

Order Sheet
THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANO

C.P.No.D-189 of 2025

(Abdul Wasiu Vs. Federation of Pakistan & Ors)

CP No D. 316 of 2025
(Hussain Alam Soomro and others Vs. Federation of Pakistan & Ors)

Date Hearing	Of	Order with Signature of Hon’ble Judge
-----------------	----	---------------------------------------

Before:
Mr. Justice Muhammad Saleem Jessar,
Mr. Justice Nisar Ahmed Bhanbhro,

CPD 189 of 2025
Petitioner: Abdul Wasiu son of Abdul Malik Tagar,
Through Mr. Rashid Ali Tunio, Advocate.

CPD 316 of 2025
Petitioners: 1. Hasnain Alam son of Muhammad Alam Soomro
2. Abdul Haseeb son of Abdul Waheed
3. Abdullah son of Abdul Jabbar
4. Ali Muhammad son of Abdul Wahab
Through Mr. Muhammad Yousuf Mahar Advocate

The Respondents: Through Mr. Riaz Hussain Khoso, D.A.G a/w
Sanaullah Sohu, Divisional Superintendent, Postal
Services, Larkana on behalf of Respondent No.3.

Date of Hearing: 08.10.2025

Date of Judgment: 08.10.2025

.....

ORDER

.....

Nisar Ahmed Bhanbhro, J. We propose to decide the fate of captioned petitions through this single order, as both the petitions involve a common question of fact and law. The petitioners have challenged the letter dated 28.02.2025 issued by the Divisional Superintendent, MST "H" Division, Pakistan Post, Hyderabad, whereby the services of the Petitioners have been terminated.

2. Learned counsel for the petitioners argued that pursuant to advertisement dated 02.08.2022, the petitioners applied for different posts viz. Sorter BS-09, Time Scale Clerk BS -09 and Mail Peon BS 02. Petitioner appeared

in the written test and after completing all the formalities, they were recommended for appointment and issued appointment letters. Per learned counsel, the petitioners received termination letters dated 28.02.2025 (impugned letters) from the office of the Postmaster General, Northern Sindh Circle, Hyderabad. He argued that no reason was assigned in the impugned letters for termination of the service of Petitioners. He argued that no regular was held and petitioners were deprived of the right of fair trial. He argued that the appointment of petitioners was done in accordance with law. He further argued that the Learned Lahore High Court Bench at Bahawalpur has set aside the termination letters of the similarly placed employees vide judgment dated 25.09.2025 passed in Writ Petition No 4706 of 2025 (Re Ahmad Samad Versus The Federation of Pakistan through Director General Pakistan Post and others). He placed on record the copy of the order passed by Learned Lahore High Court and contended that the case of the petitioners was on same footing, thus they were entitled for the same relief.

3. Learned Deputy Attorney General, Pakistan controverted the submissions made by the learned counsel for the petitioners and argued that the petition was not maintainable as petitioners were civil servants and remedy in terms of departmental appeal and service appeal was available to them. He argued that the jurisdiction of this Court was barred under article 212 of the Constitution of Islamic Republic of Pakistan, of 1973, this court in lieu of the bar cannot entertain the constitution petition. He argued that the petitioners were appointed in violation of the Rules; a fact-finding enquiry committee was constituted by the Department, which opined that in all 151 officials were appointed in excess. He argued that the excess appointment was proved during inquiry, petitioner joined the service through back door channels, therefore, they were not entitled to retain jobs. He argued that the petitions were misconceived; hence the same may be dismissed.

4. **Heard arguments and perused the material made available before us on record.** Admittedly, the petitioners were appointed in the Pakistan Post Service Department by adopting due process of law, that included advertisement, recruitment test, interview and physical fitness. Petitioner were issued offer for appointment letter and taken into service vide appointment letter dated 10.10.2023 (Petitioner in CP D 189 of 2025) and

01.11.2023 & 27.11.2023 (Petitioners in No CP D 316 of 2025) for a probation period of one year. The Petitioners served department until 28.02.2025 when the impugned termination letters were served upon them. In between Petitioners satisfactorily completed probation period, hence their services stood regularized.

