IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D-3471 of 2026.
(Eman Gulzar vs Federation of Pakistan and others)

Present:
Mr Justice Riazat Ali sahar,
Mr. Justice Ali Haider 'Ada'

1. *For Order on an office Objection*
2. *For hearing of CMA No.15335/2026.*
3. *For hearing of CMA No.14673/2026.*
4. *For hearing of CMA No.13672/2026.*
5. *For hearing of main case*

20.10.2026.

M/s Muhammad Saleem Khaskheli and Muhammad Nasir, Advocate for the Petitioner

Mr. Faisal Siddiqi, Advocate for the Respondent No.2 and 3.

Mr. Shah Hussain Assistant Attorney General.

Mr. Manzoor ul Haq, Assistant Legal Advisor, SBP.

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ORDER

Ali Haider 'Ada' J.- The petitioner's principal contention is that she belongs from District Sujawal, Sindh, where access to educational and socioeconomic opportunities, particularly for females, remains limited. Despite these challenges, she pursued her education with distinction, obtaining GCE O-Level qualifications in the Science Group and GCE A-Level qualifications in the Humanities Group under the Cambridge education system. Her qualifications were equivalenced by the Inter Board Committee of Chairman (IBCC) at 88.11% and 86.36%, respectively. She thereafter continued her academic pursuits and obtained a Bachelor of Science (Hons:) degree in Politics and Economics from the Lahore University of Management Sciences (LUMS).

2. The petitioner applied for the post of Assistant Director (OG-II) under the State Bank Officers Training Scheme, 28th Batch, for which

applications had been invited by the State Bank of Pakistan, respondent No.2. She asserts that she successfully completed all stages of the recruitment process, including the written examination, psychometric assessment, group discussion and interview. Upon successful completion of the selection process, she was issued an offer letter for the Pre-Induction Training Programme as a trainee, which she duly accepted.

3. However, vide email dated 19.05.2026, the respondent Bank withdrew the petitioner's offer of appointment on the ground that she had been declared medically unfit following her pre-employment medical examination. The petitioner maintains that the medical findings relied upon by the Bank relate to congenital anatomical conditions, namely, dextrocardia, accompanied by hypoplasia of the right pulmonary artery and underdevelopment of the right lung. According to her, these conditions are congenital in nature and cannot, merely by reason of their presence, be treated as establishing her medical unfitness for the post in question without an appropriate assessment of their actual clinical significance and functional implications.

4. Aggrieved by the withdrawal of her offer, the petitioner submitted a representation to the competent authority, as reflected in the record; however, the same was not responded to. The petitioner's grievance, in substance, is that, despite having successfully undergone the entire recruitment and selection process on merit, her candidature was rejected at the final stage solely on the basis of the medical opinion, without an adequate determination of whether her congenital anatomical conditions materially impair her ability to perform the duties associated with the post of Assistant Director (OG-II).

5. Conversely, respondent No.2, through its parawise comments, maintains that the petitioner was issued a conditional offer of appointment as a trainee, expressly subject to the outcome of her pre-

employment medical examination. It is contended that, upon examination, she was declared medically unfit on account of congenital heart and pulmonary conditions, as recorded in the medical fitness certificate. The respondent Bank further relies upon the Guidelines for Pre-Appointment Medical Fitness Examination, particularly Clause 6(d) thereof, in support of its decision to withdraw the offer. Its position is that the offer was conditional from its inception and that the withdrawal was made in accordance with the applicable medical fitness requirements governing recruitment to the post.

6. During the pendency of these proceedings, this Court, vide order dated 30.09.2026, directed the competent authority to reconstitute a Medical Board in terms of Clause 9 of the offer letter. The purpose of the exercise was to obtain an independent and objective assessment of the petitioner's medical fitness for the subject post, uninfluenced by the findings or opinion recorded during her earlier medical examination. The Court further observed that, if deemed necessary, a specialist cardiologist from the National Institute of Cardiovascular Diseases (NICVD), Karachi, or another appropriate medical institution, could be associated with the Medical Board to assist in the clinical evaluation. The Medical Board was accordingly directed to submit its recommendations in a sealed envelope before this Court.

