

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

MR. JUSTICE QAZI FAEZ ISA  
MR. JUSTICE YAHYA AFRIDI

**Civil Petition Nos. 5620, 5800, 5863, 5970 & 5959 of 2021  
and C.M.A. Nos. 12213 & 12214 of 2021**

*The Federation of Pakistan Chamber of Commerce, Karachi,  
etc. (in C.P. 5620 of 2021)*

*Employers Federation of Pakistan through its Secretary,  
Karachi, etc. (in C.P. 5800 of 2021)*

*Phoenix Security Service (Pvt), Ltd. Karachi, etc.  
(in C.P. 5863 & 5970 of 2021)*

*Aziz Tabba Foundation, Karachi (in C.P. 5959 of 2021)*

*Gray Machenzie Restaurants International Limited, Karachi  
(in CMA 12213 of 2021)*

*S.R.G. Service (Pvt) Limited Karachi and others  
(in CMA 12214 of 2021)  
...Petitioners*

*versus*

*Province of Sindh through Secretary Labour and Human  
Rights Resources, etc. (in C.P. 5620 & 5800 of 2021)*

*Employers Federation of Pakistan, Karachi, etc.  
(in C.P. 5863 of 2021)*

*Province of Sindh through Secretary Labour & Human  
Resource Department, etc. (in C.P. 5970 of 2021)*

*Government of Sindh through its Secretary, Labour and  
Human Resource Department etc. (in C.P. 5959 of 2021)*

*Province of Sindh through Secretary Labour and Human  
Resources Department, etc. (in CMA 12213 & 12214 of 2021)  
...Respondents*

For the petitioners:

Mr. Abid S. Zuberi, ASC  
Mr. Tariq Aziz Khan, AOR  
Assisted by:  
Ayan M. Memon, ASC  
Mr. Hasaan Shah & Ms. Amna  
Khalil, Advocate  
(in C.P. 5620 of 2021)  
Mr. Zahoor-ul-Hassan Minhas, ASC  
Mr. Akhtar Ali, AOR

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Senior Court Associate  
Supreme Court of Pakistan  
Islamabad

(in C.P. 5800 of 2021 & CMA 12213/21)  
Mr. Shahid Anwar Bajwa, ASC  
(in C.P. 5863 and 5970 of 2021)  
Mr. Khalid Mehmood Siddiqui, ASC  
(in C.P. 5959 of 2021)  
Ch. Akhtar Ali, AOR  
(in CMA. 12213 of 2021)

For the respondents:

N.R.

Date of hearing:

07.12.2021

**ORDER**

Civil petitions for leave to appeal bearing Nos. 5620, 5800 and 5863 of 2021 assail the judgment dated 15 October 2021 of the learned Judges of the High Court which was delivered in petitions which had challenged an unpublished notification issued by the Government of Sindh dated 19 July 2021 (respectively 'the Notification' and 'the Government'). It is contended that the Notification did not comply with the Sindh Minimum Wages Act, 2015 ('Act'). Whereas civil petitions for leave to appeal bearing Nos. 5970 and 5863 of 2021 are filed by the petitioners who had asserted that they are trans-provincial organisations and as such come under the Federal legislative regime with regard to the fixation of minimum wages and that the Act was not applicable to them but complain that the impugned order dated 11 November 2021 did not consider their contention. CMA Nos. 12213 and 12214 of 2021 have been filed by parties who did not challenge the Notification but seek to be arrayed as parties herein because they state that the impugned judgment dated 15 October 2021 is also adversely affecting them.

2. The learned counsel submit that under section 3 of the Act a *Minimum Wages Board* ('Board') is established, and under its sections 4 and 5 the method and mechanism for the fixation of

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minimum rates of wages of workers is prescribed. The Board proposes the minimum wage to be fixed and submits its recommendation to the Government under section 6 of the Act. The Government may then issue a notification in the official Gazette under section 6 (1)(a) of the Act if it agrees with the recommendation of the Board but if it does not agree with the recommendation refer the matter back to the Board for reconsideration under section 6(1)(b) of the Act. The Board had recommended a minimum wage of nineteen thousand rupees per month, increasing it from the previous minimum wage of seventeen thousand and five hundred rupees. However, the Provincial Cabinet enhanced the minimum wage to twenty-five thousand rupees per month but without issuing a Gazette notification as envisaged by section 6 of the Act. Instead the Gazette notification was issued on 12 November 2021, pursuant to the impugned judgment, which the High Court could not direct, it is submitted. Reference is also made to Section 6(2) of the Act and it is contended that while the Government is empowered to refer the matter back to the Board with its comments the Government does not have the power to itself determine the minimum wage.

3. The learned Mr. Shahid Anwar Bajwa, who represents the petitioners in Civil Petition Nos. 5970 and 5863 of 2021, adopts the above submissions if it is determined that the petitioners are provincial organisations. He submits that the petitions filed in the High Court had been separated from the other petitions as the petitioners had asserted that the petitioners were trans-provincial organisations and were governed by Federal legislation. However, their petitions in the High Court were disposed of *vide* order dated

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11 November 2021 which placed complete reliance upon the judgment dated 15 October 2021, and without attending to the trans-provincial organisation submission and of the exclusive applicability of the Federal law as had been urged.

4. The aforesaid points, amongst others, require consideration. In the first instant issue notice to the respondents. Notices be also issued to the learned Advocate-General, Sindh and to the learned Attorney-General for Pakistan in terms of Order XXVII-A of the Code of Civil Procedure, 1908 since interpretation of provincial and federal statutes and the Constitution of the Islamic Republic of Pakistan (1973) is, or may be, required. To come up in January 2022 before a three member bench, since the impugned judgment and order are by two learned Judges of the High Court. Copy of this Order to accompany the notices.

CMA Nos. 11355, 11923, 12, 71, 12224 and 12212 of 2021

5. It is submitted that the Board had enhanced the minimum wage to nineteen thousand rupees, even though a Gazette notification in this regard was not issued, while the minimum wage under the Federal law was increased to twenty thousand rupees. Those petitioners/applicants who are Sindh based organisations undertake that they shall make payment of nineteen thousand rupees per month to their employees with effect from 1 July 2021 and those who contend that they are trans-provincial organisations undertake that they shall pay twenty thousand rupees per month to their employees from the applicable date and shall continue to do so till the decision of the court. They further submit that if this

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Court upholds the impugned judgment and order the petitioners/applicants will pay the balance accrued amount to the workers. Subject to complying with the aforesaid undertaking the impugned judgment/order and the Notification is suspended till the next date of hearing.



Sd/-J

Sd/-J

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