

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

C.P No.D-861 of 2021

[Qadir Bux through LRs v. Province of Sindh & Others]

Before:

JUSTICE ADNAN IQBAL CHAUDHRY

JUSTICE RIAZAT ALI SAHAR

Petitioner:

Mr. Qadir Bux Late through his legal heirs through Mr. Ghulam Mohiuddin Panhwar, Advocate.

Respondents:

Province of Sindh and others through Mr. Rafique Ahmed Dahri, A.A.G. Sindh along with Ms. Maliha Soomro Assistant Director (Legal) on behalf of Respondent No.3 Regional Director Colleges, Hyderabad Region and Syed Mehroz Ali Kazmi, Focal Person, District Accounts Officer, Hyderabad.

Date of Hearing:

05.05.2026

JUDGMENT

RIAZAT ALI SAHAR, J: - Through the instant Constitutional Petition, the petitioner seeks enforcement of his fundamental and statutory rights guaranteed under the Constitution of the Islamic Republic of Pakistan, 1973, against the unlawful and arbitrary inaction of the respondents in failing to allot him a Personal No./HR ID despite his valid appointment and reinstatement in service as **Chowkidar (BPS-2)** under the Education & Literacy Department, Government of Sindh. The petitioner further seeks directions for release of his lawful salary along with all consequential and back benefits, as he has continuously performed his duties since reinstatement but has been deprived of

remuneration solely due to the negligence, delay and lethargy of the concerned authorities. Thus, seeking following reliefs:-

- “1. That this Honorable Court direct the respondents to allot the Personal No:/ HR ID No. to the petitioner.*
- 2. Direct the respondents to release the salary along with back benefits to the petitioner since his appointment.*
- 3. Any other relief deemed fit, just and proper by this Honorable Court may be granted to the petitioner.”*

2. The petitioner, Qadir Bux, instituted the instant Constitutional Petition on 17.05.2021. During the pendency of the proceedings, the petitioner expired on 31.01.2022, whereafter the matter was duly pursued by his legal heirs. The case set forth by the petitioner is that he was lawfully appointed and joined service as Chowkidar (BS-02) on 21.05.2009 under the Education & Literacy Department, Government of Sindh. Subsequently, he was removed from service vide order dated 01.02.2010. Thereafter, through order dated 24.12.2014 passed by the Secretary, Education & Literacy Department, Government of Sindh, the petitioner was reinstated into service without the imposition of any penalty, stigma, or adverse condition. However, the period commencing from 01.02.2010 till the date of reinstatement on 24.12.2014, comprising 04 years, 10 months, and 23 days, was neither regularized nor was any determination made regarding his entitlement to salary and other consequential service benefits for the said intervening period. It is the contention of the petitioner that, in the absence of any punitive finding or lawful justification withholding such benefits, he remained entitled to all back benefits and consequential service entitlements for the aforesaid period.

3. Learned counsel for the petitioner contended that the petitioner was lawfully appointed as Chowkidar (BPS-2) in the Education & Literacy Department, Government of Sindh and after his reinstatement in service through a valid departmental notification, he has continuously been performing his duties with

utmost honesty and diligence. He contended that despite repeated correspondence by the concerned departmental authorities and forwarding of all requisite documents for issuance of Personal No./HR ID, the respondents have failed to process the case of the petitioner, owing to sheer negligence, inaction and bureaucratic lethargy. He contended that due to such arbitrary conduct of the respondents, the petitioner has been deprived of his lawful salary and service benefits for several years, causing grave financial hardship and mental agony to him and his family. Learned counsel further maintained that the inaction of the respondents is violative of Articles 4 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973, as the petitioner is entitled to be treated strictly in accordance with law and cannot be discriminated against in the matter of payment of salary and regularization of service record when similarly situated employees have already been extended such benefits. He lastly prayed that the respondents be directed to immediately allot the Personal No./HR ID to the petitioner and release all outstanding salary along with consequential benefits without any further delay.

