ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Constitutional Petition No. D-5653 of 2025
(Irfan Qazi versus Province of Sindh & others)

Date	Order with signature of Judge

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

Date of hearing and order: 23.4.2026

Syed Muhammad Saulat Rizvi advocate for the petitioner
Mr. Ali Safdar Depar, Assistant AG
Mr. Muhammad Tahir Durani, advocate for respondents No.6 & 8.
Ms. Rukhsana Mehnaz, advocate for respondent No.7.

O R D E R

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

> ***a. Hold and declare that the private respondent's Upgradation was rightly withdrawn/annulled by the Chief Secretary through his Notification (Annexure B refers) that was issued in compliance with the Order of Hon'ble Supreme Court passed in Crl. Org. 89/2011 and C.R. 193 of 2013.***
>
> ***b. Hold and declare that the Proforma Promotion awarded to Private Respondent was illegal, malafide and contemptuous too as the same, without prejudice, falls within the ambit of Out of Turn Promotion as his seniors were ignored at the relevant time, and just to subdue the hue and cry their grievances were redressed in compliance of order passed in C.P. No. D-161 of 2021.***
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> ***c. Hold and declare that Proforma Promotion is only meant for Retired Employees as prescribed under Fundamental Rules 17 and not in-service employees, thus awarding the same to the private respondent (Annexure D refers) was a naked violation of law.***
>
> ***d. Hold and declare that the impugned Order, i.e., Review of Review, is not permissible in law; thus, exercising such powers to reinstate the private respondent is illegal, void ab initio, coram non judice, and malafdie.***
>
> ***e. Set aside the impugned reinstatement order (Annexure J passed as Review of Review) and further posting order (if any).***
>
> ***f. Direct the Respondents to recover all excess payments made to the private respondent received under the illegal Proforma Promotion.***

2. Learned counsel for the petitioner submits that the petitioner, being engaged in the construction business, has had regular interaction with the officials of the erstwhile Sindh Katchi Abadi Authority, now the Human Settlement Authority, particularly in the process of obtaining NOCs. Through such dealings, he claims to have observed persistent maladministration, lack of transparency, and unlawful practices within the department. It is contended that the Authority, established under the Sindh Katchi Abadis Act, 1987 and governed by the Sindh Katchi Abadi Authority Employees (Service) Rules, 1993, is bound to act strictly in accordance with the applicable legal framework, including the Sindh Civil Servants (Efficiency & Discipline) Rules, 1973 and the Appeals Rules, 1980. According to the learned counsel, despite clear directions of the Honourable Supreme Court regarding illegal out-of-turn promotions, the upgradation earlier granted to the private respondent was rightly withdrawn in 2016 and he was reverted to his substantive post. However, in disregard of such directions, the Authority subsequently granted him proforma promotions, which, it is argued, are

not permissible for in-service employees. It is further contended that although this Court had earlier directed examination of such promotions, the authorities failed to act in accordance with law and instead regularized the same. The learned counsel further submits that the private respondent later committed serious irregularities, including illegal appointments and manipulation of seniority, resulting in his dismissal from service after due process, which dismissal was also maintained upon review. However, he was subsequently reinstated through what has been described as a "review of review," a course unknown to service law, without setting aside the earlier dismissal order, rendering such reinstatement coram non judice, mala fide, and without lawful authority.

3. On the other hand, learned Assistant Advocate General, assisted by counsel for the private respondent No.8 has defended the impugned actions by referring to the service record of the private respondent. It is submitted that the respondent had a long service history, including promotions through the Departmental Promotion Committee, and that his dismissal in 2024 was preceded by show cause notices on allegations of illegal appointments. Upon filing a review petition, the competent authority namely the Chairman/Advisor to the Chief Minister directed re-examination of the matter on 10.11.2025, particularly to assess compliance with procedural requirements and principles of natural justice. Pursuant thereto, an inquiry committee was constituted, which found procedural deficiencies in the dismissal process, leading to reinstatement of the respondent on 11.11.2025, pending further inquiry.