5. It evinced from the record that an enquiry committee was constituted by the Department under the directives of Prime Minister office to probe into the recruitment process. Enquiry Committee on conclusion furnished findings to the competent authority and opined that in all 151 employees were appointed in excess over and above 498 advertised posts. Pursuant to the findings of inquiry committee the termination letters were issued to the petitioners, which reads as under:

**OFFICE OF THE DIVISIONAL SUPERINTENDENT MST "H" DIVISION
HYDERABAD**

No B1 - 12/Rectt: Class - III & IV/(KW)/2023 dated @ Hyderabad 28.02.2025

Subject: TERMINATION LETTER

As per Para 52(iv) of recommendations of the enquiry committee regarding recruitment process 2022 - 23 in respect of Northern Sindh Circle, Hyderabad and recommendations of enquiry report received from Prime Minister Office conveyed by the Director General Pakistan Post Islamabad vide letter No ER - 5-I / 2025 dated 25.02.2025 as communicated by the office of the Postmaster General, Northern Sindh Circle Hyderabad vide his letter No SC/Staff-Enquiry report/2025 dated 28.02.2025 Mr. Abdul Wasiiu s/o Abdul Malik Tagar working as sorter (BPS - 09) (on probation) is hereby terminated from government service with immediate effect due to excess appointment over and above the advertised posts.

Sd/

*Divisional Superintendent
MST "H" Division Hyderabad*

6. Perusal of the enquiry report, which is signed by the Enquiry Officer Muhammad Imran Khan, Postmaster General, Balochistan, Manzoor Ahmed Bangulzai, Deputy Postmaster General (Ops)M/P Circle, Karachi,

Muhammad Qamar-us-Saqib, Assistant Director (S&E), Balochistan Circle, Tariq Mehmood, Assistant Director (Inv) Deputy General, Pakistan Post and Hamid-ul-Haseeb, Assistant Director (Legal) Balochistan Circle, revealed that in all 151 officials were declared to have been appointed in excess, but in the said enquiry report, names of those persons, who were appointed in excess, did not find mention. The Enquiry Committee recommended that Najeeb bur Rehman, Postmaster General, NS Circle, Hyderabad be immediately transferred from Hyderabad Circle and may not be given independent charge of a position involving administration, operational and financial assignments.

7. Per terms and conditions contained the Appointment letters, the petitioners were taken into service on regular basis for a probation period of one year, which ended on 09.10.2024, 30.10.2024 and 26.11.2024 respectively. No material has been placed on record that the probation period was extended as such on expiry of the probation period petitioners became the regular employees of department. Per clause (1) of the Terms and Condition of the Appointment, Government Servants (Efficiency & Discipline) Rules 1973 (E&D Rules) and the Civil Servant (Appointment, Promotion and Transfer) Rules 1973 (APT Rules) and other rules issued from time to time applied to the service of petitioners.

8. Since the petitioners were appointed under APT Rules, therefore an enquiry as mandated under the under the E&D Rules was necessary for imposing a penalty of termination from service. Termination letters issued to the petitioners do not transpire that any show cause notice was ever issued or charge containing statement of allegations was framed. No material has been placed on record to establish that the regular enquiry in terms of E&D Rules was conducted. The petitioners were the regular employees and in absence of any enquiry under the relevant law, they cannot be imposed major penalty of termination from service.

9. Moreover, the termination letter dated 28.02.2025 is issued by the Senior Postmaster General, G.P.O, Shikarpur and GPO Jacobabad and Divisional Superintendent, Postal Services, Larkana, whereas the petitioners were appointed by the Divisional Superintendent, Postal Services, Larkana. It

reflects that the termination letter has not been issued by the competent authority, which is violation of Rule 4 of the E&D Rules, 1973.

