

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-2406 of 2025
(Kiran Asad versus Federation of Pakistan & others)

Date	Order with signature of Judge
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Before:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Muhammad Jaffer Raza

Date of hearing and order: 23.9.2026

Mr. Talha Abbasi, Advocate for the petitioner

Ms. Wajiha Mehdi, Assistant Attorney General

Mr. Zubair Hashmi, Advocate for the respondent / Pakistan Broadcasting Corporation (PBC)

ORDER

Adnan-ul-Karim Memon, J. Petitioner has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer: -

- (i) *Declare that the impugned charge sheets: (1) Charge sheet/statement of allegations dated 06th December 2024, bearing No. DG-1(1)/2024; (2) Charge Sheet/Statement of Allegations dated 26th December 2024, bearing No. DG-1(1)/2024, (3) Charge Sheet/Statement of Allegations dated 27th December 2024, bearing No. DG-1(1)/2024, (4) Charge Sheet dated 8th January 2025, bearing No. DG-1(1)/2024; and (5) Charge sheet dated 9th January 2025, bearing No. DG-1(1)/2024, as well as the Impugned Compulsory Retirement Order No. Admn-II/I(8/2024-Pt(iv)) dated 28.02.2025, are illegal, unconstitutional, and in violation of Article 13(a) of the Constitution of Pakistan, 1973, and quash the same forthwith.*
- (ii) *Declare that the Impugned Orders dated 21-01-2025, bearing order No. Admn-II/I(8/2024-Pt(iv)), 30-01-2025, bearing order No. Admn-II/I(8/2024-Pt(iii)) dated 28-02-2025, bearing order No. Admn-II/I(8/2024-Pt(iv)) are illegal, unconstitutional, and in violation of Article 13(a) of the Constitution of Pakistan, 1973, and quash the same forthwith.*
- (iii) *Set aside the Impugned Orders dated 21-01-2025, bearing order No. Admn-II/I(8/2024-Pt(iv)), 30-01-2025, bearing order No. Admn-II/I(8/2024-Pt(iii)) and 28-02-2025, bearing order No. Admn-II/I(8/2024-Pt(iv)) whereby the Petitioner was subjected to minor and major penalties, including compulsory retirement*
- (iv) *Direct the Respondents to reinstate the Petitioner to her position as Assistant Accounts Officer (BPS-17) with full back benefits (salary, allowances, promotions); restoration of seniority; Compensation for harassment & mental agony.*
- (v) *Permanently and pending disposal of the main Petition, restrain the Respondents, their officers, agents, and cronies from taking any coercive action against the Petitioner.*

2. The case of the petitioner is that he was an Assistant Accounts Officer (BPS-17) serving in the Pakistan Broadcasting Corporation (PBC), Zonal Sales Office, Karachi, having rendered about 22 years of service with an unblemished record and having been promoted in March 2023, challenges the disciplinary proceedings and penalties imposed upon her. She states that her duties relating to pension payments were limited to receiving Pension Payment Orders (PPOs) issued by the PBC Finance Wing, incorporating the pensioners' particulars and

arrears in the pension list on the instructions of Headquarters, and forwarding the same through the Accounts Manager. At the same time, she had no authority to sanction payments independently. She alleges that, pursuant to allegations concerning “ghost pensioners”, five charge-sheets were issued to her between 06.12.2024 and 09.01.2025 on substantially the same allegations, to which she submitted detailed replies, but without proper consideration or effective personal hearing. Consequently, a minor penalty of withholding one annual increment for two years was imposed on 21.01.2025, followed by reduction by one step to the lower post for three years on 30.01.2025 and, ultimately, compulsory retirement on 28.02.2025. She filed departmental appeals against the respective penalties, but no decision was communicated. The petitioner contends that the proceedings were conducted in violation of the PBC Employees (Efficiency & Discipline) Regulations, 1979, principles of natural justice and due process, as the proposed Zoom hearings were not conducted, the Inquiry Committee was not impartial, and the allegations were vague and unsupported by evidence of fraud or misconduct. She further alleges that repeated charge-sheets on the same allegations amounted to harassment and double jeopardy, and that she was discriminated against under Article 25 of the Constitution, as similarly placed employees were subjected only to minor penalties whereas she alone was compulsorily retired. She therefore challenges the impugned charge-sheets, inquiry proceedings and penalties as unlawful, arbitrary, discriminatory and without lawful authority.

