

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-792 of 2026
(Justice (R) Aftab Ahmed Gorar versus Government of Sindh & another)

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

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order: 13.2.2026

Mr. Shahab Sarki advocate for the petitioner
alongwith Mr. Wahaj Ali Khan advocate
Mr. Abdul Jalil Zubedi, Assistant AG alongwith
Mr. Hakim Ali Shaikh, Additional AG
Mr. Ali Ahmed Baloch, Secretary, Law Department,
Government of Sindh
Mr. Nadeem Ahmed Qureshi, Law Officer,
and Ms. Manzooran Gopang, Law Officer,
Law Department, Government of Sindh,
on behalf of respondent No.1

ORDER

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

- a. *Declare that the Respondents No. 1 and 2 have no power to unilaterally de-notify the Chairman, Appellate Tribunal, Sindh Revenue Board, duly nominated by the Hon'ble Chief Justice.*
- b. *Declare that the Notification dated 06-02-2026, de-notifying the Petitioner as Chairman, Appellate Tribunal, Sindh Revenue Board, is illegal, unconstitutional, void ab initio, and of no legal effect.*
- c. *Declare that the office of Chairman, Appellate Tribunal, Sindh Revenue Board is a fixed-term judicial office, and the Petitioner cannot be removed before completion of tenure except in accordance with law and constitutional due process.*
- d. *Restore the Petitioner to the office of Chairman, Appellate Tribunal, Sindh Revenue Board, with all attendant benefits and continuity of tenure.*
- e. *Restrain the Respondents from appointing or nominating any other person as Chairman during the subsistence of the Petitioner's lawful tenure.*
- f. *To declare the letter dated 04.2.2026 is of no legal effect and set aside the same as the Respondents lack the legal powers to de-notify the Petitioner.*

2. The Petitioner is a retired Judge of this Court, appointed as Chairman, Appellate Tribunal, Sindh Revenue Board on 01.06.2024 for a fixed tenure of three years upon the recommendation of the Hon'ble Chief Justice under Section 60 of the Sindh Sales Tax on Services Act, 2011. He averred that the Provincial Cabinet, without notice or hearing, unilaterally declared his appointment inconsistent with law and, vide Notification dated 06.02.2026, de-notified him. Aggrieved thereby, he challenges the said Notification dated 06.02.2026 and letter

dated 04.02.2026 as illegal, unconstitutional, void ab initio, and without legal effect, while asserting that he cannot be removed from a fixed-term judicial office before completion of tenure except in accordance with law and due constitutional process, and seeks his restoration with all attendant benefits and continuity of tenure.

3. Per learned counsel for the petitioner, such action is illegal, unconstitutional, and void, amounting to an impermissible usurpation of judicial power and violation of Articles 4, 9, 10-A, 25, and 175(3) of the Constitution. Learned counsel emphasizes that the Executive has no power to remove a judicial or quasi-judicial office-holder mid-tenure. Learned counsel emphasized that the Petitioner qualifies as a Judicial Member under Section 60 (3) of the Act, and that his direct appointment as Chairman necessarily implied such a Judicial Member. He argued that the impugned actions demonstrate mala fide conduct, undermine judicial independence, and violate the separation of powers, as repeatedly affirmed by the Supreme Court, including the case of *Mehram Ali v. Federation of Pakistan* (PLD 1998 SC 1445). In view of the foregoing, learned counsel prays that the Notification dated 06.02.2026 be declared illegal and void, the Petitioner be restored to his office with full continuity of tenure and benefits, and the Respondents be restrained from appointing any other Chairman during the Petitioner's lawful tenure. Learned counsel emphasized the object of tenure post and argued that where an incumbent may be removed at any time without cause or due process, his or her ability to act independently and fearlessly, particularly in sensitive matters involving the Government or influential persons, stands compromised; therefore, reasonable security of tenure is essential for the effective discharge of such functions as such his abrupt discontinuance of the tenure is illegal, He further submits that the nature and functions of the Judicial Member/Chairman are quasi-judicial in character and, in view of the mandate of Article 175(3) of the Constitution regarding separation of the executive from the judiciary, the same principle applies to the office of the Judicial Member/Chairman; thus, if it is rendered subservient to the executive authority, its independence would be undermined. He argued that the Judicial Member/Chairman is a tenure post; as such petitioner cannot be de-notified except on universally recognized grounds of proven misconduct or incapacity, which, in any event, require due process even if not expressly provided in the Act. He next contended that it is settled law that the fair trial and due process guarantees under Article 10A form an integral part of every sub-constitutional instrument determining civil rights and obligations; this right has been denied to the petitioner. He argued that the Constitution requires that appointments of Judges and removals are required to be made after meaningful and purposive consultation with the designated consultees. The opinion of the Chief Justice of

