

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P No.D-165 of 2025
[Rab Nawaz. v. Director Central & others]

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Before:
Mr. Justice Yousuf Ali Sayeed;
Mr. Justice Abdul Hamid Bhurgri.

For hearing of main case.
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Date of hearing:- 04.9.2025

Mr. Muhammad Muzaffar A.Rana, Advocate for petitioner.
Mr. Muhammad Javed Khalid, D.A.G. a/w Jahanzaib Ali and Ameen Ahmed, Asstt. Directors, Passports.
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Abdul Hamid Bhurgri, J.- The case of petitioner as narrated in the instant petition, is that he was appointed in December 2004 on a contract basis as System In-charge for the Machine Readable Passport Project under Respondent No.1. His contract was periodically extended, and during service he was posted abroad to New York and Los Angeles between 2009 and 2013, where he performed duties without complaint. In 2013, his contract was extended for six months. Upon return to Pakistan in 2014, he fell ill and could not immediately resume duty, whereafter his name was placed in the Black List/Passport Control List (BL/PCL) and his passport downgraded. Though his name was removed in 2015, it was again continued on the BL/PCL from May 2018 onwards despite expiry of his contractual tenure. The grievance of the petitioner is that such action is without lawful authority, contrary to the Passport Rules, 2021, and constitutes a misuse of power, as retention on the BL/PCL beyond five years is impermissible. It is averred that this has infringed his fundamental rights under Article 15 of the Constitution by preventing him from travelling to Pakistan, including for the funerals of his parents and grandparents. Despite serving a legal notice in December 2024, no relief was granted, hence the present petition with following prayers:

- (a) To direct Respondent No.1 to remove the name of the petitioner under passport No.AV9618213 from the Black List/Passport Control List without fail.*
- (b) To direct respondent No.1 to issue directions to renew the regular passport No.AV9618213 of the petitioner from the Consulate General of Pakistan in Los Angeles USA.*

- (c) To direct respondents to place all records before the Honourable Court of the petitioner.
- (d) Any other better relief/relieves, which this Honourable Court may deem fit and proper under the circumstances of the case, may be awarded.

2. The respondents, on the other hand, contend that the petitioner was a contract employee, who was posted abroad subject to an indemnity bond of Rs.2.5 million. It is alleged that upon his return he failed to serve the mandatory period in Pakistan, absented himself without authorization in 2015, and proceeded abroad without approval. On account of these breaches his pay was stopped, his name placed in the BL/PCL, and his passport cancelled. They further contend that the petitioner left Pakistan without seeking ex-Pakistan leave, which is impermissible under service rules, and that he is a defaulter liable to deposit the indemnity amount in the Government Treasury. According to the respondents, the petition is not maintainable as the petitioner has not approached the Court with clean hands.

3. Learned counsel for the petitioner reiterated the facts mentioned in the petition and relied upon an unreported judgment of this Court passed in **C.P No.D-3437/2019 (Mansoor Ali Mangi v. Federation of Pakistan and others)**. His contention was that, on identical facts, the said petition has been allowed.

4. Learned Deputy Attorney General, Sindh opposed the petition on the grounds taken by the respondents in their objections.

5. We have heard the learned counsel for the parties and have perused the material available on record.

6. From the record it is manifest that the petitioner's name was placed on the BL/PCL solely on the basis of alleged breach of contractual obligations arising out of his posting and indemnity bond. Such action is wholly without jurisdiction. The Respondents have been unable to place before this Court any statutory provision or valid regulation under which the Petitioner's name could be so blacklisted after the cessation of his contractual employment. The Passport Rules 2021 stipulate a defined framework for such measures, including periodical review. Yet the Petitioner has remained on the list for more than five years, without review and without cause. Such continuation is arbitrary, disproportionate, and plainly without lawful authority. Even assuming that the petitioner did not fulfil the conditions of his bond, the lawful remedy available

to the respondents was to institute a civil recovery suit against him and the surety. Instead, they resorted to coercive administrative action which has no sanction in law. Notably, the surety who executed the bond was never even put on notice. Such action, therefore, is arbitrary and unsustainable.

7. As regards the contention that the petitioner left Pakistan without ex-Pakistan leave, suffice it to observe that even if such allegation is correct, it constitutes misconduct under service rules, remediable through departmental proceedings or civil recovery, but it does not justify curtailment of the fundamental right to movement or continued retention on the BL/PCL. Administrative lapses or breaches of contract cannot be converted into grounds for restricting a citizen's constitutional liberties.

8. This Court is also fortified in its view by the principle of stare decisis, as on identical facts and grounds, the constitution petition referred by the counsel for the petitioner bearing No. 3437/2019 Mansoor Ali Mangi v. Federation of Pakistan and others, previously allowed where the names of employees were unlawfully retained on the Black List/Passport Control List for reasons of contractual defaults or alleged non-compliance with service terms. Consistency in judicial pronouncements is a cardinal principle of law, ensuring certainty and predictability. Departure from an established course is neither warranted nor desirable in the present case, where the facts squarely attract the ratio already settled by this Court.

9. The impugned action has unlawfully curtailed the petitioner's rights under Articles 4, 10-A, and 15 of the Constitution, depriving him of liberty of movement and the right to enter Pakistan. The respondents' measures being devoid of lawful authority and taken without affording the petitioner an opportunity of hearing cannot be sustained.

10. It is for the foregoing reasons that this petition was allowed vide a short order dated 04.09.2025 whereby the respondents were directed to ensure removal of the Petitioner's name from the passport control list and process his application for renewal of his passport in accordance with law.

11. Needless to say, if any financial liability is to be brought against the petitioner or surety on account of the indemnity bond or service obligations, the respondents may avail their remedy against him and the surety before a competent court of jurisdiction.

JUDGE

JUDGE

Ayaz Gul