3. Learned counsel for the petitioner contended that the impugned charge-sheets, repeated inquiries and consequential penalties, including compulsory retirement, arose from the same allegations and were initiated despite the petitioner having submitted detailed replies, thereby amounting to abuse of administrative authority, harassment and violation of the principles of natural justice, fair hearing and due process. He argued that the proceedings were conducted in disregard of the applicable Pakistan Broadcasting Corporation Employees (Efficiency) Regulations, 1979, without following the prescribed procedure and with an inquiry committee allegedly lacking impartiality due to conflict of interest. It was further contended that repeated disciplinary proceedings on the same cause amounted to double jeopardy in violation of Article 13(a) of the Constitution and the principle of *nemo debet bis vexari pro una et eadem causa*, besides being contrary to Section 26 of the General Clauses Act, 1897. Learned counsel also alleged discriminatory treatment in violation of Article 25 of the Constitution, asserting that other employees involved in the same matter were not subjected to similar action. Relying upon 1995 SCMR 630, 2003 SCMR 25 and 1990 SCMR 999, he submitted that discretionary and disciplinary powers must be exercised fairly, judiciously, bona fide and within the bounds of law, and cannot be employed arbitrarily, vindictively or for collateral purposes. On these grounds, learned counsel sought quashing of the impugned charge-

sheets and orders dated 21.01.2025, 30.01.2025 and 28.02.2025, including the compulsory retirement order, with consequential relief of reinstatement, restoration of seniority and service benefits.

4. The learned AAG, assisted by learned counsel for the respondent-PBC, submitted that the petitioner's compulsory retirement arose from serious financial irregularities, maladministration and alleged embezzlement of PBC pension funds involving substantial public money. Learned counsel for the respondents submitted that verification of pensioners commenced in May 2024 and revealed irregular life certificates, suspected ghost pensioners, inflated payments of approximately Rs.99.46 million in a sample audit of 200 pensioners, and fraudulent payments, with the petitioner, who was responsible for a large number of Karachi pensioners, being found involved in the irregularities. It was contended that the petitioner was proceeded against under the PBC Employees (Efficiency & Discipline) Regulations, 1979, served with a charge-sheet, afforded adequate opportunity to submit her defence and was also given a personal hearing, whereafter the penalty of compulsory retirement was imposed in accordance with law. Learned counsel further submitted that the departmental inquiry led to a recommendation for criminal investigation, which was approved by the Federal Government on 13.06.2025 and the FIA thereafter commenced investigation. He argued that the petition was/is premature and not maintainable as the petitioner's departmental appeal under Regulation 11 was/is still pending before the competent authority; that the petitioner had allegedly admitted facilitating inflated payments; and that the matter involved disputed questions of fact and serious allegations requiring investigation, which could not appropriately be adjudicated in constitutional jurisdiction. He accordingly prayed for dismissal of the petition.

5. We have heard learned counsel for the petitioner as well as learned AAG, assisted by learned counsel for respondent Pakistan Broadcasting Corporation (PBC), and have examined the record and the respective submissions.

6. The petitioner, admittedly an Assistant Accounts Officer (BPS-17), challenges a series of charge-sheets issued between 06.12.2024 and 09.01.2025 and the consequential orders dated 21.01.2025, 30.01.2025 and 28.02.2025, whereby minor and major penalties, culminating in compulsory retirement, were imposed upon her. Her principal grievance is that substantially identical allegations were repeatedly made the subject matter of successive disciplinary proceedings, notwithstanding her replies; that the procedure prescribed under the PBC Employees (Efficiency & Discipline) Regulations, 1979 was not duly followed; that she was denied an effective opportunity of hearing; that the inquiry was not conducted by an impartial forum; and that the ultimate penalty was discriminatory and disproportionate when compared with the treatment allegedly accorded to other employees. Conversely, the respondents maintain that the

proceedings arose out of a serious verification exercise concerning pension payments, during which irregular life certificates, suspected ghost pensioners, inflated payments and financial irregularities involving public funds were detected, and that the petitioner, being connected with the processing of pension cases, was proceeded against after being allowed to defend herself.

7. At the outset, the contention regarding maintainability requires consideration. The petitioner is not challenging a purely administrative or extraneous action but disciplinary orders passed under the statutory/service framework governing her employment. The respondents assert that a departmental appeal under Regulation 11 is still pending. The availability of such statutory remedy is ordinarily a material consideration against interference in constitutional jurisdiction, particularly where adjudication would require examination of disputed factual matters and assessment of evidence. The Supreme Court has repeatedly emphasized that where an adequate and efficacious statutory remedy is available, the extraordinary jurisdiction under Article 199 of the Constitution is ordinarily not to be invoked to circumvent the prescribed forum. At the same time, the bar is not absolute where a patent violation of law, denial of natural justice, want of jurisdiction or infringement of a fundamental right is demonstrated.

