

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

**WP(C) 2673/2025
CM(7076/2025)**

**Union Territory of J&K through Executive
Engineer TLMD VII, JKPTCL, Bemina, Sgr.**

...Petitioner(s)

Through: Mr. Faheem Nisar Shah, GA.

Vs.

- 1. Bilal Ahmad Kuchay**
S/o Ab Majeed Kuchay Faheem Nussal
- 2. Bilal Ahmad Kuchay**
Son of Habib ullah Kuchay
- 3. Showkat Ahmad Kuchay**
S/o Gh. Jeelani Kuchay.
- 4. Asif Ahmad Kuchay S/o Ab Hameed**
Kuchay
- 5. Aadil Rashid Kuchay S/o Ab Rashid**
Kuchay
- 6. Abid Manzoor S/o Mohd Yousuf Dar**
- 7. Mohammad Yousuf Kuchay S/o**
Mohammad Abdullah Kuchay
- 8. Firdose Ahmad Kuchay S/o Habib Ullah**
Kuchay
All residents of Barsoo Pulwama

...Respondent(s)

- 9. Director G.E.T Power Pvt Ltd. Head. Office**
Tecpro Towers Plot No 11-A17, 5th Cross
Road SIPCOT Park Siruseri, 603103
Chennai.
- 10. General Manager, G.E.T Power Pvt. Ltd.**
Head. Office Tecpro Towers Plot No 11-
A17, 5th Cross Road SIPCOT Park Siruseri,
603103 Chennai.
- 11. Project Manager G.E.T Power Pvt. Ltd.**
Sanat Nagar Srinagar.

12.S. Kumaran S/o Pulakhan R/o Balaji
Maidu STR, Mushlem, STR Ward No. 5
Verojipali Marachaniram (P) Krishnagiri,
635121.

13.Javaid Ahmad Kuchay
Son of Habib ullah Kuchay R/o Barsoo
Pulwama

14.Assistant Labour Commissioner, Pulwama
(Authority under the Payment of Wages
Act, 1936)

...Pvt. Respondents

Through:

CORAM:

Hon'ble Mr. Justice Wasim Sadiq Nargal, Judge.

ORDER

03.11.2025

01. Through the medium of the instant writ petition filed under Article 226/227 of the Constitution of India, the petitioner has prayed for the following reliefs:

"a) Issue an appropriate, writ, order of direction, thereby Setting aside/ quashing the Order dated 27.07.2023 passed by Assistant Labour Commissioner Pulwama in File No. -PW tiled as Bilal Ahmad Kuchay and Ors V/S Executive Engineer, TLMD, Srinagar r/w Order dated 13-06-2025 passed by the Ld. Court of Principal District Judge Pulwama in the appeal titled Executive Engineer, TLMD VII, Srinagar V/S Bilal Ahmad Kuchay & Ors.

b) Any other Writ, order or direction which this Hon'ble court may deem fit and proper also be issued in favour of the Petitioner and against the Respondents."

02. The brief facts as projected in the instant writ petition, are that the Petitioner department had constructed A 50MVA 132/33KV Grid Station at Shopian, Lissar, etc. and the same work was allotted to M/s GET Power Pvt. Ltd Chennai

vide Letter of Allotment (LOA) No. 42-SOK of 2008 dated 5th May, 2008. The turnkey contract M/S GET Power Pvt. Ltd. might have sub-letted the certain works/supplies at their own level without seeking consent from the petitioner department. The Grid Station/project was commissioned in December 2011.

03. It is further submitted that after the gap of 07 years in the year 2018, respondents herein approached the Court of Authority under Payment of Wages Act 1936 (Assistant Labour Commissioner, District Pulwama) by filing an application under Section 15 of Payment of Wages Act 1936 for recovery of unpaid earned wages from the Petitioners and the said Application was duly resisted by the Petitioner department by filing detailed objections, wherein the claim of respondents herein categorically denied as the respondents have directly no contractual or service relations with the department (petitioner department) and department has never sought the engagements of the respondents (Labourers) to execute the said work.

04. It is further submitted that the petitioner department had no control and supervision over the respondents as the respondents were never engaged by department to execute any work. The learned counsel for the petitioner submits that the Authority under payment of wages Act, 1936 (Assistant Labour Commissioner, Pulwama) was pleased to pass Order dated 27.07.2023, in terms whereof the claim of respondent Nos 01 to 08 was allowed and the said Authority passed an award to the tune of Rs. 460000.00 (Rupees Four Lac & Sixty Thousand Only) along with the interest @ 6% amounting to Rs. 131096.00 (Rupees One Lac Thirty-One Thousand & Ninety-Six Only) from the date of filing of the application till

date totaling to Rs. 5,91,096 (Rupees Five Lakh Ninety-One Thousand and Ninety-Six Only) in favour of the applicants 1 to 8 and against the non-applicants and accordingly Non-applicant No. 1 being the principal Employer, has been directed to deposit the decreed amount with this court within a period of 30 days, failing which the recovery proceedings shall be initiated under law.

05. It was further observed that the amount of interest shall continue to incur till the payment is actually made to the applicants. Application is accordingly disposed of and shall be consigned to records after its due completion.

06. Feeling aggrieved of the award so passed by the Authority under payment of wages Act, 1936 (Assistant Labour Commissioner), Pulwama, the Petitioner department Challenged the said award by way of an appeal before the Hon'ble Principal District Judge, Pulwama, which too came to be dismissed by the learned Court by virtue of order dated 13.06.2025, operative portion whereof is reproduced as under:-.

