

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.D-693 of 2025

[Nisar Ahmed v. Accountant General Sindh & others]

Before:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Riazat Ali Sahar

Petitioner: Nisar Ahmed through Mr. Sandeep Kumar Maheshwari, advocate

Respondents: Accountant General Sindh, Karachi and others through Mr. Rafique Ahmed Dahri, Assistant Advocate General Sindh along-with Arif Hussain District Accounts Officer, Badin and Shahzad Ali Jat Assistant Education Officer Primary Badin.

Date of hearing: 13.11.2025

Date of Judgment: 13.11.2025

J U D G M E N T

RIAZAT ALI SAHAR, J:- Through this petition, the petitioner prayed as under:-

- a. *That this Honourable Court may be pleased to issue direction to the Respondent No.1 & 2 to open the Personal ID of the Petitioner and further to release monthly salary of the Petitioner.*
- b. *Direct the Respondent No.1, 02 and 04 to release all arrears with effect from his joining date i.e. 18.11.2022.*
- c. *Any other order may deem fit and proper may kindly be passed in favour of the petitioner.*

2. The case of the petitioner is that he has been performing his duties in the Education Department as a Primary School Teacher and was allotted SAP ID No.10743424. However, the said SAP ID was erroneously allotted to another individual, namely, Mr. Sajan. Subsequently, the respondents questioned the petitioner's appointment on the ground that his previous appointment order could not be traced due to reshuffling of official record and therefore his personal ID for the purpose of drawing salary could not be opened. It is further stated that the petitioner had previously been appointed as a Primary School Teacher and had been regularly receiving salaries until he tendered his

resignation, which was accepted by the competent authority vide order dated 31.03.2017. After the acceptance of his resignation, he did not draw any salary. Thereafter, upon issuance of a fresh advertisement for teachers, the petitioner again applied, completed all requisite codal formalities and was appointed afresh. Per petitioner, during this entire period he never received any show cause notice or communication questioning his earlier appointment or the salaries drawn during that period.

3. Pursuant to notices issued by this Court, Respondents No.1 and 3 filed their respective comments. Respondent No.1/Accountant General Sindh, in his comments, stated that SAP ID No.10743424 was blocked because the master data of the said SAP ID had been altered. Upon scrutiny, it was discovered that the said ID was initially hired in favour of one Mr. Sajan on 13.10.2012; however, no salary was disbursed to him. Thereafter, on 10.11.2012, it was inserted in the name of one Mr. Munawar Ali, yet no salary was started and the ID remained inactive/dormant till February 2014. After a lapse of two years, in March 2014, the same ID was hired in the name of the petitioner, Mr. Nisar Ahmed, by altering the master data of the SAP ID. From March 2014 to February 2017, salaries were drawn from the cost center of District Badin and credited to an account pertaining to Digri Branch, Mirpurkhas. Upon the revelation of this fraudulent alteration of master data to induct a bogus employee into government service, the said SAP ID was blocked to prevent further loss to the public exchequer.

4. Respondent No.3/District Education Officer (Primary), District Badin, in his comments, stated that the petitioner's previous service record, including resignation and fitness certificates, was found to be fake upon verification.

5. Learned counsel for the petitioner contends that despite repeated requests, the respondents have failed to allot him a personal ID, due to which his monthly salary and arrears w.e.f. 18.11.2022 have not been released, which amounts to a violation of his fundamental rights and such inaction has compelled the petitioner to invoke the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973. He further submits that although the petitioner is continuously performing his duties and awaits disbursement of his salary, Respondents No.1 and 2 are unlawfully refusing to open his personal ID, which is illegal, void,

unjustified and contrary to the principles of natural justice and places on record a salary slip of one Ali Ather Primary School Teacher who was appointed during the period when the petitioner earlier was appointed, as such, question of bogus employment of petitioner is nothing but false. He, therefore, prays that the petition be allowed. In support of his claim, learned counsel has relied upon the decision in the case of SHAHBAZ LATIF v. DIG, PAKISTAN RAILWAYS HEADQUARTERS OFFICE, LAHORE and others (2025 PLC (C.S.) 1022.

6. Conversely, learned Assistant Advocate General Sindh, while placing reliance upon the comments filed by the respondents, submits that the petitioner's SAP ID will only be opened after the recovery of Rs.582,297/–, being the amount earlier drawn by the petitioner through a fake ID, in compliance with directions issued by the Office of the Accountant General Sindh vide letter No. AGS/M&E/New Appointment/2024-25/857 dated 28.11.2024. He submits that the respondents' insistence is solely based on safeguarding the government exchequer from further financial loss. He further submits that no objection has been raised regarding the petitioner's fresh appointment through IBA; however, unless the petitioner repays the aforementioned amount, he is not entitled to the relief sought in the petition. Thus, he prays for dismissal of the petition.

