

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA**  
Constitutional Petition No.D-56 of 2023.  
(*Faqeer Muhammad v. Principal, Govt. Degree College Larkana & Ors*)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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**BEFORE:**

*Mr. Justice Muhammad Saleem Jessar.*  
*Mr. Justice Adnan-ul-Karim Memon.*

**Date of hearing and Order: 18.03.2025**

Mr. Ashique Hussain Dhamraho, advocate a/w the petitioner.  
Mr. Liaquat Ali Shar, Additional Advocate General a/w  
Shahid Hussain Hulio, Assistant, Govt. Degree College Larkana

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**ORDER**

**ADNAN-UL-KARIM MEMON.J.-** The petitioner seeks the following relief;

- a) *That, this Honourable Court may be pleased to declare the act of respondents as illegal, malafide, null, void, and against the law of natural justice.*
- b) *This Honourable Court may be pleased to direct the respondents not to retire the petitioner before 01.07.2026.*

2. A Lab Attendant is contesting his impending premature retirement. The department uses a medical fitness certificate from his initial employment, which incorrectly lists his birth year as 14.11.1963, to justify his retirement accordingly. He submits his official service record and the National Database Registration Authority (NADRA), records, and treasury records all consistently show his birth year as 01.07.1966, making his correct retirement date July 1, 2026. He asserts that the department's reliance on the flawed physical fitness certificate issued by CHandka Medical College Hospital Larkana on 10.11.1988 is illegal, and unjust, and ignores established official records. He seeks a court order to prevent his premature retirement and declare the department's actions invalid, as well as an award for the costs of his petition.

3. The District Accounts Office (DAO) acknowledges the birth date discrepancy, stating their records show 01-07-1966. He disclaim responsibility for the 14-11-1963 entry, advocating for retirement based on NADRA's 01-01-1966

record (31-12-2025). He dismisses the 1963 entry and the fitness certificate's age, asserting NADRA's date as definitive.

4. Although this Court while exercising constitutional jurisdiction is not supposed to indulge in factual controversy, yet to ascertain the bonafide of the petitioner, documents have been examined with the assistance of the parties.

5. Petitioner faces premature retirement based on a 1963 birthdate from a fitness certificate, contradicting his 1966 birthdate in service records, NADRA, and treasury documents. The department inserted the 1963 date into his service book. The District Accounts Office (DAO) confirms the 1966 dates in their system but points to NADRA's 1966 date (01-01-1966), suggesting retirement in 2025, and disclaims responsibility for the 1963 entry. The DAO emphasizes NADRA as the definitive source. The petitioner, despite joining service in 1988, did not raise the issue of his date of birth discrepancy until he was told to retire in the coming years as the previous Principal of the college inserted the 1963 date of birth into his service book based on his physical fitness certificate issued by the concerned hospital. However, the rule position on the subject issue is also specific. It is stipulated in law that the date of birth once recorded at the time of joining government service shall be treated final, and thereafter no alteration in the date of birth of a civil servant shall be permissible. It further provides that the request of a Civil Servant for a change of date of birth shall not be entertained after two years from the date of such entry in his service record. On the aforesaid proposition, we are guided by the decision of the Supreme Court in the cases of Dr. Muhammad Aslam Baloch v. Government of Balochistan 2014 SCMR 1723 and Al Azhar Khan Baloch v. Province of Sindh 2015 SCMR 456.

6. The petitioner seeks an alteration of his date of birth in the service record after more than three decades. It is settled law that the date of birth once recorded in the service record of a civil servant cannot be altered or changed except per exceptions provided in the rules itself. Guidance is solicited by the dictum laid down by the Supreme Court of Pakistan in the case of Chief Secretary, Government of Balochistan, Quetta, and others v. Asmatullah Kakar (2020 SCMR 1678).

7. Another important aspect of the matter is that the petitioner joined the service in 1988 while filing the petition in the year 2023 i.e. after more than three decades. The Apex Court in the case of Muhammad Khaliq Mandokhail v. The government of Balochistan (2021 SCMR 595), has observed that the petitioner initiated proceedings regarding the birth date issue after 22 years of active service



and held that the proceedings carried out by the petitioner were based upon an afterthought just to prolong the service tenure and it was nothing but an attempt to continue with the service based on frivolous and tainted documents which speak volume with its genuineness.

8. The date of birth claims to have been corrected based on some medical fitness certificate. When enquired, the representative of the respondent Principal of the college, who appeared in person, as to under what authority the service record of the petitioner, and the date of birth was subsequently rectified once it was disclosed in his service book, his actual date of birth i.e 14.11.1963. He submitted that the previous Principal of the college inserted the 1963 date of birth into his service book based on his physical fitness certificate issued by the concerned hospital. At this stage learned AAG relied upon Section 11 of the Sindh Civil Services Rules (Volume-I), which provides for a medical certificate of fitness for government service in the prescribed form. The said provision is not applicable as far as the present controversy is concerned. Rule 171 of the aforesaid rules, is reproduced as under:

*“ 171. In the service book every step in a Government servant's official \_ including temporary and officiating promotions of all kinds, increments, transfers, and leave of absence taken, should be regularly and concurrently recorded, each entry being duly verified with reference to departmental orders, pay bills and leave statements, and attested by the head of the office. If the Government servant is himself the head of an office, the attestation should be made by his immediate superior, officiating and temporary service and leave taken prior to first substantive appointment to a permanent post should also be recorded in the service book and duly attested after verification. The date of birth should be verified with reference to documentary evidence and a certificate recorded to that effect stating the nature of the document relied on :*

*Provided that in the case of inferior Government servants, if documentary evidence is not available, the age should be determined by the appointing authority with reference to the statements of respectable persons, medical opinion, etc., and any other evidence he may think proper to take. ”*

9. However, the proviso to this rule provides that if the documentary evidence is not available, the age should be determined by the appointing authority regarding the statement of the respectable person, medical opinion, etc., and any other evidence he may think proper to take. Here, it may well be added that the date of birth in the service record (*service book*) does operate as a *limit* in service therefore, importance whereof cannot be denied. Normally, every civil servant receives his monthly salary under a *pay slip* which does contain the date of birth of such civil servant, therefore, a plea of *ignorance* normally would not be available to the petitioner to such effect. This is the reason that the apex Court in the case of *Iqbal Hyder v. Federation of Pakistan* (1998 SCMR 1494) has held that a Government

employee under the relevant rules cannot make prayer for correction of his date of birth after two years of joining service. However, in the present case, the petitioner has provided his old NIC and new CNIC as well as a pay slip which shows his date of birth as 1966, which documents prima facie show the date of birth of the petitioner (01-01-1966), however, his service book shows his date of birth 14.11.1963 such discrepancy in service record needs to be looked into by the respondent department in its true perspective, as this court cannot give definite opinion on the such controversy at this stage in terms of Article 199 of the Constitution.

10. For the reasons mentioned above, since the petitioner's request has not been opposed by the respondent department as such it is for them to make a decision whether to continue him on the job as per his actual date of birth or otherwise as this court cannot exercise the jurisdiction in terms of Article 199 of the Constitution due to disputed facts as such they shall examine his case on the aforesaid annology as put forward by them within two months. Consequently, the instant petition is disposed of in the above terms.

JUDGE  
JUDGE  
18/5/2015