

IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:

Mr. Justice Arshad Hussain Khan
Mr. Justice Amjad Ali Sahito

High Court Appeal No.51 of 2020

Appellant : Pakistan International Airlines Corporation Ltd. through Mr. Khalid Javed, Advocate

Respondents : Syed Ali Haider & others through M/s. Muhammad Ali Lakhani & Mujtaba Sohail Raja, Advocate for Respondents

Date of Hearing : 06.04.2026

Date of Judgment: 13.04.2026

J U D G M E N T

Amjad Ali Sahito, J.- The instant High Court Appeal, instituted under Section 3 of the Law Reforms Ordinance, 1972, is directed against the judgment dated 23.12.2019 and the decree passed thereunder by the learned Single Judge in Suit No.1798 of 2016, whereby the suit for declaration, permanent and mandatory injunction instituted by the Respondents was decreed.

2. Succinctly stated, the facts of the case are that the Respondents, being employees of the Appellant, namely Pakistan International Airlines (PIA), and serving in the cadre of cabin crew, were initially placed in Pay Group-IV (PG-IV). Subsequently, vide Administrative Order No.13/2013, duly approved by the competent management, the posts of Flight Steward/Air Hostess were upgraded, and all incumbents of the said cadre were promoted to Pay Group-V (PG-V) with effect from 05.04.2013, along with all consequential financial benefits.

3. In pursuance thereof, individual promotion orders dated 08.04.2013 were issued in favour of the Respondents and were duly implemented in letter and spirit. Although the said

Administrative Order was, at one stage, suspended by the National Industrial Relations Commission (NIRC) in proceedings initiated upon petitions filed by workers' unions, the said petitions were ultimately dismissed for non-prosecution vide order dated 22.05.2014, whereafter the Administrative Order No.13/2013 stood revived and attained full effect, including its retrospective implementation.

4. However, after a considerable lapse of time, the Appellant, vide Administrative Order No.17/2016 dated 14.07.2016, purported to cancel/withdraw the earlier Administrative Order No.13/2013, without issuing any notice or affording an opportunity of hearing to the Respondents. This unilateral action constrained the Respondents to institute a suit, which has since been decreed by the learned Single Judge.

5. Learned counsel for the appellant has contended that the impugned judgment passed by the learned Single Judge is not lawful and sustainable in the eyes of law and is liable to be set aside; that the Administrative Order No.13/2013 having been issued by the competent authority could validly be withdrawn by the same authority under Section 20 of the General Clauses Act, 1897, and that such withdrawal was based on a conscious policy decision of the Board of Directors taken in its 374th meeting. It has further been argued that the said order was earlier challenged before the NIRC and remained under suspension, therefore, the appellant was justified in withdrawing the same. It is also contended that the alleged promotion was merely an upgradation of pay scale and did not confer any vested right upon the respondents, hence no prior notice or hearing was required; that the decision was taken in the larger interest of the organization and to ensure administrative consistency. He lastly argued that the appellant's Corporation has the authority to regulate and alter its service conditions and therefore findings recorded by the learned Single Judge are contrary to law and facts of the case. In support of his contentions, he has relied upon the cases reported as PIAC & others vs. Tanweer-ur-

Rehman and others (PLD 2010 Supreme Court 676), Abdul Wahab and others vs. HBL and others (2013 SCMR 1383), Pakistan Defence Officers' Housing Authority and others vs. Lt. Col. Syed Jawaid Ahmed and others Civil Appeals (2013 SCMR 1707), Bolan Beverages (Pvt.) Ltd. vs. PEPSICO Inc. and 4 others (PLD 2004 Supreme Court 860) and Mst. Rani vs. PIAC & another (SBLR 2016 Sindh 564).