this, being expert in assessing the fitness and suitability of candidates, must be accorded due weight and ordinarily accepted, unless very sound reasons to the contrary are recorded in writing by the Executive, which factum is missing in the case of the petitioner. He emphasized that the settled principle is that, to ensure judicial independence and separation, there should be security of tenure sufficient to avoid any disincentive in the discharge of the functions, and in this case, the executive disturbed the tenure and de-notified the petitioner from the subject position on erroneous plea. Finely learned counsel has placed reliance upon the cases of *Nabila Hakim Ali Khan v. Government of the Punjab* (PLD 2025 Lahore 759) and *Riaz-ul-Haq v. Federation of Pakistan* (PLD 213 SC 501). He prayed to allow this petition.

4. Learned AAG, assisted by the Law Secretary, Sindh, present in court, refuted the Petitioner's stance, without filing comments, and submitted that the petition rests on the erroneous assumption that the Petitioner enjoys an indefeasible and constitutionally protected tenure as Chairman, Appellate Tribunal, Sindh Revenue Board, which the Provincial Cabinet cannot curtail. It was contended that the Government made the Petitioner's appointment in exercise of its executive authority under the Sindh Sales Tax on Services Act, 2011, and that the determination, regulation, or withdrawal of such tenure squarely falls within the exclusive domain of the Provincial Government/Cabinet, unless expressly barred by law. It was further submitted that no provision of the Act confers constitutional protection upon the Chairman akin to that available to Judges of Superior Courts, nor creates any vested or fundamental right to continue for the entire tenure. A statutory tenure post does not ipso facto create a right immune from executive review or withdrawal where the appointment is found inconsistent with law or policy as per cabinet decision. It was maintained that the impugned Notification dated 06.02.2026 was issued pursuant to a lawful policy decision of the Provincial Cabinet, even though the Honorable Chief Justice was apprised of the fact two days before the impugned notification, which action is not amenable to judicial review in the absence of mala fide or jurisdictional defect. He pointed out that the Petitioner has failed to demonstrate a violation of any enforceable legal/constitutional right to invoke Article 199 of the Constitution. The Cabinet, being the competent authority, was empowered to de-notify the Petitioner's appointment, as the law department was tasked to approach the Honorable Chief Justice for the nominating members for aforesaid purpose. It was, therefore, prayed that the petition be dismissed.

5. We have heard the learned counsel for the parties and perused the record with their assistance and case law cited at the bar.

6. From the submissions advanced by the learned counsel for the parties and upon perusal of the record, the pivotal controversy requiring determination is whether the appointment of the Petitioner as Chairman, Appellate Tribunal, Sindh Revenue Board though made on the recommendation of the Hon'ble Chief Justice of this Court constitutes a constitutionally protected judicial tenure immune from executive review, or whether the same remains a statutory appointment amenable to lawful reconsideration by the Provincial Government.

7. Before going ahead, it is expedient to look into the appointment letter of the petitioner, which shows that pursuant to Section 60 (2) of the Sindh Sales Tax on Services Act, 2011, and on the recommendation of the Hon'ble Chief Justice, High Court of Sindh, the Government of Sindh has appointed Mr. Justice (Retired) Aftab Ahmed Gorar as Chairman, Appellate Tribunal, Sindh Revenue Board, for a term of three years, with effect from 01.06.2024. His terms and conditions were ordered to be notified separately. for convenience sake, an excerpt of the Notification dated 29.01.2024 is reproduced as under: -

