

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Constitutional Petition No. D-1656 of 2024
(Syed Tahir Raza Zaidi versus Government of Sindh & others)

Date	Order with signature of Judge(s)
	Before: Mr. Justice Muhammad Karim Khan Agha Mr. Justice Adnan-ul-Karim Memon

Date of hearing and order:- 28.10.2025
Mr. Amer Raza Naqvi advocate for the petitioner
Mr. Ali Safdar Depar, Assistant Advocate General along with Liaquat Ali Abro, Law Officer

ORDER
Muhammad Karim Khan Agha, J: The petitioner has prayed as
under:

To declare that underlined sentence after the words” period of 3 years” the words “or till he attains the age of 65 years, whichever is earlier” is unwarranted and discriminatory and therefore the words “ or till he attains the age of 65 years, whichever is earlier” be strike down from annexure A notification dated 24th July 2023 and consequently petitioner be allowed to continue to serve as member (Technical) Appellate Tribunal Sindh Revenue Board for a period of 3 years commencing from 24th July 2023.

Declare that sentence “or till he attains the age of 65 years, whichever is earlier” mentioned in annexure A is discriminatory in the case of the petitioner and, as such, is unconstitutional.

Declare that the letter dated 27th March 2024, annexure E to the petition, is irrational and be struck down being discriminatory and as such is unconstitutional.

2. The petitioner's case is that he was appointed as Member (Technical) of the Appellate Tribunal, Sindh Revenue Board, under Section 60(4) of the Sindh Sales Tax on Services Act, 2011, being fully qualified and selected on merit. He has performed his duties satisfactorily with no complaints. He submitted that it is the established practice that such appointments are made for a term of three years, giving appointees a legitimate expectation of serving that period.
3. Learned counsel for the petitioner argued that the petitioner was treated unfairly as his appointment notification contained the clause “or till he attains the age of 65 years, whichever is earlier,” making his case an exception. He emphasized that the petitioner’s date of birth was known to the respondents, and the inclusion of this condition was arbitrary and discriminatory. He further contended that the opinion of the Chairman of the Tribunal a senior judicial figure was disregarded by respondent No.2 in the impugned letter dated 27 March 2024. The petitioner thus claims violation of legitimate expectation and unequal treatment compared to similarly placed members, and seeks the impugned clause to be struck down.

4. Conversely, learned AAG submitted that the petitioner's appointment was considered by the Provincial Cabinet on 19 and 22 July 2023. As the petitioner was then 63 years and 11 months old (born on 16 April 1959), the Cabinet, after due deliberation, approved his appointment only until he attained 65 years, in accordance with the statutory age limit under Section 60(4) of the Sindh Sales Tax on Services Act, 2011. The AAG therefore prayed for dismissal of the petition.

5. Heard the learned counsel and examined the record with their assistance.

6. The petitioner was appointed as Member (Technical) of the Appellate Tribunal, Sindh Revenue Board, under Section 60(4) of the Sindh Sales Tax on Services Act, 2011, challenges the inclusion of the clause "or till he attains the age of 65 years, whichever is earlier" in his appointment notification dated 24th July 2023.

7. Section 60(4) of the Sindh Sales Tax on Services Act, 2011, stipulates that a member of the Appellate Tribunal shall hold office for a term of three years or until the age of 65 years, whichever is earlier. This provision inherently allows for appointments up to the age of 65, provided the individual is appointed before reaching that age. The inclusion of the age limit in the appointment notification is a reflection of this statutory requirement and does not constitute an arbitrary or discriminatory act. The petitioner's expectation of a three-year term is based on established practice; however, the statutory framework takes precedence over administrative practices. The Cabinet's decision to limit the petitioner's term to the age of 65 aligns with the statutory provisions and does not infringe upon his rights. The principles of statutory interpretation and the precedence of statutory provisions over administrative practices are well-established. For instance, in the case of *CP D-3184 of 2014*, this Court emphasized the importance of adhering to statutory provisions in the context of tax laws. Such precedents support the view that the statutory age limit under Section 60(4) takes precedence over established administrative practices.

8. The term "for a period of three (03) years or till he attains the age of 65 years, whichever is earlier" imposes two limits on the tenure of an appointee. While the appointee may serve up to three years, the appointment automatically terminates upon reaching 65 years, whichever occurs first. Section 60(4) of the Sindh Sales Tax on Services Act, 2011, prescribes this dual limitation to ensure compliance with statutory retirement norms. Even if standard practice allows a three-year term, service cannot extend beyond the age of 65. For instance, an appointee aged 62 may serve only until 65, whereas one aged 60 may complete the

full three-year term. This provision ensures consistency with retirement policies, prevents exceeding statutory limits, and balances fixed-term appointments with legal compliance. The clause is statutory, neither arbitrary nor discriminatory, and any claim to serve a full three years beyond 65 would contravene Section 60(4). The appointment clause is lawful and in accordance with Section 60(4) of the Act. The petitioner's term is validly limited to three years or until attaining 65 years, whichever is earlier. The petition seeking removal of this clause is therefore not called for under Article 199 of the Constitution.

9. In light of the above, the petitioner's request to strike down the clause "or till he attains the age of 65 years, whichever is earlier" from the appointment notification is not substantiated. The inclusion of this clause is in accordance with the Sindh Sales Tax on Services Act, 2011, and does not violate any constitutional or legal provisions. Therefore, the petition is dismissed along with pending application(s).

HEAD OF CONST. BENCHES

JUDGE

Shafi