8. In the present case, the allegations of the petitioner regarding denial of hearing, successive charge-sheets, alleged bias of the Inquiry Committee and non-compliance with the applicable Regulations cannot be accepted or rejected merely based on assertions. These matters depend upon the contents of the charge-sheets, replies, notices of hearing, inquiry proceedings, findings and the orders passed by the competent authority. Likewise, the respondents' assertion that the petitioner was afforded adequate opportunity and was personally heard is also a matter capable of verification from the departmental record. Where the factual foundation of both sides is disputed, the constitutional jurisdiction is not ordinarily converted into a full-fledged appellate inquiry into the sufficiency or appreciation of departmental evidence.

9. The plea of double jeopardy under Article 13(a) of the Constitution also requires careful distinction. Article 13(a) of the Constitution embodies the constitutional protection that no person shall be prosecuted or punished for the same offence more than once. The constitutional guarantee is principally attracted where a person has already been prosecuted and punished for the same offence and is thereafter sought to be prosecuted or punished again for that very offence. A departmental proceeding for misconduct, particularly where it is founded upon service obligations and disciplinary standards, cannot automatically be equated with a criminal prosecution merely because the underlying conduct may also constitute an offence. The Supreme Court has recognized that departmental proceedings and criminal proceedings operate in different jurisdictions and are

governed by different standards of proof; therefore, the mere possibility or initiation of criminal investigation does not, by itself, render disciplinary proceedings constitutionally impermissible.

10. The petitioner's reliance upon the maxim *nemo debet bis vexari pro una et eadem causa* and Section 26 of the General Clauses Act, 1897, however, raises a somewhat different question, namely whether the respondents unlawfully subjected her to successive disciplinary proceedings for the very same misconduct after the matter had already been finally adjudicated. Such a contention cannot be determined merely by counting the number of charge-sheets. It is necessary to ascertain whether the subsequent charge-sheets concerned genuinely distinct acts or additional material, whether any earlier proceeding had culminated in a final determination of the same charge, whether the later proceedings were merely consequential steps within the same disciplinary process, or whether the department actually reopened a finally concluded matter without lawful authority. If the five charge-sheets constituted separate proceedings founded upon substantially the same allegations and the petitioner had already been finally punished for the same misconduct, the legality of such repeated action would require serious scrutiny. Conversely, if the charge-sheets related to distinct instances, additional allegations or different stages/aspects of the misconduct, the mere fact that they arose from the same broader pension irregularity would not, by itself, establish double jeopardy.

11. The petitioner's allegation of violation of natural justice and the right of fair hearing similarly cannot be determined on assertion alone. The respondents' case is that charge-sheets were served, replies were obtained, and personal hearing was afforded. If the record demonstrates that the petitioner was supplied the material forming the basis of the allegations, was given reasonable opportunity to submit her defence, was heard by the competent authority and that the findings were reached upon consideration of the available record, the mere fact that the petitioner disputes the conclusion would not constitute denial of natural justice. Conversely, if the prescribed procedure required a particular inquiry or hearing and the same was omitted in a manner causing prejudice to the petitioner, or if the competent authority relied upon material never supplied to her or denied her a meaningful opportunity to controvert the allegations, such defect would go to the legality of the disciplinary action.

12. The allegation of bias or conflict of interest on the part of the Inquiry Committee also requires proof of circumstances giving rise to a reasonable apprehension of bias. Mere disagreement with the findings of an inquiry committee does not establish lack of impartiality. The petitioner would therefore have to demonstrate from the record that a member of the Committee had a personal, pecuniary or institutional interest inconsistent with the obligation of

impartial adjudication, or had otherwise acted in circumstances rendering the proceedings legally unfair.

13. As regards the merits of the financial allegations, the respondents have placed reliance upon the verification exercise which allegedly disclosed irregular life certificates, suspected ghost pensioners and inflated payments of approximately Rs.99.46 million in a sample of 200 pensioners. The respondents further allege that the petitioner was responsible for processing a substantial number of Karachi pension cases and had facilitated inflated payments. These are serious allegations involving public funds. On the other hand, the petitioner maintains that her role was merely ministerial: she received Pension Payment Orders issued by the Finance Wing, entered the particulars and arrears in the pension list on Headquarters' instructions, and forwarded the material through the Accounts Manager, without having independent authority to sanction payment. The central factual question is therefore not merely whether irregular payments occurred, but whether the petitioner, in discharge of her assigned functions, was legally and factually responsible for the alleged irregularities, and whether the evidence establishes misconduct attributable to her.

14. The distinction is material because the existence of financial loss or irregular payment by itself does not conclusively establish individual misconduct of every officer who participated at some stage of processing. Conversely, the absence of independent sanctioning authority does not, by itself, exonerate an officer if the evidence establishes that she knowingly facilitated, manipulated or participated in fraudulent processing. The allegation attributed to the petitioner that she admitted facilitating inflated payments, if contained in a properly recorded statement and duly proved, would obviously require consideration; however, the precise contents, context and evidentiary value of any such alleged admission must be determined from the departmental record and cannot safely be presumed merely from the respondents' pleading.