10. E&D Rules 1973 lay down a precise procedure for imposing any penalty on an employee. Authorized officer shall decide whether in the light of facts of the case or the interests of justice an inquiry should be conducted through an Inquiry Officer or Inquiry Committee. If he so decides, the procedure indicated in rule 6 shall follow. If the authorized officer decides that it is not necessary to have an inquiry conducted through an Inquiry Officer or Inquiry Committee, he shall by order in writing, inform the accused of the action proposed to be taken in regard to him and the grounds of the action; and give him a reasonable opportunity of showing cause against that action. Opportunity of hearing can be waived where the authority is satisfied that in the interest of the security of Pakistan or any part thereof it is not expedient to give such opportunity.

11. On receipt of the report of the Inquiry Officer or Inquiry Committee as the case may be, or where no such officer or Committee is appointed, on receipt of the explanation of the accused, if any, the authorized officer shall determine whether the charge has been proved or not. If it is proposed to impose a minor penalty he shall pass orders accordingly. If it is proposed to impose a major penalty, he shall forward the case to the authority along with the charge and statement of allegations served on the accused, the explanation of the accused, the findings of the Inquiry officer or Inquiry Committee, if appointed, and his own recommendations regarding the penalty to be imposed. The authority shall pass such orders as it may deem proper.

12. In case when an inquiry officer or inquiry committee is appointed, the authorized inquiry Officer shall frame a charge and communicate it to the accused together with statement of the allegations explaining the charge and any other relevant circumstances which are proposed to be taken into consideration. Inquiry Officer or Inquiry Committee shall require the accused within a reasonable time, which shall not be less than seven days or more than fourteen days from the day the charge has been communicated to him, to put in his written defence and to state at the same time whether he desires to be heard in person. The Inquiry Officer or the Committee as the case may be, shall

enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defence of the accused as may be considered necessary and the accused shall be entitled to cross-examine the witnesses against him. The inquiry committee or the officer shall conclude the proceedings within fourteen day and within ten days of the conclusion of the proceedings or such longer period as may be allowed by the authorized officer, submit his or its findings and the ground thereof to the authorized officer. The Inquiry Officer and the Inquiry Committee shall have the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of summoning and enforcing the attendance of any person and examining him on oath; requiring the discovery and production of documents; receiving evidence on affidavits; issuing commissions for the examination of witnesses or documents.

13. In the case of petitioners, nowhere transpires that whether the regular inquiry was conducted, if the inquiry was dispensed with, any show cause notice was given to the petitioners or statement of allegations and charge was sent to them for explanation. Findings of any committee constituted in the name of inquiry cannot be considered as a fact established or proved unless fair opportunity is provided to the accused to defend the charges. The inquiry report in the present case reflected that the charges were not confronted to the petitioners, Petitioners were not served with the statements of allegations. The principles of natural justice require that the accused should be afforded a fair opportunity to contest the charges before being found guilty. No efforts were made by the competent authority, to explore the guilt of the petitioners individually. For all practical purposes, the inquiry report that rendered its findings that 151 employees were appointed in excess cannot be construed as fair and impartial, nor is it commensurate with the procedure provided under the E&D Rules. The failure to provide ample opportunity of defence, tantamount to sheer violation of the fundamental right of fair trial guaranteed under article 10 – A of the Constitution.

14. The E&D Rules have been framed in total adherence to the concept of natural justice and any action taken in violation of the principles of natural justice would not survive and would be set at nullity under the exercise of

powers of judicial review by this Court conferred under article 199 of the Constitution.

15. Moreover, the enquiry report has fixed the responsibility of issuance of the fake appointment orders against the Postmaster General, Hyderabad, whereas in the case of the petitioners, the appointment letters were issued by the Divisional Superintendent, MST "H" Hyderabad and Divisional Superintendent, Postal Services, Larkana. No finding in the enquiry report is available that any appointment in excess was made by the Divisional Superintendent, MST "H" Hyderabad and Divisional Superintendent, Postal Services, Larkana. Admittedly, the petitioners were condemned unheard, which offended his fundamental rights as to a fair trial. Even the details of the excess employees have not been placed on record. All these factors tilt the aspect of malafide on the part of the respondents to deprive the petitioners of service/job. The conduct of the Respondents in the case of petitioners is highly preternatural and against the principles of natural justice.