4. Respondents No. 6, 7, have also filed their respective comments and replies, raising preliminary objections as well as addressing the merits of the case. At the outset, it is contended that the instant petition is not maintainable under Article 199 of the Constitution, as it is based on generalized allegations and does not disclose any direct infringement of a legal right of the petitioner. It is submitted that the petitioner lacks locus standi and has attempted to convert a service dispute into a constitutional matter, camouflaging it as a petition in the nature of quo warranto, whereas no violation of statutory eligibility criteria for holding public office has been demonstrated. It is further argued that the controversy pertains purely to service matters, for which adequate alternate remedies exist and have already been availed by the private respondent, thus barring invocation of constitutional jurisdiction. On merits, Respondent No. 6 submits that the allegations of maladministration, corruption, and illegality are vague, unsubstantiated, and devoid of evidentiary value. While it is admitted that earlier upgradations were withdrawn in compliance with the directions of the Supreme Court, it is contended that the grant of proforma promotion is a recognized service mechanism intended to rectify administrative anomalies and is not restricted to retired employees. Such promotions, according to the respondent,

were granted on the recommendations of the Departmental Promotion Committee and are therefore lawful. It is further submitted that although disciplinary proceedings were initiated against Respondent No. 8, resulting in his dismissal from service, the said order was subsequently found to be procedurally defective due to non-compliance with the Sindh Civil Servants (Efficiency & Discipline) Rules, 1973 and principles of natural justice. Upon review, the competent authority directed re-examination of the matter through a formal inquiry, which revealed procedural irregularities in the dismissal process. Consequently, Respondent No. 8 was reinstated in service pending completion of inquiry proceedings. The respondents maintain that this action was not a "review of review" but a lawful administrative correction undertaken by the competent authority in exercise of its supervisory and review jurisdiction. Respondent No. 7 has similarly submitted that the powers exercised by the Chairman/Advisor are traceable to the Sindh Katchi Abadis Authority Employees (Service) Rules, 1993, particularly Schedule-II, which designates the Chairman as the competent appellate and review authority. It is contended that the impugned action was taken to ensure compliance with due process and cannot be termed as mala fide or without jurisdiction. It is further highlighted that historical irregularities in promotions, recruitment rules, and service structures exist within the department, which are presently under institutional review. In this regard, a scrutiny committee has been constituted through notification dated 20.04.2026 to examine service rules, promotions, and appointments, and to bring them in conformity with applicable laws. The counsel for the Respondent No. 8, has adopted the stance that he is a bona fide employee who has been reinstated through a lawful and reasoned order passed by the competent authority. It is asserted that no illegality or procedural defect attaches to his reinstatement, and that the petitioner has failed to demonstrate any violation of law. It is further submitted that an order passed by a competent authority carries a presumption of legality unless set aside by a court of law, and that the petitioner, being a stranger to the service matter, cannot challenge such administrative decisions. In sum, the respondents have prayed for dismissal of the petition on the grounds of non-maintainability, lack of locus standi, and absence of any legal infirmity in the impugned actions, while also asserting that corrective and transparent measures have already been initiated within the department to address any systemic issues.

5. At this stage, the learned AAG has, however, referred to a notification dated 20.04.2026, whereby a committee has been constituted under the Chairmanship of the Advisor to the Chief Minister for Human Settlement, Spatial Development and Social Housing Department, ostensibly to examine the matter further. He also submitted that this petition in the nature of quo warranto is not maintainable calling the order passed by the competent authority.