**“GOVERNMENT OF SINDH
LAW, PARLIAMENTARY AFFAIRS
& CRIMINAL PROSECUTION DEPARTMENT**

Karachi, dated the 29th January, 2024

NOTIFICATION

NO.S.JUDL:4-4/2014(P1-IV):- Pursuant to sub-section (2) of Section 60 of the Sindh Sales Tax on Services Act, 2011 and on the recommendation of Hon'ble Chief Justice, High Court of Sindh, the Government of Sindh are pleased to appoint Mr. Justice (Retired) Aftab Ahmed Gorar as Chairman, Appellate Tribunal, Sindh Revenue Board (SRB), for a period of three (03) years. This notification shall be effective on completion of the term of the present incumbent, Mr. Justice (Retired) Nadeem Azhar Siddiqui, on 01.06.2024.

His terms and conditions of appointment will be issued separately.

**ALI AHMED BALOCH
LAW SECRETARY**

NO.S.JUDL:4-4/2014(PI-IV)/31

Karachi, dated the 29th January, 2024”

8. The petitioner retired as a Judge of this on 31.12.2022 at the age of 62 years and, on the recommendation of the Hon'ble Chief Justice, was appointed as Chairman, Appellate Tribunal, Sindh Revenue Board (SRB), at the age of 63 years vide Notification dated 29.01.2024, issued under Section 60(2) of the Sindh Sales Tax on Services Act, 2011, which at the relevant time prescribed the maximum age limit of below 70 years under Section 60(3)(b). However, pursuant to the Sindh Sales Tax on Services (Amendment) Act, 2021, the upper age limit for appointment was reduced from below 70 years to below 65 years and subsequently de-notified from the post of Chairman, Appellate Tribunal, SRB on the ground that the Chairperson to be appointed from existing Tribunal Members,

preferably a Judicial Member, and does not allow direct appointment, therefore, the contention that appointment as Chairman automatically constitutes appointment as Member is misconceived in law, and this aspect of the matter was accordingly considered by the Cabinet.

9. Admittedly, the Appellate Tribunal, Sindh Revenue Board, has been constituted under Section 60 of the Sindh Sales Tax on Services Act, 2011, and is, therefore, a statutory forum created through legislative instrument and not a Court established under Chapter VII of the Constitution of the Islamic Republic of Pakistan, 1973. The Chairman or Members of such Tribunal do not enjoy the constitutional status, protection, or removal safeguards available to Judges of the Superior Judiciary.

10. The reliance placed by the Petitioner upon the principle of independence of the judiciary and Article 175(3) of the Constitution is misconceived since the said constitutional mandate pertains to the separation of the judiciary from the executive in respect of Courts established under the Constitution and does not extend to statutory tribunals functioning under the executive domain. In this regard, the Supreme Court of Pakistan in *Mehram Ali v. Federation of Pakistan* has itself recognized the distinction between Constitutional Courts and statutory fora, thereby not conferring constitutional immunity upon appointments made to tribunals established through statute.

11. It is settled law that where an appointment is made under a statutory framework by the Government, the authority to determine tenure, regulate terms of service, or review the legality of such appointment vests in the appointing authority, unless expressly curtailed by law, and subject to consultation with the Honorable Chief Justice of this Court as the recommending authority. However, no provision of the Sindh Sales Tax on Services Act, 2011 has been pointed out that renders such appointment irrevocable or restricts the Government of Sindh from withdrawing or modifying the same if found inconsistent with law or policy or for other justiciable reasons.

12. A tenure post created under statute does not ipso facto confer a vested right to continue for the entire term, particularly where the appointment remains open to lawful review by the competent authority. In *Riaz-ul-Haq v. Federation of Pakistan*, the Supreme Court has held that appointments made under statutory authority are amenable to lawful executive oversight and correction, and continuation in such office cannot be claimed as a matter of right in the absence of explicit statutory protection.