6. Conversely, learned counsel for the respondents has supported the impugned judgment and submitted that pursuant to Administrative Order No.13/2013, the respondents were formally promoted through individual promotion orders dated 08.04.2013 and were granted all consequential benefits, which continued even after revival of the Administrative Order in 2014. Learned counsel further contended that the respondents had acquired vested rights which could not be taken away without due process. It has further been argued that the impugned Administrative Order No.17/2016 was issued unilaterally, without lawful justification and in violation of principles of natural justice, as no opportunity of hearing was afforded to the respondents. It is also contended that even otherwise, individual promotion orders could not be deemed to have been cancelled implicitly through a general administrative order. In support of his contention, learned counsel has relied upon the cases reported as Order dated passed in FCPLA 1112-K/2021 by the Hon'ble Federal Constitutional Court of Pakistan, The General Manager, Punjab Provincial Cooperative Bank, Ltd. and others vs. Ghulam Mustafa and others (2024 SCMR 1458), Capital Development Authority through Chairman, Islamabad and others vs. Shabir Hussain and others (2022 SCMR 627), Sarhad Development Authority through Chairman vs. Syed Muhammad Latif Shah and others (2015 SCMR 1060), Syed Nazir Gillani vs. Pakistan Red Crescent Society and another (2014 SCMR 982) and The Chairman, Central Board of Revenue and another vs. Muhammad Malook and 11 others (1999 SCMR 1540).

7. We have heard learned counsel for the parties and perused the record with their able assistance.

8. The controversy in the present matter essentially pertains to the question as to whether the Suit instituted by the Respondents was maintainable in the facts and circumstances of the case, particularly in view of the objections raised by the Appellant with regard to its maintainability.

9. It is pertinent to note that, when confronted, learned counsel for the Appellant was specifically queried as to whether any provision of law or applicable regulations had been violated by the Appellant while issuing Administrative Order No.13/2013 dated 04.04.2013 or by the Respondents, however, no satisfactory or cogent response was forthcoming. In the circumstances, it appears that the matter predominantly involves a pure question of law.

10. A careful examination of the record reveals that the Respondents have primarily sought the protection and enforcement of a legal and vested right already accrued in their favour. Even if certain objections of a procedural or technical nature regarding maintainability are raised, the same would not operate to oust the jurisdiction of the Court to adjudicate upon and safeguard such accrued rights.

11. It is further an admitted position that the Appellant, being a Corporation, has not framed any statutory rules governing the subject matter in issue. Consequently, the relationship between the Appellant and the Respondents (employees) may, at best, be characterized as that of master and servant. However, such characterization does not vest the employer with absolute or unfettered authority; rather, it merely denotes a degree of supervisory control over the manner, time, and place of work. It does not, in any manner, authorize the employer to act arbitrarily or capriciously, nor does it permit the curtailment or abrogation of the vested rights of the employees. The expression “master and servant” denotes a relationship wherein the employer (master) exercises control and authority over the

employee (servant) with respect to the time, manner, and place of performance of services. However, such authority is not absolute so as to extend to unfettered control over the life, liberty, or personal autonomy of the employee. It is well recognized that there exists a fundamental distinction between a “servant” and a “slave.” According to *Black’s Law Dictionary* (Ninth Edition), the term “servant” is defined as “a person who is employed by another to perform work under the control and direction of the employer.” In contradistinction, “slavery” connotes a condition wherein one person exercises absolute dominion over the life, liberty, and property of another. It is, therefore, imperative to maintain a clear and well-defined distinction between the concepts of a servant and a slave.

12. In the present case, the Respondents, being employees of the Appellant, namely Pakistan International Airlines (PIA), and were serving in the cadre of cabin crew, were initially placed in Pay Group-IV (PG-IV). Subsequently, vide Administrative Order No.13/2013, duly approved by the competent management, the posts of Flight Steward/Air Hostess were upgraded, and all incumbents of the said cadre were promoted to Pay Group-V (PG-V) with effect from 05.04.2013, along with all consequential financial benefits. In pursuance thereof, individual promotion orders dated 08.04.2013 were issued in favour of the Respondents and were duly implemented in letter and spirit. However, after a considerable lapse of time, the Appellant, vide Administrative Order No.17/2016 dated 14.07.2016, purported to cancel/withdraw the earlier Administrative Order No.13/2013, without issuing any notice or affording an opportunity of hearing to the Respondents. Such action is *ex facie* illegal and in clear violation of the settled principles of natural justice.

13. The conduct of the Appellant thus manifests an impermissible and arbitrary exercise of authority. It is well settled that even within the framework of a master-servant relationship, the employer is under a legal obligation to act fairly, reasonably, and strictly in accordance with law.