6. In rebuttal, learned counsel for the petitioner submits that the objections raised by the learned AAG and Respondents No. 6, 7, and 8 are misconceived both on facts and in law. It is contended that the present petition is not a mere service dispute but squarely falls within the domain of a writ of *quo warranto*, as it challenges the legality of the continuance of Respondent No. 8 in a public office allegedly obtained and retained in violation of statutory provisions and binding judicial pronouncements. It is settled law that in proceedings of *quo warranto*, the question of locus standi is of no consequence, as any person can bring to the notice of this Court that a public office is being held without lawful authority. Therefore, the objection that the petitioner is a stranger to the service matter is legally untenable. Learned counsel further submits that the respondents have failed to appreciate that the core issue is not merely the reinstatement or dismissal of Respondent No. 8, but the legality of his entire service trajectory, including the grant of proforma promotions and subsequent elevation to higher posts, which were allegedly in direct conflict with the directions of the Supreme Court. Once the earlier upgradation was withdrawn in compliance with the apex Court's judgment, any subsequent conferment of similar benefits under the guise of "proforma promotion" amounts to circumvention of binding judicial directions and is therefore void ab initio. It is further argued that the concept of proforma promotion, as sought to be relied upon by the respondents, has been misapplied. Such benefit cannot be used as a device to regularize or validate an otherwise illegal promotion, particularly where the initial action itself stood set aside pursuant to judicial intervention. The reliance on recommendations of the Departmental Promotion Committee cannot cure an illegality rooted in violation of law and Supreme Court directives. With regard to the impugned reinstatement, learned counsel submits that the same is patently without jurisdiction. The attempt to characterize the action as a mere "re-examination" or "administrative correction" is misleading, as in effect it amounts to a review of an earlier appellate/review order by the same authority, which is not permissible in absence of any express statutory provision. He emphasized that the learned AAG has admittedly failed to point out any provision of law empowering the authority to undertake such a "review upon review." In such circumstances, the impugned order is coram non judice and without lawful authority. It is further contended that the plea of procedural defect in the dismissal order is an afterthought, as the proper course, if any illegality existed, was to set aside the dismissal through lawful means and remand the matter for fresh proceedings. However, in the present case, reinstatement has been granted without formally setting aside the dismissal order, thereby rendering the entire exercise legally unsustainable. Learned counsel also submits that the constitution of a committee vide notification dated 20.04.2026 does not cure the illegality already committed, nor can it confer retrospective legality upon actions taken without jurisdiction. Administrative inquiries or policy reviews cannot override statutory provisions or

validate actions that are void ab initio. In sum, it is argued that the case involves clear violation of law, misuse of authority, and circumvention of binding judicial pronouncements, thereby rendering the continuance of Respondent No. 8 in public office unlawful. In such circumstances, a writ of *quo warranto* is not only maintainable but is the appropriate constitutional remedy to ensure that public offices are not occupied in contravention of law. The petition, therefore, merits acceptance and the impugned actions are liable to be declared illegal and of no legal effect.

7. We have heard the learned counsel for the parties and having examined the record, it appears that the controversy essentially resolves into two core questions: (i) whether the present petition is maintainable in the nature of quo warranto, and (ii) whether the impugned actions namely the grant of proforma promotion and the subsequent reinstatement through a "review of review" are sustainable in law.

8. At the outset, the objection regarding maintainability is not persuasive. It is by now a settled principle that a writ of quo warranto is maintainable at the instance of any person, as it is aimed not at enforcing an individual right but at examining the legality of a person's entitlement to hold a public office. The superior courts have consistently held that in such proceedings, strict rules of locus standi do not apply. The contention of the respondents that the petitioner is a stranger to the service matter, therefore, loses significance once it is demonstrated that the petition calls into question the lawful authority of Respondent No. 8 to continue in public office. Moreover, the dispute cannot be narrowly characterized as a mere service matter, as it involves violation of binding judicial directions and statutory provisions governing public appointments and promotions.

9. The argument that disputed questions of fact are involved also does not carry sufficient weight in the facts of the present case. The essential controversy turns upon interpretation of statutory rules, scope of authority, and legality of admitted actions reflected in official notifications and orders, which are matters of record and do not require elaborate evidence.

10. On merits, it is an admitted position that the earlier upgradation of Respondent No. 8 was withdrawn in compliance with the directions of the apex Court. Once such upgradation stood annulled pursuant to binding judicial pronouncements, any subsequent conferment of substantially identical benefits under the nomenclature of "proforma promotion" cannot be viewed in isolation. The substance of the action, rather than its label, is determinative. If the effect of such proforma promotion is to restore or reintroduce a benefit that had already been declared unlawful, the same would amount to circumvention of judicial

directions and cannot be sustained. The plea that proforma promotion is a recognized service concept does not, in itself, validate its application in a manner inconsistent with prior binding decisions. Administrative recommendations, including those of a Departmental Promotion Committee, cannot cure an illegality that strikes at the root of the action.