13. In the present case, we have been informed that the impugned Notification dated 06.02.2026 has been issued pursuant to a policy decision of the Provincial Cabinet by informing and requesting the Honorable Chief Justice, being the competent recommending authority for quasi-judicial appointment on the subject issue. However, upon re-examination of Section 60 of the Sindh Sales Tax on Services Act, 2011 (as amended in 2021), the cabinet noted that the Chairperson was/is required to be appointed from amongst existing Members of the Tribunal, preferably a Judicial Member, and that the law does not contemplate direct appointment without prior appointment as a judicial member. The Provincial Cabinet, therefore, found the appointment inconsistent with the statutory provisions, deemed the position vacant, and directed the Law Department to approach the Hon'ble Chief Justice for nomination of two Judicial Members for appointment to the Tribunal, after which the Chairman shall be appointed strictly in accordance with law, which triggered the cause to the petitioner to approach this Court.

14. Prima facie, curtailment of tenure by the executive, in consultation, whether implied or express, with the Honorable Chief Justice, does not confer any enforceable right upon an office holder for a fixed term to complete, if there are justiciable reasons as disclosed in the minutes of the cabinet meeting as discussed supra. An excerpt of Notification dated 06.02.2026 is reproduced as under: -

**“GOVERNMENT OF SINDH
LAW, PARLIAMENTARY AFFAIRS
& CRIMINAL PROSECUTION DEPARTMENT**

Karachi, dated the 6th February, 2026

NOTIFICATION

NO. S.JUDL:4-1/2024: Pursuant to the decision of the Provincial Cabinet taken in its meeting held on 27th January, 2026, the Government of Sindh is pleased to de-notify the incumbent Chairperson, Appellate Tribunal, Sindh Revenue Board (SRB), who was appointed vide Notification No.S. Judl 4-4/2014(Pt-IV)/31 dated 29th January, 2024.

This notification shall take effect immediately.

**ALI AHMED BALOCH
LAW SECRETARY**

NO.S.JUDL:4-1/2024/17 Karachi, dated the 6th February, 2026

15. It has not been alleged that the Hon'ble Chief Justice was not apprised of the appointment to the subject post for a fresh recommendation; which letter dated 04.2.2026 is also impugned in this petition, therefore, this Court cannot, in exercise of jurisdiction under Article 199 of the Constitution, examine the administrative domain of the Hon'ble Chief Justice in this regard, if approached by the respondent department for fresh recommendation on the subject post.

16. It appears from the record that the Law Department, Government of Sindh vide letter 04.2.2026, just two days, before the de-notification of the petitioner, approached the Hon'ble Chief Justice for nomination for the post of Chairperson, Appellate Tribunal, Sindh Revenue Board, which implies that the matter is in the knowledge of the office of the Registrar of this Court.

17. Prima facie, the said cabinet decision suffers from no jurisdictional defect, nor has any mala fide been established on the part of the executive as portrayed to warrant interference under Article 199 of the Constitution. An excerpt of the cabinet decision is reproduced as under: -

“6. **AGENDA ITEM NO.6: NOMINATION FOR THE POST OF CHAIRMAN, APPELLATE TRIBUNAL, SINDH REVENUE BOARD.**

6.1 *The Secretary, Law Department apprised the Provincial Cabinet that Mr. Justice (Rtd.) Aftab Ahmed Gorar was nominated as Chairperson, Appellate Tribunal, Sindh Revenue Board (SRB) by the then Hon'ble Chief Justice of the Sindh High Court on 23.01.2024, subject to the completion of the tenure of the then incumbent Chairperson, Mr. Justice (Rtd.) Nadeem Azhar Siddiqui, which concluded on 01.06.2024. Subsequently, upon approval by the Caretaker Cabinet through circulation, Mr. Justice (Rtd.) Aftab Ahmed Gorar was appointed as Chairperson, Appellate Tribunal, SRB, vide notification dated 29.01.2024, for a tenure of three years, effective from 02.06.2024 to 01.06.2027.*

6.2 *He submitted that upon re-examination of Section 60 of the Sindh Sales Tax on Services Act, 2011, as amended by the Sindh Sales Tax on Services (Amendment) Act, 2021, it has transpired that the Chairperson of the Appellate Tribunal is required to be appointed from amongst the existing Members of the Appellate Tribunal, preferably a Judicial Member. The relevant law does not contemplate the direct appointment of a person as Chairperson without first being appointed as a Member of the Appellate Tribunal. In view thereof, the Hon'ble Chief Minister Sindh has been pleased to pass the orders for placing the subject matter before the Provincial Cabinet for deliberation and decision.*

