

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
C.P. No. D-8517 of 2018  
[Mahmood Zamir Farooqui v. Federation of Pakistan & others]

Date	Order with signature of Judge(s)
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Before:  
Mr. Justice Adnan-ul-Karim Memon  
Mr. Justice Zulfiqar Ali Sangi

**Date of hearing and Order: 17.03.2026**

Mr. Abdul Salam Memon, advocate for the petitioner  
Mr. Ali T. Ibrahim advocate for the respondent  
Ms. Wajiha Mehdi, Assistant Attorney General

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**ORDER**

**Adnan-ul-Karim Memon, J.** – Petitioner has filed this Constitution Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan 1973, seeking the following relief:-

- i) *To declare that the petitioner is lawfully entitled to the reimbursement of the full amounts, so incurred by him on the medical treatment of his father while the petitioner's late father remained hospitalized and given treatment during his ailment;*
- ii) *Declare the act of the respondent PQA for not releasing /reimbursing the full amounts to the petitioner incurred by him on the treatment of his father, is illegal, arbitrary, a colourable exercise of power and authority, and thus not warranted in law;*
- iii) *To direct the respondent PQA to fully adjust and reimburse the entire balance amount, i.e., Rs. 2,449, 359/ to the petitioner, which was incurred by the petitioner on the hospitalization and treatment of his father.*

2. Learned counsel for the petitioner contended that the petitioner, a senior officer of Port Qasim Authority (PQA), incurred substantial medical expenses on the treatment of his dependent father, which were duly verified and approved by the Medical Scrutiny Committee, Audit Committee, and other competent authorities in accordance with the PQA Medical Policy and Regulation No. 66 of the PQA Employees Service Regulations, 2011. It was argued that despite such approvals, the respondents have unlawfully withheld the remaining of Rs. 2,449,359/-, after making partial payment. Counsel submitted that the act of non-reimbursement is arbitrary, mala fide, and a colorable exercise of authority, particularly when even the PQA Board and Chairman acknowledged the petitioner's entitlement and partially approved payment. It was further argued that the petitioner has been discriminated against and deprived of his lawful and vested rights, in violation of Articles 4 and 5 of the Constitution of Islamic

Republic of Pakistan, 1973. The learned counsel emphasized that the delay in payment constitutes a continuing wrong; hence, the petition is not hit by laches. He prayed that the respondents be directed to release the outstanding along with appropriate relief.

3. Conversely, learned counsel for the respondents raised preliminary objections, submitting that the petition is barred by laches as it relates to claims arising from the year 2009. On merits, it was argued that the petitioner has concealed material facts, particularly an undertaking dated 24.10.2009, whereby he agreed to bear all medical expenses beyond the amount already paid by PQA. Counsel contended that the Aga Khan University Hospital was not on the approved panel at the relevant time, and therefore, the expenses incurred during subsequent admissions were not admissible under the PQA Medical Policy without proper approval, which was not granted. It was further submitted that the petitioner has already received substantial payments, including Rs. 1,144,862/- and an additional Rs. 1,500,000/-, which constituted full and final settlement of his claim. The learned counsel maintained that no amount is outstanding; rather, an excess payment of Rs. 531,866/- has been made to the petitioner, which the respondents are entitled to recover. It was argued that all actions were taken strictly in accordance with the applicable policy and law, without any arbitrariness or mala fide intent, and that no fundamental rights of the petitioner had been violated. Consequently, dismissal of the petition with costs was prayed for.

4. Learned DAG supported the respondents and contended that the claim is barred by laches and based on concealment of material facts, particularly the undertaking dated 24.10.2009. She argued that the hospital was not on the approved panel; therefore, the expenses were not admissible. It was further submitted that the petitioner has already received full and final settlement, and no amount is payable; rather, excess payment has been made. She maintained that the respondents acted lawfully, without mala fide, and no fundamental rights were violated, and prayed for dismissal of the petition.

5. Heard learned counsel for the parties and perused the record with their assistance.

6. At the outset, the objection of laches raised by the respondents requires consideration. It is settled law that where a claim pertains to recurring/continuing financial liability, the principle of laches is applied with caution. In *Government of Pakistan v. Muhammad Ashraf (2019 SCMR 1546)*, the Supreme Court held that delay may not defeat a claim where the cause of action is continuous in nature, particularly in service and monetary claims. In the present case, the claim pertains to reimbursement of medical expenses already verified and recommended

by competent forums; therefore, the objection of laches does not appear to be fatal.

7. On merits, it is an admitted position that the petitioner's claim was examined by the Medical Scrutiny Committee, Audit Committee, and other competent authorities, and a substantial portion of the amount was verified and recommended for payment. Even the matter was placed before the Board, which did not reject the claim but directed reconsideration in accordance with policy. Once the claim has been processed and approved through the prescribed mechanism, denial of the remaining amount without lawful justification prima facie amounts to arbitrariness.

8. The respondents' reliance on the alleged undertaking dated 24.10.2009 requires strict scrutiny. Even if such undertaking exists, it cannot override statutory regulations or policy entitlements, particularly when subsequent approvals were granted by competent authorities. In *Messrs Mustafa Impex v. Government of Pakistan (PLD 2016 SC 808)*, it was held that executive actions must conform to law and cannot be sustained on informal or unilateral undertakings contrary to statutory framework.

9. Further, the plea that the hospital was not on the approved panel loses significance in view of the fact that the treatment was undertaken in emergent circumstances and was later scrutinized, verified, and partially reimbursed by the respondents themselves. Once the respondents have accepted the claim to that extent, they cannot selectively deny the remaining amount without cogent legal basis. In *Province of Punjab v. Muhammad Arshad (2017 SCMR 456)*, it was held that the State cannot adopt a discriminatory approach in extending financial benefits once entitlement is recognized.

10. The contention of "full and final settlement" is also not borne out from the record, particularly when internal notings, committee recommendations, and Board proceedings indicate that the claim remained under consideration. In *Abdul Rauf v. Government of Pakistan (PLD 2014 SC 545)*, it was observed that rights accrued under law cannot be defeated by ambiguous or unilateral administrative assertions.

11. Under Article 4 of the Constitution, every citizen is entitled to be treated in accordance with law, and any arbitrary withholding of a lawful claim falls within the ambit of judicial review. The impugned inaction of the respondents, despite recommendations of competent forums, reflects non-application of mind and arbitrary exercise of authority, which is not sustainable in law.

12. For the foregoing reasons, this petition is allowed. It is declared that the petitioner is lawfully entitled to reimbursement of the medical expenses to the

extent duly verified and approved by the competent forums under the applicable PQA Medical Policy and Regulations. The action of the respondents in withholding the remaining amount is held to be arbitrary, unlawful, and without legal authority.

13. Consequently, the respondents are directed to release and reimburse the outstanding amount of Rs.2,449,359/- to the petitioner within a period of eight (08) weeks from the date of this judgment.

14. Petition along with pending application(s) stands disposed of in the above terms.

JUDGE

JUDGE

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