(2021 SCMR 1785)**, wherein it has been held that:-

> *"The work of salesman is in a wholly different category from manual work or clerical work, and I feel no hesitation in agreeing with the decision of the Tribunal upon this point, namely, that salesman do not fall within the definition of "workmen".*

10. Similarly, the apex Court in ***Habib Bank Limited vs. Gulzar Khan and others***, **(2019 SCMR 946)** held that:-

> *"The very evidence which the respondent recorded before the Labour Court, as read by us, did not refer to any function of the respondent that could be considered to be mainly of manual or clerical nature rather the functions which he performed and also stated in his evidence were of OG-II and Manager of the branch and those were mainly of managerial and supervisory nature and under no circumstances could they be considered to be that of a 'workman' more particularly, when the respondent in his evidence has stated that he was issuing drafts and Cheques, opening of accounts, closing of cash with signature of second officer, depositing of cash in strong room and locking the same are the those which need independent application of mind and making of decisions for that the defats and Cheques are not issued in routine when they are also to be signed. Similarly, opening of bank accounts, depositing of*

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cash in the strong room and locking the same are the functions which are mainly of the Manager and not that of a 'workman'.

11. In light of the foregoing discussion, the titled writ petitions are **allowed**. The Impugned Orders are **set aside**. The complaints filed by respondents No.3 stands **dismissed.**

(INAAM AMEEN MINHAS)
JUDGE

Announced in open Court on 27.06.2025

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APPROVED FOR REPORTING

R.Anjam

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