4. Para-wise comments filed by the official respondents dated 24.11.2025 and the **compliance report dated 17.12.2025** submitted by the Secretary, Colleges, Education Department, Government of Sindh, under cover of statement dated 19.12.2025 furnished by the learned Additional Advocate General, Sindh, reflect as under:

“The matter of release of salary and opening of personal ID is pending with the District Accounts Office, Hyderabad. Whereas, for the pensionary benefits (if admissible) under the rules, the department vide letter dated 17.12.2025 (Annexure-D) directed the Regional Directorate of Colleges, Hyderabad, to submit the family pension papers in favour of the legal heirs of late Qadir Bux, so that further necessary action could be taken in accordance with rules, in consultation with the Finance Department, and after issuance of personal ID by the District Accounts Office.”

5. Heard learned counsel for the parties and perused the record. The pivotal question requiring determination by this Court is whether, after reinstatement of the petitioner into service without imposition of any penalty, stigma, or adverse condition, the respondents could lawfully withhold allotment of Personal No./HR ID and consequential service benefits, including salary, and other back benefits, despite the petitioner having continuously rendered service till his demise.

6. We have observed that the petitioner remained in service of the Education Department with effect from 21.05.2009 till his death on 31.01.2022 and had rendered more than 12 years of service. No condition, adverse remark, or even minor penalty was imposed by the Secretary, Education Department, Government of Sindh, while reinstating the petitioner vide order dated 24.12.2014 passed by Secretary Education, Government of Sindh (available at page-25 of the Court file). Therefore, the intervening period is liable to be treated as qualifying service. For the sake of convenience and ready reference, the reinstatement order is reproduced herein below:-

“ORDER

NO.SO (HE-II)Misc/15/2010:- With the approval of Competent Authority the services of Mr. Qadir Bux, Ex-Chowkidar (BS-02) Govt. Girls College Hyderabad is hereby re-instated into services and posted at the Disposal of Director College Education Hyderabad until further order.

Sd/-

*SECRETARY TO GOVERNMENT OF SINDH,
Karachi, dated the 24th December, 2014”*

7. It is an admitted position emerging from the record that after reinstatement of the petitioner vide order dated 24.12.2014, the respondents permitted him to continuously discharge his official duties without interruption till his death on 31.01.2022. At no point in time did the department question the legality of his appointment, continuity of service, or entitlement to perform duties attached to the post. Once the **petitioner was reinstated unconditionally** and accepted back into service, the relationship of employer and employee stood fully restored, carrying with it all

consequential legal and financial implications attached to the service tenure

8. The conduct of the respondents in withholding allotment of Personal No./HR ID despite repeated departmental correspondence vide letter dated 31.05.2017 issued by Director College Education, Hyderabad Region, letter dated 12.07.2017 issued by Director (HR&M) Colleges, Sindh, letter dated 26.07.2019 issued by Director College Education Hyderabad Region, letter dated 06.09.2019 issued by District Accounts Officer, Hyderabad, letter dated 19.09.2019 issued by the Principal, Government Shah Latif Girls College, Latifabad, Hyderabad, reflects sheer administrative apathy and failure to perform statutory obligations. An employee, particularly a **low-paid government servant serving in BS-02**, cannot be made to suffer financially due to procedural inefficiencies or inter-departmental delays attributable solely to the official machinery. It is by now a settled principle of service jurisprudence that an employee who has admittedly rendered service cannot be denied remuneration for the work so performed, especially where the fault does not lie on the part of the employee.

9. Furthermore, once the reinstatement order was issued without any express stipulation denying continuity of service or withholding past benefits, the necessary legal consequence would be that the petitioner's service stood restored substantially in the same manner as it existed prior to removal. Had the department intended to deprive the petitioner of the benefit of the intervening period, a specific determination to such effect was required. In absence thereof, the respondents cannot subsequently defeat the vested service rights of the petitioner through administrative silence or inaction.

10. Reliance is placed upon Civil Petition No.3453-L of 2019 and Civil Petition No.23-L of 2022 titled **Tahir Kazmi v. Inspector General of Police, Punjab**, wherein the Honourable Supreme Court of Pakistan observed that grant of back benefits,

though not expressly defined in the service laws of Pakistan, is a well-recognized and settled remedy in Pakistan as well as in other jurisdictions. Consequently, the petitioner was entitled to back benefits for the said period. Relevant abstract from the judgment in Civil Petition No.3453-L of 2019 and Civil Petition No.23-L of 2022 is reproduced as under for relevancy:

“The grant of back benefits, though not expressly defined in the service laws of Pakistan, is a well-established remedy in Pakistan as well as other jurisdictions. Reinstatement nullifies the dismissal or removal order, restoring the employee to his previous position as if the dismissal or removal had never occurred. Once reinstated, the civil servant is entitled to all benefits lost during the period of wrongful removal, unless it is shown that the employee was gainfully employed elsewhere or that reinstatement was conditional.”