16. The view finds support from the dictum laid down by Honorable Supreme Court of Pakistan in the case of FEDERAL GOVERNMENT EMPLOYEES HOUSING AUTHORITY through Director General, Islamabad Versus EDNAN SYED and others reported as P L D 2025 Supreme Court 11, wherein it is held that:

14. Furthermore, Article 10A of the Constitution requires that everyone is entitled to a fair trial and due process, which includes the basic right to be heard. The principle of 'audi alteram partem' is one of the foundational principles of natural justice. It necessitates the requirement of being heard so that the judicial order reflects the contention of every party before the court. To fulfill the requirements of being heard, it is settled that the relevant party must be issued first a notice and then be allowed a hearing. These two (notice and hearing) are basic pre-requisites, which satisfy the test of being heard as well as fair trial and due process within the ambit of Article 10A of the Constitution. In this matter, it appears that the Impugned Judgment and Impugned Order have not given an opportunity of hearing to the concerned parties which includes the federal government and the affectees of the Revised Policy. This amounts to a violation of their basic right to be heard and suggests that the decision was made without following due process.

17. Under the similar circumstances Learned Lahore High Court Bahawalpur Bench has set aside the termination letters of the employees who were terminated on the basis of the inquiry report dated 11.07.2024, vide order dated 25.09.2025, the case of the Petitioner is on the same footing, therefore, the doctrine of equity enshrined under article 25 of the Constitution shall apply to the case of Petitioners. They shall also be entitled for the same relief in terms of the guidelines provided by Honorable Apex Court in the case of Hameed Akhtar Niazi Versus Secretary Establishment Division Government of Pakistan and others reported as **1996 SCMR 1185** wherein it has been held that the dictates and rule of good governance demand that the benefit of judgment of by tribunal or court given to an employee be extended to other employees, who even may not be party to the proceedings.

18. As regards the maintainability of the petitions is concerned, surprisingly in the termination letters, the Respondents have written that the Petitioners were on probation, contrary to this stance in their replies the Respondents have stated that the petitioners were civil servants, as such grievance was amenable to the jurisdiction of Service Tribunal. Coupled with the facts that the Service Tribunal Act did not recognize the employees on contract or probation as civil servants, the petitioners have terminated under the blanket cover of an inquiry report which did not speak about the appointment of petitioners specifically, thus actions of the Respondents were subject to the judicial review of this Court. The Respondents have acted beyond the bounds of law, actions on their parts militated the provisions of Article 4, 9, 10 – A and 25 of the Constitution. This Court by virtue of powers conferred under article 199 of the constitution is custodian of the fundamental rights of the individual.

19. There is no cavil to the proposition that transparency in the appointment process is foundation to the good governance. The concerned department is best suited to determine the fairness and genuineness of the recruitment process and this Court sparingly interferes in the matters concerning the recruitment, but in the case of petitioners it spelt out from the record that the termination letters dated 28.02.2025 resulted in blatant abuse and colourful exercise of powers of the respondents and the petitioners have

been terminated without following the due process of law, which established the malice in facts on the part of the respondents and malice in law rendering the entire exercise nullity in the eyes of law.

20. For the aforementioned reasons, We are of the considered opinion that the impugned termination letters were not tenable under the law, thus a case for indulgence of this Court to exercise the powers of judicial review is made out. Consequently, the petitions are allowed. The **TERMINATION LETTERS** dated 28.02.2025, issued by the respondents are hereby set aside with no orders as to the costs.

Petitions stand disposed of in the above terms.

Judge

Judge

Manzoor

Approved for reporting

Larkana

08.10.2025