11. The respondents' justification that proforma promotion is not confined to retired employees and may be extended in service, even if assumed to be correct in abstract, does not advance their case where the grant of such benefit effectively nullifies the consequence of a judicially mandated reversion. Thus, the impugned proforma promotions suffer from legal infirmity and cannot be upheld.

12. The second and more fundamental issue relates to the competence of the authority in terms of Notification dated 13.01.1994, which passing the impugned reinstatement order. The record reflects that the appeal/review against dismissal had already been decided by the same competent authority. Thereafter, the same authority entertained what is described as a "review" leading to re-examination and eventual reinstatement. However, despite specific query by this Court, no justiciable reason given by the authority to undertake a second review or to revisit its own final order dated 18.09.2024 in such manner, when the private respondent was dismissed from service on 14.06.2024 on the basis of gross misconduct. However this misconduct was subsequently washed away in review jurisdiction.

13. The attempt of the respondents to characterize the impugned action as a mere "re-examination" or "administrative correction" is not convincing. In substance, the order has the effect of setting at naught an earlier final determination without any express legal jurisdiction. It is a settled principle that where a statute provides for a particular manner of doing a thing, it must be done in that manner alone. In absence of an enabling provision, the exercise of such power is clearly without jurisdiction and renders the impugned action coram non judice based on non-reasoning.

14. Even otherwise, if the dismissal order was indeed procedurally defective, the proper course open to the authority was to set aside the same in accordance with law and remand the matter for fresh proceedings. The course adopted namely reinstatement without formally setting aside the dismissal and without following a legally recognized procedure creates a patent inconsistency and cannot be sustained under the review jurisdiction by the authority.

15. The respondents' reliance on subsequent committees and scrutiny proceedings does not cure the original defect, as such administrative measures cannot retrospectively validate actions taken without lawful authority at their inception. The competent authority, while deciding the appeal vide order dated

18.09.2024 under the Sindh Katchi Abadis Authority Employees (Service) Rules, 1993, held that disciplinary proceedings were lawfully initiated and, after completion of codal formalities, a major penalty of dismissal from service was imposed on the respondent No.8 vide order dated 14.06.2024. He also opined that the charges related to illegal and irregular appointments in BS-01 to BS-16, which stood proved on the basis of record, including scrutiny committee findings, particularly as the respondent No.8 failed to produce relevant record or satisfactory explanation despite repeated opportunities. Accordingly, the penalty of dismissal was maintained. However, subsequently, with the same authority, reinstated the respondent No.8 in service with effect from 11.11.2025, pending the outcome of the departmental inquiry and until further orders.

16. The plea of presumption of legality of official acts is equally inapplicable where the very jurisdiction of the authority is under challenge and found lacking. Presumption cannot override clear absence of legal authority.

17. In light of the foregoing discussion, this Court is of the considered view that the present petition, being in the nature of a writ of quo warranto, is maintainable and cannot be defeated by objections relating to locus standi or the availability of alternate remedies. Besides, the grant of proforma promotion to Respondent No. 8, in the peculiar facts of the case, was/is legally unsustainable, as it operates to circumvent binding judicial directions and is therefore void. Likewise, the impugned reinstatement order, having been passed through a process in the nature of a "review upon review" without any justiciable reason is without lawful jurisdiction and thus coram non judice, even order the review jurisdiction. Consequently, the continuance of Respondent No. 8 in public office on the basis of such legally flawed actions cannot be sustained under the law.

18. Consequently, the petition is disposed of with the understanding that the impugned orders relating to proforma promotion and reinstatement of Respondent No. 8 are without lawful justification and are hereby annulled. The respondents are directed to proceed strictly in accordance with law. All pending application(s) stands disposed of in the aforesaid terms.

JUDGE

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