

THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 1036 of 2024
[Muhammad Ibrahim and others v. Province of Sindh and others]

C. P. No. D – 1124 of 2024
[Zafarullah and others v. Province of Sindh and others]

C. P. No. D – 903 of 2024
[Ghulam Mustafa and others v. Province of Sindh and others]

Before:
Justice Arbab Ali Hakro
Justice Muhammad Osman Ali Hadi

Petitioner by : Mr. Noor Hassan Malik, Advocate

Respondents by : Mr. Ali Raza Baloch, Additional Advocate General Sindh

Date of Hearing : 19.08.2026

Date of Decision : 19.08.2026

ORDER

ARBAB ALI HAKRO, J. – Through this common order, we propose to decide the above-captioned Constitution Petitions as identical questions of law and fact are involved therein.

2. The petitioners claim that, pursuant to advertisements issued in 2012 for various teaching and other cadre posts in District Ghotki, they applied, appeared in the recruitment process, qualified the written tests, were issued offer letters and appointment orders by the then District Education Officer, completed medical and character verification formalities, joined their respective posts, and allegedly performed duties for varying periods; however, despite repeated approaches, their salaries were never released. The petitioners seek directions for the release of salaries, consideration of their cases in light of the judgment dated 03.08.2023 passed by the Honourable Supreme Court of Pakistan in Civil Petitions No. 903 to 907 of 2023, and extension of similar treatment in terms of the principles enunciated in Hameed Akhtar Niazi v. Secretary, Establishment Division (1996 SCMR 1185), WAPDA v. Abdul Ghaffar (2018 PLC (C.S.) 458), and other authorities relied upon by learned counsel for the petitioners.

3. The respondents have filed comments. The principal objection raised by respondent No.1 is that the petitions suffer from gross and unexplained delay and laches, as the recruitment process pertains to the year 2012, whereas the petitions were instituted after more than a decade. It has further been averred that the petitioners were never lawfully appointed and that the documents relied upon by them are fake, forged, manipulated, and unsupported by the official record. Various discrepancies have been pointed out in respect of outward numbers, dates of issuance of offer letters and appointment orders, medical certificates, police verification certificates, attendance certificates, and other supporting documents. It has further been pleaded that where the foundation itself is illegal or fraudulent, no legal right can accrue therefrom. At the same time, respondent No.5 has drawn the Court's attention to the judgment dated 03.08.2023 passed by the Supreme Court of Pakistan and has submitted that the petitioners may avail the remedy contemplated therein.

4. Learned counsel for the petitioners argued that the controversy in these petitions is substantially similar to that considered by the Honourable Supreme Court of Pakistan in Civil Petitions No.903, 904, 905, 906 and 907 of 2023, arising out of Constitution Petitions No.D-1813, D-2159, D-3442, D-3716 of 2013 and D-69 of 2014. It was contended that the petitioners participated in a duly advertised recruitment process, qualified the tests, received appointment orders and joined the service. According to learned counsel, the petitioners cannot be penalised for any alleged irregularity committed by departmental functionaries. Reliance was placed on Hameed Akhtar Niazi (1996 SCMR 1185), WAPDA through Chairman v. Abdul Ghaffar (2018 PLC (C.S.) 458), 2023 PLC (C.S.) 1154, and the order dated 30.04.2024 passed by this Court in Constitution Petitions No.D-1325 of 2023, D-1571 of 2023 and D-238 of 2024. It was argued that once the Supreme Court has laid down a mechanism for verification of similarly situated employees, the benefit thereof ought to be extended to the present petitioners as well.

5. Learned Assistant Advocate General Sindh, while opposing the petitions, submitted that the claims are highly belated and are hit by the doctrine of laches. He further argued that serious questions regarding the authenticity of the documents relied upon by the petitioners have been raised by the department, and that such disputed questions of fact cannot be conclusively adjudicated in constitutional jurisdiction. Learned A.A.G., however, placed on record the material pertaining to the inquiry/scrutiny proceedings conducted pursuant to the judgment dated 03.08.2023 passed by the Supreme Court, and submitted that the matter may be considered in the light thereof.

6. We have heard learned counsel for the parties and have reviewed the record with their assistance.

7. The first aspect requiring consideration is the objection of delay and laches. There can be no cavil with the proposition that constitutional jurisdiction is discretionary and that an indolent litigant who sleeps over his rights for an unreasonable period ordinarily does not deserve equitable relief. In Jawad Mir Muhammadi and others¹ The Supreme Court held that, though laches is not an absolute bar, delay must be satisfactorily explained, and the question is to be examined in the facts of each case.

