

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Case:- WP(C) No.2287/2022

Mohd Iqbal Khan

..... Petitioner(s)

Through: Ms. Yashodhan Thakur, Advocate

Vs

Assistant Labour Commissioner District Doda & Anr.

.....Respondent(s)

Through: Mr. M A Bhat, Advocate
Ms. Nazia Fazal, Advocate vice
Ms. Monika Kohli, Sr. AAG
Mr. Vivek Mattoo, Advocate vice
Mr. Vishal Bharti, Dy. AG

Coram: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER
(15.10.2025)

1. The petitioner, through the medium of present petition, has challenged order dated 09.06.2022, passed by respondent No.1 whereby the application of the petitioner for setting aside ex-parte award passed by respondent No.1 on 23.02.2022 has been dismissed.
2. Heard and considered.
3. It appears the respondent No.2 filed an application under Section 15 of Payment of Wages Act for recovery of an amount of Rs.6,20,970/- against the Executive Engineer,

JKPCC, Kishtwar and the petitioner herein. In the said application, the petitioner herein, who was impleaded as respondent No.2 in the application filed by respondent No.2 herein, was proceeded *ex-parte* in terms of order dated 10.02.2014. Ex parte proceedings were also initiated against the Executive Engineer, JKPCC, vide the same order. However, later on, in terms of order dated 20.09.2014, the application filed by the Executive Engineer, PCC, the ex parte proceedings against the said respondent were set aside.

4. After the applicant (respondent No.2) led evidence in the case, award dated 23.02.2022, came to be passed by respondent No.1 herein, by virtue of which, the petitioner herein was ordered to deposit an amount of Rs.6,20,970/- as delayed wages along with compensation of Rs. 4300/-, total Rs.6,63,970/- for its payment to respondent No.2 herein.
5. It seems that the petitioner herein filed an application for setting aside ex parte order dated 23.02.2022 before respondent No.1. In the application, besides contesting the claim of respondent No.2 on merits, it was pleaded that summons were not duly served upon the petitioner. It was further pleaded that in the claim petition, the address of the petitioner had been wrongly mentioned as R/o Doda,

Tehsil Doda, whereas the correct address is Khan Plaza, opposite Dak Bungalow, Doda. On these grounds, it was urged that the petitioner was not aware about the pendency of the proceedings.

6. The aforesaid application came to be dismissed by respondent No.1 by virtue of impugned order dated 06.02.2022. In the said order, it was observed by respondent No.1 that the petitioner herein was duly served with notice and even during the trial of the application filed by respondent No.2 before respondent No.1, notice was served upon the petitioner through Registered Post for examining him as a witness of respondent-Executive Engineer, JKPCC but still then he failed to put his appearance before respondent No.1.
7. The petitioner has challenged the impugned order on the grounds that he was never served with the summons issued by respondent No.1 and that the address given in the petition filed by respondent No.2 before respondent No.1, is not correct.
8. Heard learned counsel for the parties and perused the record.
9. Rule 8 of the Payment of Wages Procedure Rules provides the procedure to be adopted by the Authority under the Payment of Wages Act upon the appearance of the parties.

Sub-Rule (2) of Rule (8) provides that if an employer or his representative fails to appear on the specified date, the authority may proceed to hear and determine the application ex parte. Proviso (2) sub-Rule (3) lays down that an order passed under sub-Rule (2) may be set aside and the application re-heard on good cause being shown within one month of the date of said order.

10. From the above, it is clear that if an employer is able to show a good cause for his non-appearance before the Authority, the ex-parte order that may have been passed by the Authority in terms of sub-rule (2) of Rule (8) of the Rules, the same can be recalled and the application can be re-heard.
11. Coming to the facts of the present case, the record shows that on 23.07.2013, respondent No.2 filed the application before the Authority and notice was issued to the petitioner as well as to the other respondents. On 16.09.2013, representative of the petitioner, Mohd. Shafi, (Supervisor) appeared before the Authority below. The signature of Mohd. Shafi appears on the margin of the order sheet. The matter was adjourned to 24.10.2013, on which date the presence of one more representative of the petitioner, Shri Deepak Sharma was recorded in the order

sheet. Thereafter, the petitioner stopped appearing before the Authority below.

12. The record further reveals that the signatures of petitioner-Mohd Iqbal Khan are appearing on the reverse of the summons issued by the Authority for 16.09.2013. The signatures appearing on the said summons upon comparison with the signatures of the petitioner appearing on the writ petition bear similarities. From this, it can be inferred that the signatures appearing on the reverse of the summons issued by the Authority for 16.09.2013 pertain to the petitioner. Besides this, during trial of the case, summons were issued to the petitioner through registered post for his appearance as a witness. A copy of the postal receipt is available in the record of the Authority below. All these documents indicate that the petitioner was duly served with the summons and he was in knowledge of the proceedings pending before the Authority below.

13. Learned counsel for the petitioner has contended that the signatures of the petitioner on the summons are forged. She has also submitted that even the signatures of representative, Mohd. Shafi (Supervisor) appearing on the order sheet are not genuine. I am afraid the contention of the learned counsel cannot be accepted. There is a

presumption of correctness attached to the official acts and the facts recorded in the official records. Therefore, unless there is cogent material on record to show that the signatures appearing on the summons or those appearing on the order sheet of the Authority below are not genuine, this Court would not be in a position to accept the contention of learned counsel for the petitioner.

14. Learned counsel for the petitioner has relied upon the judgment of Allahabad High Court in case of '**R. R. Engineering Company Vs. The Competent Authority and others, 1974 Lab IC 1285**', to contend that no opportunity was given to the petitioner to establish that service of notice was not effected upon him by the Authority below.
15. In the above context, it is to be noted that the record available before the Authority below clearly establishes that the summons upon the petitioner had been served, which is clear from the report of the process server. The signature of the representative of the petitioner appearing on the margin of the order sheet, is also available in the record. It is not the case of the petitioner that Mohd. Shafi (supervisor) was not his representative.
16. Under the circumstances, there was hardly anything before the Authority below to rebut the official record, as

such, the contention of the petitioner could not have been accepted. The facts before the Allahabad High Court in the judgment cited above, were entirely different as compared to the facts of the present case. Hence, the said judgment is not applicable to the facts of the present case.

17. For the foregoing reasons, I do not find any ground to interfere in the impugned order passed by respondent No.1. The writ petition lacks merit and is dismissed, leaving it open to the petitioner to challenge the award by way of appropriate proceedings on its merits.

JAMMU
15.10.2025
Sneha