15. The petitioner's contention that she was subjected to discriminatory treatment under Article 25 of the Constitution also cannot be accepted merely on the assertion that other employees received lesser penalties. Equality before law does not require identical punishment irrespective of the nature, degree and role of each delinquent employee. For an Article 25 of the Constitution claim to succeed, the petitioner would have to establish that the comparator employees were similarly situated in all material respects, were involved in substantially the same misconduct and yet were treated differently without a rational basis. If the record establishes materially different roles, responsibilities, evidence or degrees of culpability, different penalties may lawfully follow. Conversely, if employees similarly placed and similarly involved were treated materially differently without

any rational explanation, the question of discriminatory exercise of disciplinary power would arise.

16. The question of proportionality of compulsory retirement must likewise be considered in the context of the established misconduct rather than in isolation. Compulsory retirement, where authorized by the applicable service regulations as a major penalty, cannot be declared unlawful merely because the petitioner regards it as harsh. The Court may nevertheless examine whether the competent authority acted within the powers conferred by the Regulations, whether the prescribed procedure was followed, whether the findings have a lawful evidentiary basis, and whether the punishment is founded upon relevant considerations rather than extraneous or mala fide grounds. The authorities cited by learned counsel for the petitioner concerning fair, bona fide and lawful exercise of discretionary power apply to this extent, but they do not authorize the Court to substitute its own assessment of departmental evidence for that of the competent disciplinary authority in the absence of jurisdictional or procedural illegality.

17. The subsequent approval of criminal investigation by the Federal Government on 13.06.2025 and the alleged commencement of FIA investigation also does not, by itself, validate or invalidate the earlier departmental proceedings. Criminal investigation and departmental proceedings serve different purposes and are governed by different standards of proof. The departmental authority may determine service misconduct on the basis of the applicable disciplinary law, whereas criminal liability must ultimately be established in the criminal forum according to the applicable criminal procedure and standard of proof.

18. We are, therefore, of the view that the controversy cannot appropriately be resolved merely by accepting either side's factual narrative. The petitioner's case raises arguable questions concerning the manner in which successive charge-sheets were issued, the extent to which they overlapped, compliance with the PBC Employees (Efficiency & Discipline) Regulations, 1979, the opportunity of hearing afforded to her, the alleged impartiality of the inquiry process and the basis upon which the ultimate penalty of compulsory retirement was imposed. At the same time, the respondents have raised serious counter-allegations concerning pension irregularities and public funds, supported by an asserted audit/verification exercise, and have specifically disputed the petitioner's version of her role. Determination of these competing factual positions requires examination of the original departmental record.

19. In these circumstances, and particularly where the petitioner's departmental appeal under Regulation 11 is stated to be pending, it would not be appropriate for this Court, in its extraordinary constitutional jurisdiction, to

undertake a factual reappraisal of the entire disciplinary record or pronounce upon the petitioner's culpability at this stage. The statutory appellate authority is competent to examine the charge-sheets, replies, inquiry material, evidence, findings, penalties and the petitioner's objections, including the plea of repeated proceedings, alleged denial of hearing and discriminatory treatment. The petitioner may raise all such grounds before the competent appellate authority, which shall decide the appeal strictly in accordance with law and by passing a reasoned and speaking order.

20. Consequently, without expressing any opinion on the ultimate merits of the allegations or the petitioner's defence, the petition, to the extent it seeks direct quashing of the disciplinary proceedings and substitution of the Court's assessment for that of the competent departmental authority, is not found fit for interference in constitutional jurisdiction at this stage. The competent appellate authority shall decide the petitioner's departmental appeal, if still pending, after examining the complete record and addressing specifically: (i) whether the successive charge-sheets related to the same or distinct acts of misconduct; (ii) whether any earlier charge had already been finally adjudicated to attract the plea of repeated punishment; (iii) whether the procedure prescribed under the PBC Employees (Efficiency & Discipline) Regulations, 1979 was duly followed; (iv) whether an effective opportunity of hearing was afforded; (v) whether the finding of misconduct is supported by the material available on record; (vi) whether the petitioner's actual role and authority in processing pension payments were properly determined; (vii) whether the allegation of discriminatory treatment is borne out by genuinely comparable cases; and (viii) whether the penalty imposed is one authorized by law and was imposed after lawful exercise of disciplinary discretion.

21. Subject to the above, the petition is disposed of alongwith pending application(s) with direction to the competent appellate authority to decide the pending departmental appeal, if any, strictly in accordance with law, independently, expeditiously and through a speaking order, after affording the petitioner reasonable opportunity of hearing.

JUDGE

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