14. Accordingly, the objection raised by the Appellant with regard to the maintainability of the Suit is devoid of merit and substance, and has rightly been repelled by the learned Single Judge. In this context, reliance is placed in the case of *The General Manager, Punjab Provincial Cooperative Bank, Ltd. and others vs. Ghulam Mustafa and others* reported as (2024 SCMR 1458); whereby the Hon'ble Supreme Court of Pakistan has held as under:

“17. The Master and Servant laws were designed to regulate relations between employers and employees during the 18th and 19th centuries. The United Kingdom Act, 1823, described its purpose as to better regulate servants, labourers, and the working class. This particular Act greatly influenced industrial relations and employment law in the United States, Australia (1845 Act), Canada (1847 Act), New Zealand (1856 Act), and South Africa (1856 Act). These Acts were generally regarded as heavily biased towards employers, designed to discipline the employees, and repress the combination of workers in trade unions. The law required obedience and loyalty from servants to their contracted employer with infringements of the contract punishable before a court of law often with a jail sentence of hard labour. It was used against workers organising for better conditions from its inception until well after the first United Kingdom Trade Union Act, 1871 was implemented which secured the legal status of trade unions. Until then, a trade union could be regarded as illegal because of being in restraint of trade. An unfair dismissal in the United Kingdom is the part of the UK labour law that requires fair, just, and reasonable treatment by employers in cases where a person's job could be terminated. The Employment Rights Act, 1996, regulates this by saying that employees are entitled to a fair reason before being dismissed, based on their capability to do the job, their conduct, whether their position is economically redundant, on grounds of a statute, or some other substantial reason. Any dismissal by an employer becomes automatically unfair when based on discrimination, a right protected under the Equality Act, regardless of the employee's tenure. Even the creator and inventor of this phrase "master and servant" have changed the niceties and minutiae of this colonial tenet and precept and they brought some amendments to ventilate the ordeals and miseries of their employees/ servants and part with various harsh and punitive provisions [Ref: Sadiq Amin Rahman v. Pakistan International Airlines Corporation through Managing Director and 3 others (2016 PLC 335)].

18. Instead of espousing a rigid and inflexible application of this phrase, there is an acute need of expansion and development of some law and reforms in this sphere. The relationship of master and servant cannot be construed as so sagacious that the master i.e. the management of a statutory corporation or the corporation and/or company under the control of government having no statutory rules of service or the private sector may exercise the powers at their own aspiration and discretion in contravention or infringement of fundamental rights envisioned under the Constitution. Under Article 3 of our Constitution, it is the responsibility of the State to ensure the elimination of all forms of exploitation and the gradual fulfillment of the fundamental principle, from each according to his ability to each according to his work; and under Article 11, there is no concept of slavery, and the same is considered non-existent and forbidden and no law permits or facilitates its introduction into Pakistan in any form; while under Article 38 (Principles of Policy) it is the responsibility of the State to ensure equitable and just rights between employer and employees and provide for all citizens, within the available resources of the country, facilities of work and adequate livelihood with reasonable rest and leisure. Therefore, in all fairness, even under the relationship of master and servant, fundamental rights should be respected and followed, as the same are an integral part of due process [Ref: President, Zarai Taraqiati Bank Limited, Head Office, Islamabad v. Kishwar Khan and others (2022 SCMR 1598)].”

15. It was incumbent upon the Appellant, being a Corporation, to frame comprehensive rules governing the terms and conditions of service of its officers and employees; however, to date, no such rules have been promulgated. In the absence of duly framed statutory rules or a coherent regulatory framework, the Appellant cannot seek to justify adverse action against the Respondents on the mere premise of a master-servant relationship.

16. It is a settled principle that where no governing rules exist, an organization cannot penalize an individual for its own procedural deficiencies or administrative lapses. Furthermore, even within the ambit of an employer–employee relationship, the concept of “master and servant” does not denote servitude or subjugation; rather, it is circumscribed by the requirements of law, fairness, and reasonableness. Any exercise of authority in derogation of these principles is arbitrary, and therefore, legally

untenable. Reliance is placed in the case reported as Sarhad Development Authority through Chairman vs. Syed Muhammad Latif Shah (2015 SCMR 1060); wherein the Hon'ble Supreme Court of Pakistan has held as under:

“7. From 1973 till date, the Government of KPK has failed to frame Rules in terms of section 29 of the Act inclusive of the Rules for recruitment of the Officers, Advisors and employees of the Authority. The Government was further required to frame Rules pertaining to the terms and conditions of services of the officers and employees of the Authority. This omission, prima facie, shows that the Government, in absence of the proposed Rules, is regulating the service of the petitioner-Authority by exercising its unstructured discretion in recruitment/ promotion of officers and employees in the Authority. We, therefore, direct the Government of KPK to comply with the provisions of section 29 of the Act within three months from the date of this judgment and submit compliance report to the Registrar of this Court for our perusal in Chambers.