“The doctrine of constructive continuity proposes that once a dismissal or removal is declared unlawful, the civil servant shall be deemed to have remained in continuous service during the period of absence and shall be entitled, subject to lawful deductions or limitations, to all salary, allowances, increments, and service-related benefits that would have accrued had the unlawful act not occurred.”

“Denial of back benefits to a reinstated civil servant who has suffered procedural or substantive injustice infringes constitutional guarantees and amounts to continued punishment despite legal vindication.”

“Any failure to recognize the intervening period between removal and reinstatement results in unlawful forfeiture of rights already earned and constitutes constructive discontinuity in service.”

11. So far as the question of salary is concerned, the material available on record, particularly the departmental correspondence exchanged between the concerned authorities, unequivocally reflects that prior to his removal from service vide order dated 01.02.2010, the petitioner had been regularly drawing his salary through manual billing, as at the relevant time the SAP system had not yet been introduced in the Treasury Departments and no employee ID mechanism for salary disbursement was in existence. It further transpires from the record that despite reinstatement of the petitioner into service and continuous discharge of official

duties thereafter, the respondents failed to allot Personal No./HR ID to him, thereby depriving him of lawful remuneration for services admittedly rendered by him. Consequently, the petitioner remained entitled to payment of salary and all consequential monetary benefits for the period during which he continuously served the department till his demise on 31.01.2022. The non-payment of such salary is also evident from letter dated 31.05.2017 issued by the Director, College Education, Hyderabad Region, addressed to the Director General (Colleges), Sindh, Karachi, available at page 29 of the Court file, as well as from the compliance report dated 17.12.2025 submitted by the Secretary, Education Department, Government of Sindh, wherein it has candidly been acknowledged that the matter concerning opening of Personal No./HR ID and release of salary remains pending with the District Accounts Officer, Hyderabad.

12. Further support in this regard is derived from the judgment of the Honourable Supreme Court of Pakistan in **Muhammad Sharif and others v. IG, Punjab [2021 SCMR 962]** wherein it was categorically held that once a civil servant is reinstated unconditionally, he is to be treated as having remained in continuous service as if he had never been removed from service, and consequently becomes entitled to all back benefits, including arrears of salary and other service emoluments. The Honourable Supreme Court further observed that denial of such benefits to a reinstated employee offends the constitutional guarantees embodied in Articles 4, 9, 10-A, 14, and 25 of the Constitution of the Islamic Republic of Pakistan, 1973. It was additionally held that the intervening period between removal and reinstatement is liable to be regularized so as to preserve continuity of service, pensionary rights and other consequential benefits. In the present case, admittedly, the petitioner was reinstated without any condition, stigma, or subsisting finding of misconduct and was continuously allowed to perform duties thereafter; therefore, withholding of salary and consequential service benefits merely on account of administrative inaction in issuance of Personal No./HR ID is wholly arbitrary, unjustified

and contrary to the settled principles of service jurisprudence laid down by the Honourable Supreme Court of Pakistan.

13. Accordingly, we direct the Secretary, Education & Literacy Department, Government of Sindh, to forthwith process and forward the case of the deceased petitioner pertaining to payment of outstanding salary and other emoluments he was entitled to w.e.f. 01.02.2010 till his date of death viz. 31.01.2022, through the competent authority to the District Accounts Officer, Hyderabad, within a period of thirty (30) days from the date of receipt of this judgment. Upon receipt of the requisite papers, the District Accounts Officer, Hyderabad, shall ensure disbursement of all outstanding salaries and emoluments to the legal heirs of the deceased employee as per law. The petition stands **disposed of** in the above terms.

14. Let a copy of this order be transmitted to Secretary, Education and Literacy Department, Government of Sindh and District Accounts Officer, Hyderabad for compliance.

JUDGE

JUDGE