"Admittedly, the order has been passed on 27-07-2023. The instant application has been filed on 22-04-2024. Under Section 17 of the Payment of Wages Act appeal against an order of authority can be filed within 30 days of the order. The moot question that arises here is whether this court has any power to condone the delay. In my opinion delay can only be condoned, if by circumstances beyond the control of appellant, appeal could not be filed within the time as e.g. if the court is closed because of vacation or if there any natural calamity. In the instant case, the appellant seeks condonation of delay

on the ground that the order no has been passed in exparte as the appellant has been proceeded in exparte on 10-06-2016 and due to prevailing circumstances in 2016 and thereafter Covid-19 and change of Standing Counsel from as sufficient for time to time, the appeal could not be filed. This ground cannot be taken condonation of delay under Payment of Wages Act which is a Special Act and is self-contained Code, providing only 30 days for filing of appeal against the order of the authority. Furthermore, Section 5 is not applicable to the Payment of Wages Act. I am fortified in my view by the case decided by the Hon'ble High Court of J&K and Ladakh, Tara Chand Vs. Gh. Rasool Bhat, 1974 KLJ, 148.

For all what has been discussed herein above, the application is without merits and is accordingly dismissed. Consequently, the appeal is dismissed. The file alongwith all ancillary applications shall be consigned to records after due compilation."

07. The Petitioner being aggrieved of the order dated 27th July, 2023 read with order dated 13-06-2025, are challenging the same through the medium of the instant writ petition, on the grounds detailed out in the writ petition with particular reference that the order passed by the authority has been passed illegally without adhering to the provisions of the law as laid down in The Payment of Wages Act. The order has been passed without appreciating the evidence lead by the parties and the authority has ignored the material and passed the order without proper application of the laws regarding the matter ignoring the basic facts which has been brought

into the knowledge of the Authority by way of the evidence lead by the parties.

08. The learned counsel submits that the impugned order has been passed by ignoring the provisions of the Civil Procedure Code as applicable to the matter and the issues have been framed in a very casual and mechanical manner, without pronouncing as the onus of the proof of such issues.

09. The impugned order has been passed without taking into consideration the existence of the Contractual relationship between the parties and without recording any reason or satisfaction to the fact whether the appellant will be considered as an employer as per the Act and whether there has been any failure in payment from the contractors. These things have remained a mystery in the said order and in absence of such findings the petitioner cannot be held liable for the payment as awarded in the order. Accordingly, the petitioners have prayed that the Order dated 27th July, 2023 passed by Assistant Labour Commissioner Pulwama in case titled as "*Bilal Ahmad Kuchay and Ors V/S Executive Engineer, TLMD, Srinagar*" read with Order dated 13th June, 2025 passed by the Ld. Court of Principal District Judge Pulwama in the appeal titled "*Executive Engineer, TLMD VII, Srinagar V/S Bilal Ahmad Kuchay & Ors*" be set aside/quashed.

10. **Heard the learned counsel for the petitioner at length and perused the material on record.**

11. The petitioner was required to file the appeal before the competent court of law within the prescribed limitation period of 30 days. Since the same was not been done, the appeal filed by the petitioner was not maintainable and has

rightly been dismissed by the learned Principal District Judge, Pulwama, as being without any merit.

12. The core issue that arises for consideration in the present case is whether the learned Appellate Court was justified in entertaining and allowing the appeal beyond the statutory period of limitation of 30 days prescribed under Section 17 of the Payment of Wages Act, 1936, and whether it was competent to apply the provisions of Section 5 of the Limitation Act, 1963 for condoning such delay.

13. Section 17 of the Payment of Wages Act, 1936, which provides the statutory mechanism for filing of appeals, prescribes a specific period of limitation of thirty days for preferring an appeal from the order or direction passed under Section 15 of the said Act. The said provision does not contain any enabling clause empowering the Appellate Court to condone the delay beyond the period of thirty days, nor does it incorporate by reference the provisions of the Limitation Act, 1963. It is a settled principle of law that when a special statute prescribes a specific period of limitation for filing an appeal or application and does not provide for extension thereof, the general provisions of the Limitation Act cannot be invoked.

14. The Coordinate Bench of this Court in "*Tara Chand v. Ghulam Rasool*, SLJ 1974 page 148", has categorically held that "*the Limitation Act is not applicable to proceedings under the Payment of Wages Act, the same being a self-contained and special code which provides its own procedure, forum, and limitation. The said ratio has been consistently followed in subsequent judgments of this Court. Therefore, the learned Appellate Court, by entertaining an appeal beyond thirty days and condoning the delay by invoking Section 5 of the*

Limitation Act, acted in manifest disregard of the settled legal position and in excess of its jurisdiction."

15. It is a settled principle of law that when a special statute prescribes a specific period of limitation for filing an appeal or application and does not provide for extension thereof, the general provisions of the Limitation Act cannot be invoked.

16. It is trite law that when a special enactment excludes the application of the general law by necessary implication, the Court cannot import provisions of the general law merely on equitable considerations. The Payment of Wages Act, being a beneficial and self-contained legislation, prescribes not only the manner and mode of appeal but also the conditions precedent for its maintainability including the mandatory requirement under Section 17(1A) of furnishing a certificate of deposit of the amount payable under the direction appealed against. This requirement is not directory but mandatory in nature, as it seeks to protect the rights of the workman and ensure that the employer does not frustrate the benefit of the award by filing dilatory appeals.

17. For the foregoing reasons, this writ petition is held to be without any merit and accordingly, the same is *dismissed in limine*.

(Wasim Sadiq Nargal)
Judge

SRINAGAR:

03.11.2025

"HAMID"

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| ❖ | Whether Order is Speaking? | Yes/No. |
| ❖ | Whether Order is Reportable? | Yes/No |