8. The petitioner-Authority is bound by its own Rules which categorize different Cadres in the service of the Authority. In the case in hand, the exercise of jurisdiction by the High Court is immaterial, as the officer who is aggrieved by the impugned judgment has not challenged it before this Court. The grant of leave by this Court under Article 185(3) of the Constitution is discretionary. By the impugned judgment, the learned High Court has resolved the issue of promotion between the two individuals which has no bearing over the petitioner-Authority. It is the aggrieved officer who could have approached this Court. The petitioner-Authority has no locus standi to invoke the jurisdiction of this court and is bound by its own Rules, which permit the respondent No.1 to be promoted under its rules as has been determined by the learned High Court.”

17. Reverting to the merits of the case, it is an admitted position that, pursuant to Administrative Order No.13/2013, the Management approved the upgradation of the posts of Flight Steward/Air Hostess from Pay Group-IV to Pay Group-V. Consequently, all incumbents in PG-IV were promoted to PG-V, and the Respondents were issued individual promotion orders dated 08.04.2013, along with all consequential benefits. The said promotions were duly implemented and continued to remain in force even after the dismissal of the proceedings before the National Industrial Relations Commission (NIRC) in 2014,

thereby crystallizing vested and accrued rights in favour of the Respondents.

18. It further transpires from the record that, after a lapse of approximately three years, the Board of Directors, in its 374th meeting, purported to rescind its earlier decision concerning the upgradation/promotion effected through Administrative Order No.13/2013. There is no cavil to the proposition that the Respondents are employees of the Appellant and were duly recommended for promotion. The record unequivocally reflects that the promotions were actualized in the year 2013 and were subsequently withdrawn/cancelled after a considerable delay of three years.

19. Significantly, while issuing Administrative Order No.17/2016, no notice whatsoever was served upon the Respondents, nor were they afforded any opportunity of hearing. Such action is in patent violation of the settled principles of natural justice, particularly the rule of *audi alteram partem*, as also enshrined under Article 10-A of the Constitution. An action entailing adverse service consequences could not have been undertaken unilaterally, without strict adherence to the requirements of due process.

20. Even otherwise, the withdrawal of Administrative Order No.13/2013 could not, ipso facto, result in the cancellation of the individual promotion orders, which were independent in character and had attained finality upon having been acted upon. Such orders could only have been rescinded through a lawful process, after affording an opportunity of hearing to the affected employees.

21. Furthermore, no plausible or lawful justification has been advanced by the Appellant for the inordinate delay in withdrawing the said Administrative Order, particularly when it had already stood revived and was implemented with retrospective effect. It may also be observed that, following the implementation of Administrative Order No.13/2013, the

Respondents continued to avail the benefits thereunder for a considerable period, thereby giving rise not only to vested rights but also to a legitimate expectation that such benefits would not be withdrawn arbitrarily.

22. The impugned action, being belated, unilateral, and devoid of cogent reasons, is manifestly arbitrary and, therefore, unsustainable in law. Moreover, a general administrative order cannot nullify specific individual promotion orders that have attained finality. In these circumstances, the contention of the Appellant regarding the applicability of Section 20 of the General Clauses Act is misconceived, as the said provision cannot be invoked in a manner that defeats vested rights or operates in derogation of the principles of natural justice.

23. It is a well-settled principle of law that once a benefit or relief has been validly conferred and has been acted upon, the same cannot be withdrawn arbitrarily, particularly without affording an opportunity of hearing to the affected parties. The august Supreme Court, in a catena of judgments, has expounded upon the doctrine of *locus poenitentiae*, holding that the authority to withdraw or reconsider a decision is not absolute or unfettered, but is circumscribed by the requirements of law, fairness, and reasonableness.