6.3 *The Provincial Cabinet, after due deliberation, observed that the appointment of the present incumbent Chairman of the Appellate Tribunal, Sindh Revenue Board, is inconsistent with the provisions of sub-section (6) of section 60 of the Sindh Sales Tax on Services Act, 2011, as amended by the Sindh Sales Tax on Services (Amendment) Act, 2021. Consequently, the appointment of the Chairman lacks legal standing under the aforesaid provision of law, and the position of Chairman, Appellate Tribunal, SRB, is deemed vacant.*

6.4 **Decision:**

The Provincial Cabinet directed the Law Department to approach the Honorable Chief Justice, High Court of Sindh, for the nomination of two Judicial Members for appointment to the Appellate Tribunal, SRB, in accordance with the relevant legal provisions. Thereafter, the Cabinet shall appoint the Chairman, Appellate Tribunal, SRB.

The Cabinet also directed the Minister for Law to ensure that the matter is processed strictly in accordance with the applicable legal framework.”

18. To elaborate further on the subject issue, Section 60 of the Sindh Sales Tax on Services Act, 2011 (amended 2021), requires the Chairperson to be

appointed from existing Tribunal Members, preferably a Judicial Member, and does not allow direct appointment. The Cabinet found the Petitioner's direct appointment non-compliant, deemed the position vacant, and directed the Law Department to seek fresh nominations from the Honorable Chief Justice. Consultation with the Chief Justice is required only for new nominations, not for de-notification based on justiciable legal position, therefore, the contention of the learned counsel for the petitioner that appointment as Chairperson automatically constitutes appointment as Member is misconceived, as the statutory scheme envisages that Members whether Judicial or Technical are to be appointed in the first instance, and only thereafter can the Government designate one of the existing Members as Chairperson. This principle is well settled that where the statute prescribes a particular mode of appointment to a public office, the same must be adhered to strictly and cannot be bypassed by implication or administrative interpretation. It is also well settled that appointments made in deviation from the statutory procedure are without lawful authority. Furthermore, pursuant to the Sindh Sales Tax on Services (Amendment) Act, 2021, we have been informed that the maximum age limit for appointment as a Member of the Tribunal was reduced from below 70 years to below 65 years, thereby materially altering the eligibility criteria. Thus, the Cabinet acted within its statutory authority, and the de-notification on grounds of statutory non-compliance was as per the legal position outlined in law.

19. In exercise of its constitutional jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the High Court does not sit as an appellate forum over the decisions of the Cabinet, particularly where such decisions fall within the administrative or executive domain and are taken in accordance with the procedure prescribed by law.

20. It is a settled principle of constitutional jurisprudence that policy decisions or appointments made by the competent authority especially where the statutory framework requires consultation with the Hon'ble Chief Justice of the High Court of Sindh cannot be interfered with unless the same are shown to be patently illegal, coram non iudice, mala fide, or in violation of any mandatory provision of law.

21. The scope of judicial review under Article 199 is limited to examining the legality of the decision-making process and not the merits of the decision itself. Thus, where the Law Department is required to consult the Hon'ble Chief Justice for fresh nomination, and such consultative process is still pending, the matter squarely falls within the administrative domain of the Executive in conjunction with the constitutional functionary concerned. In such circumstances, this Court

cannot substitute its own view for that of the Cabinet or interfere in matters relating to nominations or appointments.

22. It is well settled that judicial review does not extend to re-evaluating executive policy decisions unless such decisions are arbitrary, without lawful authority, or offend fundamental rights. Accordingly, in the absence of any demonstrable violation of Articles 4, 9, 10-A, 25, or 175(3) of the Constitution, no case for interference is made out to invoke constitutional jurisdiction under Article 199 of the Constitution.

23. For the foregoing reasons, the impugned Notification dated 06.02.2026 does not suffer from any legal infirmity. Accordingly, the instant Constitutional Petition, being devoid of merit, is hereby dismissed along with any pending application(s).

JUDGE

JUDGE