7. We have heard the learned counsel for the respective parties and have perused the material available on record.

8. In the present case, it is not in dispute that the petitioner was duly appointed through a fresh recruitment process after fulfilling all codal formalities and has continuously been performing his duties as a Primary School Teacher since 18.11.2022. The record does not reveal any allegation of fraud, misrepresentation, or misconduct in respect of his fresh appointment. The respondents themselves admit that the petitioner is regularly attending to his duties; yet his salary has been withheld solely on the basis of a past dispute relating to an earlier SAP ID, which, according to the respondents' own showing, was created due to alteration of master data by departmental functionaries. The petitioner had already resigned from his previous appointment in 2017 and no proceedings were ever initiated against him either prior to or after such resignation. A pertinent question arises as to how salaries were released into the petitioner's account from March 2014 to February 2017 if, as now alleged, his earlier appointment was fake. Even assuming the stance of

Respondents No.2 and 3 to be correct, it cannot be ignored that any salary drawn by the petitioner could only have been disbursed after the requisite service documents were duly processed and authenticated by Respondent No.3 as *prima facie* no salary can lawfully be released in the absence of verified and approved documentation. Furthermore, even if it is presumed that such release occurred without proper verification, the responsibility for this lapse squarely rests upon Respondents No.2 and 3, who were under a statutory duty to scrutinize, verify and process all service-related documents before authorizing disbursement of public funds. Their failure to perform these mandatory functions cannot be attributed to the petitioner, particularly when the record clearly demonstrates that no objection, notice, or inquiry was ever initiated against him during his previous service or at the time of his resignation. Having remained silent for years and having allowed the petitioner to continue in service without challenge, the respondents cannot now take refuge in their own administrative negligence to deprive the petitioner of the salary lawfully due to him in his present, undisputed appointment. In these circumstances, fastening financial liability upon the petitioner for the departmental lapses of the respondents and withholding his salary for services presently being rendered is wholly unjustified, arbitrary and in violation of Articles 4, 9, and 25 of the Constitution until and unless due process of law is adopted.

9. We are of the considered view that the respondents' insistence upon recovery of an amount allegedly drawn through a previously-altered SAP ID, as a condition precedent for opening the petitioner's current personal ID, is not only legally untenable but also contrary to settled principles of equity, fairness and administrative propriety. The respondents have failed to show any inquiry, show-cause notice or finding attributing tampering of record to the petitioner. Administrative negligence and failure to regulate their own system cannot be used to penalize a serving teacher who is presently performing his duties and whose appointment through IBA has not been questioned.

10. The Honourable Supreme Court in the case of SHAHBAZ LATIF v. DIG, PAKISTAN RAILWAYS HEADQUARTERS OFFICE, LAHORE and others (2025 PLC (C.S.) 1022 has categorically held that;

“7. We specifically queried learned counsel for the respondents as to whether the petitioner had in fact continuously and satisfactorily performed his duties throughout his tenure. The learned counsel candidly

conceded that the petitioner had indeed discharged all assigned responsibilities without lapse. In such circumstances, the employer having accepted and benefited from fifteen years of unblemished service cannot now seek restitution of benefits already consumed. Principles of equity, good conscience, and public interest dictate that in the absence of fraud or dishonest conduct by the employee, retrospective recovery of wages is not only unjust, but contrary to settled legal precedent....”

The Honourable Supreme Court held that recovery despite defects in appointment is arbitrary and inequitable when the employee acted bona fide and the department failed in its prime responsibilities. The ratio applies with greater force to the petitioner’s case, who is being denied salary for ongoing service due to an administrative dispute unrelated to his present appointment. In such circumstances, the respondents cannot withhold his salary nor impose past administrative lapses as a condition to regularizing his current payroll status. However, the issue of arrears should be decided by the competent authority after hearing the petitioner.

11. In view of above facts and circumstances, we hold that the respondents' refusal to open the petitioner’s personal ID and release his monthly salary is illegal, arbitrary, in violation of his fundamental rights and contrary to the principles laid down by the Honourable Supreme Court. The petitioner is entitled to full monthly salary without interruption. Accordingly, this petition is disposed of with direction the respondents No.1 and 2 to forthwith open the personal ID of the petitioner and ensure regular disbursement of his monthly salary without any further delay. Respondents No.1, 2 and 4 are further directed to decide the issue of arrears of salary to the petitioner within four weeks from the date of this order. However, the respondents shall be at liberty to effect any lawful recovery against the petitioner by approaching the competent forum, if so advised.

12. The petition stands **disposed of** in the above terms.

JUDGE

JUDGE