8. At the same time, the peculiar feature of the present matter is that the controversy arises from the very same recruitment exercise which was the subject matter before the Supreme Court in Civil Petitions No. 903 to 907 of 2023. The said judgment has materially altered the legal landscape governing these disputes. The Supreme Court, while setting aside the judgment of this Court, did not finally determine the genuineness of the appointments. Instead, it directed the constitution of a high-powered inquiry committee to examine the entire recruitment process, verify documents, scrutinise appointment letters, and determine the entitlement of the petitioners, including the question of salary for the period actually served.

9. The record before us further reflects that, in compliance with the aforesaid judgment, an inquiry committee comprising senior officers of the

¹ Jawad Mir Muhammadi and others v. Haroon Mirza and others (PLD 2007 SC 472)

Government of Sindh examined the matter in detail. The committee considered the recruitment record, heard the affected persons, scrutinised the available documents, and rendered findings. The report reveals that, while several irregularities and procedural deficiencies were noted in the recruitment process, the committee also found that the recruitment exercise had originated from duly issued advertisements, written tests had been conducted, and a substantial number of candidates had participated in the process. The committee also observed that many candidates had, in fact, worked for a considerable period and had produced supporting material in that regard. The inquiry report further shows that, after scrutiny and verification, recommendations were made in respect of a number of candidates found eligible for further consideration. The significance of the report lies not merely in its conclusions but in the principle underlying the exercise, namely that the controversy is essentially factual in nature and requires verification through departmental scrutiny rather than adjudication solely on the basis of competing affidavits.

10. We are mindful that the respondents have levelled serious allegations of forgery, fabrication and manipulation of documents. Equally, the petitioners assert that they participated in a regular recruitment process and acted bona fide throughout. These competing claims give rise to disputed questions of fact that cannot appropriately be resolved in constitutional jurisdiction. It is now well settled that where the determination of rights depends on extensive factual inquiry, examination of original records and evaluation of disputed evidence, constitutional jurisdiction under Article 199 of the Constitution is ordinarily not the proper forum for recording such findings.

11. We also find substance in the submission advanced by learned counsel for the petitioners that similarly situated persons cannot be denied consideration merely because they were not parties before the Supreme Court. In the case of Hameed Akhtar Niazi², it was held that where a point of law relating to service matters has been settled by a superior forum, the

² Hameed Akhtar Niazi (1996 SCMR 1185)

dictates of justice and good governance require extension of the benefit thereof to similarly placed employees. The same principle was reaffirmed in the case WAPDA through Chairman³. Though these authorities do not create an automatic right in favour of the petitioners, they do support extension of the same procedural treatment where the factual matrix is substantially similar.

12. It is important to note that the relief sought by the petitioners is not limited to the direct payment of salaries. One of the principal prayers is for the consideration of their cases in accordance with the judgment dated 03.08.2023 passed by the Supreme Court. Since the Supreme Court of the country has already devised a mechanism for verifying claims arising from the same recruitment process, judicial propriety, consistency and the binding force of Articles 189 and 201 of the Constitution require adherence to that course.

13. Consequently, while we are not inclined to grant the substantive relief of salary or service benefits directly in these proceedings, we are equally not persuaded that outright dismissal of the petitions would advance the cause of justice in the peculiar facts of the case. The controversy requires examination through the same lens and methodology adopted in accordance with the judgment of the Supreme Court (supra).

14. For the foregoing reasons, these petitions are disposed of with the direction that the competent authorities of the School Education and Literacy Department, Government of Sindh, shall examine and decide the cases of the present petitioners strictly in accordance with the judgment dated 03.08.2023 passed by the Supreme Court of Pakistan in Civil Petitions No. 903 to 907 of 2023, and in light of the findings, observations and recommendations emerging from the scrutiny/inquiry proceedings conducted pursuant thereto. For this purpose, the petitioners shall be afforded an adequate opportunity of hearing and of producing all relevant material in support of their respective claims. The competent authority shall verify, inter alia, whether the petitioners participated in the advertised recruitment process, qualified the requisite tests, fulfilled the prescribed eligibility criteria,

³ WAPDA through Chairman v. Abdul Ghaffar (2018 PLC (C.S.) 458)

received appointment orders through lawful process, actually joined and performed duties, and whether any salary is lawfully due for any period of service found to have been genuinely rendered. In the event any petitioner is found entitled to relief under the applicable law and policy, consequential action shall be taken strictly in accordance with law. Conversely, where any claim is found unsupported, irregular, forged, fraudulent or otherwise contrary to law, a speaking order shall be passed assigning reasons.

15. The entire exercise shall be concluded expeditiously, preferably within ninety (90) days of receipt of a copy of this order. The decision so taken shall be communicated to each petitioner in writing.

These petitions stand disposed of in the above terms along with all pending applications. No order as to costs.

J U D G E

J U D G E

Naveed Ali