24. The said doctrine does not countenance the reversal of decisions which have already created vested rights or have been acted upon to the prejudice of the beneficiaries, especially in the absence of any compelling or lawful justification. Any attempt to revoke such accrued rights, without strict adherence to the principles of natural justice, is patently unlawful and cannot be sustained in the eyes of law. The Hon'ble Supreme Court of Pakistan in the case of Chairman Central Board of Revenue v. Muhammad Malook reported in 1999 SCMR 1540 while considering the recommendation of one of the officers by Departmental Promotion Committee laid down the principle as under:-

"We may observe that once respondent No.1 was recommended for promotion by the Departmental Promotion

Committee after having found him fit, and the recommendation of the D.P.C. was accepted by the competent Authority, a right was created in favour of respondent No.1. "

25. Reliance is placed in the case of Pakistan International Airlines Corporation through Managing Director vs. Amna Fraz and others (2022 SCMR 1852); wherein the Hon'ble Supreme Court of Pakistan has held as under:

"5. Regardless, the question whether the said package can be enforced by the Court is irrelevant when the petitioner itself has not opposed the entitlement of the respondent. Its only objection is that the said instrument was placed in abeyance by the Notification of 30.06.2015 and so no right thereunder could be claimed by the respondent in the year 2017. However, this objection is misconceived because the Notification of 30.06.2015 only suspended Administrative Order No. 16/2014. It did not in any way permanently bar the respondent's claim for compensation. This is evident from the text of the Notification itself which reads:

"1. ...the compensation package to the families of deceased employees who die during service has been held in abeyance with immediate effect till finalization of the report of the Committee constituted by the Prime Minister under the Chairmanship of Secretary Finance [to re-examine the policy of death benefits)."

(emphasis supplied)

It is therefore clear from the excerpt produced hereinabove that finalisation of the report of the Committee may have revived (either in its original or in an amended form) the compensation package of 08.07.2014. It is accepted by the petitioner that on 04.12.2015 the Establishment Division issued a revised Assistance Package for deceased Government employees w.e.f. 09.02.2015. Essentially this meant that legal heirs of employees who died in service before 09.02.2015 would continue to receive benefits under the previous Assistance Package Schemes ("first category") whereas legal heirs of employees who died in service on or after 09.02.2015 would now be entitled to the benefits stipulated in the Notification of 04.12.2015 ("second category")."

26. Furthermore, it is pertinent to observe that Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973 guarantees to every citizen the fundamental right to a fair trial and due process. This constitutional safeguard is not confined solely to judicial proceedings but extends with equal force to

administrative and quasi-judicial actions which adversely affect the rights of individuals.

27. In the present case, the Respondents were divested of a vested benefit without the issuance of any notice and without being afforded an opportunity of hearing, which constitutes a manifest violation of the aforesaid constitutional guarantee. The action of the Appellant, therefore, falls short of the minimum standards of fairness, transparency, and procedural propriety mandated under Article 10-A, thereby rendering the impugned action legally unsustainable.

28. It is by now a settled proposition of law that any order entailing adverse civil consequences, passed in breach of the principles of fair trial and due process, is void in the eyes of law and liable to be set aside. In this regard, reliance is placed on the judgment reported as Capital Development Authority through Chairman, Islamabad and others vs. Shabir Hussain and others (2022 SCMR 627) wherein Hon'ble Supreme Court of Pakistan has held as under:

“In our Constitution, right to fair trial is a fundamental right under Article 10-A which constitutional reassurance envisaged the standards that courts must uphold in order to protect peoples fundamental rights of fair trial and due process of law. This Court in the case of Warid Telecom (Pvt.) Limited v. Pakistan Telecommunication Authority (2015 SCMR 338) has held that whenever adverse action was being contemplated against a person a notice and/or opportunity of hearing was to be given to such person. Said principle is a fundamental right under Article 10-A in the Constitution. However, both the requirements of a notice and providing an opportunity of a hearing may also be dispensed with in certain type of cases e.g. where such requirement would cause "more injustice than justice" or it was not in the "public interest".”

29. The case laws relied by learned counsel for the appellant are distinguished from the facts and circumstances of the case; hence, the same are not applicable in the present case.

30. In view of the foregoing discussion, we are of the considered opinion that the learned Single Judge has correctly appreciated the facts as well as the law applicable to the case and has rendered a well-reasoned and lawful judgment, which does not

suffer from any illegality, misreading, or infirmity so as to warrant interference by this Court in exercise of its appellate jurisdiction.

31. Consequently, the instant appeal, being devoid of merit, is hereby dismissed, and the impugned judgment and decree passed by the learned Single Judge are maintained.

JUDGE

JUDGE

KAMRAN/PS