

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P No.D-3325 of 2017

[Nawab Abdul Jabbar v. Federation of Pakistan and another]

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| DATE | ORDER WITH SIGNATURE OF JUDGE(S). |
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Before;

Mr. Justice Zulfiqar Ali Sangi;

Mr. Justice Abdul Hamid Bhurgri.

For hearing of main case.

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Date of hearing:- 28.08.2025

Mr. Muhammad Saeed, Advocate for petitioner.

Ms. Zahrah Sehr Vayani, Assistant Attorney General.

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Abdul Hamid Bhurgri, J.- The petitioner, having been a permanent employee of the Civil Aviation Authority, served as MT Driver (PG-04) at Jinnah International Airport, Karachi until his superannuation on 9th March, 2009. Upon retirement, he was required to execute retirement and pension documentation. Being illiterate, he affixed his signatures in the bona fide belief that these were routine pension papers. He later alleged that, by stratagem, his signatures had been obtained on the so-called “third option” i.e. full commutation of pension with medical benefits, annexed as ‘B/1’, without his knowledge or comprehension.

2. It was his contention that, had he been properly apprised of such election, he would have declined to adopt it, preferring instead the option of pension with entitlement to medical and hospitalization facilities, given his indigent circumstances and poor health. He averred that through deceptive conduct, his signatures were procured, and that he thereafter received Cheque No. 93773447 dated 3 April 2009 in the sum of Rs.987,076/-. On 2nd May 2009, he submitted an application to the Civil Aviation Authority disputing his election and seeking medical benefits. He was orally informed that, having availed himself of the third option, he stood disentitled to further pension or medical treatment. Shocked by this discovery, he addressed successive applications to the authorities, including the Federal Ombudsman. The Ombudsman, however, closed the matter in terms of Regulation 23(1)(b) and (k) of the WM (Investigation &

Disposal of Complaints) Regulations 2013. His approach to the National Industrial Commission under section 33 of the Industrial Relations Act 2013 was repelled on the ground of want of jurisdiction by order dated 16 March 2017, compelling him to file the present petition with following prayers:

- (i) Allow the petitioner to change the 3rd option deceptively got signed from the petitioner and allow him the option of pension and medical treatment;
- (ii) Direct the petitioner to recover the difference amount drawn by the petitioner in easy installments;
- (iii) Grant any other relief as may be deemed fit and proper in view of the circumstances of the case;
- (iv) Cost of petition.

3. The official respondent, however, traversed the allegations in toto, asserting that the petitioner had with full knowledge voluntarily elected the third option, executed the relevant forms, and drawn all benefits thereunder. It was further contended that there exists no statutory provision for rescinding or re-opening pension cases once finally settled. It was emphasized that the petitioner, in the presence of two witnesses, not only collected the cheque but also executed an undertaking expressly disclaiming any further claim against the Civil Aviation Authority. His subsequent approach to the Federal Ombudsman had likewise been rejected.

4. Learned counsel for the petitioner urged that, being wholly illiterate, the petitioner was induced to sign documents of which he had no understanding and that upon learning of the consequences he acted with diligence in approaching the authorities. It was submitted that justice demands his case be reopened and pensionary rights restored.

5. Conversely, learned Assistant Attorney General submitted that the petition suffers from an inordinate and unexplained delay of eight years, is barred by laches, and that the matters alleged involve questions of fact which lie beyond the scope of constitutional jurisdiction. Dismissal of the petition was accordingly prayed.

6. We have given anxious consideration to the submissions advanced. It is incontrovertible that the petitioner retired on 9th March, 2009, thereafter received the commuted amount of Rs.987,076/-, and executed an undertaking acknowledging receipt of full and final settlement. His complaint before the Federal Ombudsman was conclusively closed, and the material on record bears out that the grievance now raised relates to alleged deception in obtaining his signatures-an assertion that is essentially factual and incapable of adjudication in writ jurisdiction. The petition, presented after the lapse of eight years without cogent explanation, is manifestly hit by laches. Having voluntarily accepted and appropriated the commuted benefits, the petitioner cannot now be permitted to resile, approbate and reprobate at the same time.

7. For these reasons, the petition is held to be not maintainable, both on account of laches and for raising factual controversies unsuited to constitutional proceedings. Reliance is placed on **State Bank of Pakistan through Governor and another v. Imtiaz Ali Khan and others (PLJ 2012 SC 289)**, wherein the Honourable apex Court has held as follows:-

“---Laches was a doctrine whereunder a party which may have a right, which was otherwise enforceable, loses such right to the extent of its endorsement, if it was found by the Court of law that its case was hit by the doctrine of laches/limitation---Right remains with the party, but he cannot enforce it-Limitation is examined by the Limitation Act, 1908 or by special laws which have inbuilt provisions for seeking relief against any grievance within the time specified under the law and if party aggrieved does not approach the appropriate forum within the stipulated period/time, the grievance though remains, but it cannot be redressed because if on the one hand there was a right with a party which he could have enforced against the other, but because of principle of Limitation/laches, same right then vests/accrues in favour of the opposite party.”

Likewise, in the case of **Asghar Khan and 5 others v. Province of Sindh through Home Secretary Government of Sindh and 4 others (2014 PLC (C.S) 1292)**, it was held as under:-

“We feel no hesitation in our mind to hold that the petition is hit by laches. The consideration upon which the court refuses to exercise its discretion where the petition is delayed is not limitation but matters relating to the

conduct of parties and change in the situation. Laches in simplest form mean failure of a person to do something which should have been done by him within a reasonable time if remedy of constitutional petition is not availed within reasonable time the interference can be refused on the ground of laches. Even otherwise, grant of relief in writ jurisdiction is discretionary, which is required to be exercised judiciously. No hard and fast rule can be laid down for the exercise of discretion by the Court for grant of refusal for the relief in the exercise of extraordinary jurisdiction”.

8. As far as, controversial question is concerned, this Court relied upon in the case of **Mst. Kaniz Fatima through legal heirs v. Muhammad Salim and others (2001 SCMR 1493)**, has held as under:-

“Even otherwise such controversial question could not be decided by High Court in exercise of powers as conferred upon it under Article 199 of the Constitution of Islamic Republic of Pakistan”.

Similarly in case of **Anjuman Fruit Arhtian and others vs. Deputy Commissioner, Faisalabad and others reported in 2011 SCMR 279** following observation were made.

“The upshot of the above discussion is that learned single Judge in chambers as rightly declined to exercise his constitutional jurisdiction in view of various controversial questions of law and facts which can only be resolved on the basis of evidence which cannot recorded in exercise of constitutional jurisdiction. The petition being devoid of merit is dismissed and leave refused”.

9. For the foregoing reasons, the petition was found to be devoid of merits and accordingly stood dismissed vide our short order dated 28.08.2025. The above shall constitute the detailed reasons for that order.

JUDGE

JUDGE

Ayaz Gul

