

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-4762 of 2026
(Shaikh Ashraf Ali versus Federation of Pakistan and others)

Date	Order with signature of Judge
------	-------------------------------

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing and order: 03.8.2026

Date of order: _____

Mr. Iqbal Ahmed Qureshi, Advocate for the petitioner

ORDER

Adnan-ul-Karim Memon, J. Petitioner has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer: -

- a) *To set aside the impugned order and pass an order on an urgent basis for Re-Joining of duty of the petitioner till the disposal of this petition before the Hon'ble Court.*
- b) *Restrain the respondents, their subordinates, agents, representatives and subordinates from committing further acts of unfair labour practice, including retirement based on fake/bogus/fabricated information or record of date of birth as 08.08.1966, instead of the correct date of birth as 09-08-1969.*
- c) *Suspend the operation of the letter for Leave Preparatory to Retirement Ref: No PS/LCS/LPR/9677/14/05/2026 Dt. 14.05.2026, and direct the respondent to allow/ Re-joined the Petitioner on duty till disposal of the main petition, and may further be prayed that they may also be liable to be set aside/quashed.*

2. We asked the counsel to satisfy this court about the maintainability of the petition.

3. Learned counsel for the petitioner submits that the petitioner joined K-Electric (formerly KESC) as an Office Attendant in 1996 and, on account of his satisfactory performance and unblemished service record, was promoted to the posts of Sub-Engineer and subsequently Assistant Engineer. He added that throughout his service, no disciplinary proceedings were ever initiated against him. It is submitted that the controversy arose when the respondent K-Electric issued a Leave Preparatory to Retirement (LPR) letter dated 14.05.2026, erroneously recording the petitioner's date of birth as 08.08.1966 instead of his actual date of birth, 09.08.1969, as consistently reflected in K-Electric's official service record. He submitted that despite submitting grievances and requesting correction of the record, the respondents neither disclosed the basis of the

incorrect entry nor addressed his representations. Learned counsel further submits that the petitioner's correct date of birth, 09.08.1969, is duly supported by his CNIC, Matriculation Certificate, Domicile, Family Registration Certificate (FRC), B-Form, K-Electric Identity Card, EOBI record, and K-Electric Medical Card, all of which consistently record the same date. It is explained by the counsel that an earlier error in the NADRA record had mistakenly reflected the petitioner's date of birth as the same as that of his elder brother, which was subsequently rectified by the competent authority. It is further contended that, notwithstanding the official record, the respondents forcibly directed the petitioner to proceed on leave with effect from 10.06.2026 and retire based on the incorrect date of birth. His subsequent representations to the management, including the Chief Executive Officer, remained unattended. Counsel submits that the petitioner initially approached the National Industrial Relations Commission; however, the petition was returned on the ground that the petitioner did not fall within the definition of a "workman" and was advised to seek relief before the appropriate forum. Consequently, the petitioner has invoked the constitutional jurisdiction of this Court, seeking suspension of the impugned LPR letter, correction of his date of birth in accordance with the official record, reinstatement to duty, and restraint against his premature retirement based on an incorrect and unsupported date of birth.

4. We have heard the learned counsel for the petitioner on the maintainability of the petition in term of prayer clauses under Article 199 of the Constitution and perused the record with his assistance.

5. The jurisdiction of the High Court under Article 199 of the Constitution is undoubtedly wide; however, it cannot ordinarily be invoked to alter, vary or rewrite rights which have already been conclusively determined by the competent authority, so far as the right of the petitioner is concerned that have already oined based on certain facts.

6. It is now a settled principle of constitutional jurisprudence that the extraordinary jurisdiction of this Court under Article 199 of the Constitution is discretionary and cannot be invoked for adjudication of disputed questions of fact requiring recording of evidence, particularly where an efficacious alternate remedy is available or where the controversy arises out of a contract of service not governed by statutory law. A dispute relating to alteration or correction of the date of birth involves determination of factual controversies based on documentary and oral evidence, examination of the service record, and appreciation of rival claims, which cannot appropriately be undertaken in constitutional jurisdiction.

7. The constitutional jurisdiction is intended to ensure that public authorities act within the bounds of law and is not a substitute for a civil trial or other statutory proceedings for determination of disputed facts. The High Court cannot exercise constitutional jurisdiction where resolution of the controversy requires detailed evidence or where the relief sought amounts to declaration or alteration of pre-existing legal rights. The correction of an employee's date of birth is one such matter, which necessarily requires examination of evidence by the forum vested with such jurisdiction.

8. In the present case, although learned counsel has relied upon various documents to contend that the petitioner's correct date of birth is 09.08.1969, the respondent disputes the claim and has already acted upon the service record while issuing the Leave Preparatory to Retirement letter. The controversy, therefore, cannot be resolved merely on affidavits or by examining annexed documents in constitutional proceedings. Such determination requires proper evidence regarding the petitioner's service record, the source of the impugned entry, the circumstances under which the alleged correction was made, and the legal effect of the documents relied upon by the petitioner.

9. Moreover, the relationship between the petitioner and respondent No.1 is that of an employer and employee under a contract of service. The petitioner admittedly does not fall within the definition of a "workman," as already observed by the National Industrial Relations Commission and recently interpreted by the Honorable FCC in various pronouncements. Nevertheless, the mere absence of jurisdiction before the NIRC does not automatically confer constitutional jurisdiction upon this Court. The petitioner remains at liberty to seek appropriate declaratory and consequential relief before the competent civil forum or any other forum available under law, as the issue involved in this proceeding.

10. In these circumstances, this Court is not inclined to exercise its constitutional jurisdiction under Article 199 of the Constitution for determination of the petitioner's disputed date of birth or to suspend the impugned retirement action.

11. Accordingly, this petition is dismissed in limine as not maintainable, leaving the petitioner at liberty to avail any other remedy available to him under the law. Any observations made herein are tentative and shall not prejudice the case of either party before the competent forum, if approached.

JUDGE

JUDGE