7. In compliance with the aforesaid order, the report of the reconstituted Medical Board, together with the relevant medical investigation reports, has been received by this Court in a sealed envelope. Today, the sealed envelope was opened in open Court, and the report, along with the accompanying medical documents and recommendations of the Board, was taken on record for consideration.

8. Heard and perused.

9. At the outset, certain substantial questions arise in the instant constitutional petition which warrant careful consideration, particularly as to whether the petitioner, despite having successfully qualified all prescribed stages of the recruitment process, was rightly declared medically unfit at the stage of pre-employment medical examination by invoking the Guidelines for Pre-Appointment Medical Fitness Examination. The respondent Bank has relied upon paragraph 6, titled "Ineligibility/Disqualification Criteria," particularly sub-clause (d) thereof, as the basis for declaring the petitioner ineligible for appointment. For ready reference, the relevant provision is reproduced hereunder:

> ***d. Organic / Valvular Congenital Heart Disease with definite clinical signs and symptoms***

During the initial medical examination, the examining doctor, along with the Chief Medical Officer, recorded the following opinion:

> ***The candidate is medically unfit for the job because of congenital heart disease. As per clause d of para 6 of Ineligibility criteria as per bank policy.***

10. However, upon reconstituted Medical Board for reassessment of the petitioner's medical fitness, the Board made the following recommendations:

> ***The Medical Board, in its unanimous opinion, recommends Ms. Emaan has significant right pulmonary hypoplasia with associated rightward mediastinal displacement, alongwith the history of longstanding On and off exertional dyspnea and recurrent respiratory infections***
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> ***Pulmonology consultation for further assessment.***
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> ***Assessment of Pulmonary hypertension (ECHO)***
>
> ***CTPA (to further delineate the pulmonary arterial anatomy and collateral vessels) and PFTs (both at the discretion of the pulmonologist)***

11. Nevertheless, the aforesaid report was supported by the accompanying medical investigation reports, including the

echocardiography report issued by National Medical Centre (Pvt.) Limited, wherein the final echocardiographic diagnosis was recorded as **Normal both ventricular sized and function**. Furthermore, the petitioner was also examined at Advanced Radiology Clinic (Pvt.) Limited, which conducted the relevant radiological investigations and recorded the findings that **Normal size left ventricle with normal function. As well normal valves**. Furthermore, another medical report issued by National Medical Centre (Pvt.) Limited was also annexed to the Medical Board's report, wherein the findings were recorded as **cardiac apices seen on the right side. Lungs fields are clear and show no mass or consolidation. There is a lucency adjacent to the right heart border.** Furthermore, the additional report issued by Advanced Radiology Clinic (Pvt.) Limited concluded as **there is almost complete shift of mediastinum towards right, the right hemithorax is smaller than left, right hemidiaphragm is raised. Thickening of mediastinal pleura is seen. There is compensatory hyperinflation of left lung, it shows herniation across midline** and in another report annexed to the Medical Board's report recorded the that **congential absence of the right pulmonary artery with hypoplastic right lung along with superadded infection.**

12. The petitioner's case is that she has, since birth, been suffering from the congenital anatomical condition of dextrocardia, whereby the heart is situated on the right side of the chest, accompanied by hypoplasia of the right pulmonary artery and underdevelopment of the right lung. However, the mere existence of these congenital anatomical abnormalities does not, in itself, conclusively establish the extent of any associated cardiac or respiratory dysfunction or render a person incapable of performing ordinary official and administrative duties. The medical significance of such conditions necessarily depends upon the associated clinical findings, the degree of physiological impairment, if any, and their actual effect upon the individual's functional capacity. In this context, the relevant consideration is whether the petitioner's condition is accompanied by definite clinical signs and symptoms, as contemplated by clause 6(d)

of the applicable medical-fitness guidelines, and whether the medical evidence establishes a sufficient basis for declaring her unfit for the post in question. Accordingly, the diagnosis must be examined in conjunction with the findings recorded in the echocardiography, radiological investigations and other relevant medical reports, rather than solely on the basis of the nomenclature of the congenital condition.

13. It is pertinent to observe that, even upon constitution of the reconstituted Medical Board, the question of the petitioner's medical fitness required further assessment and clarification. During the course of the proceedings, the petitioner was offered the opportunity to undergo an additional diagnostic investigation, namely, CT Pulmonary Angiography (CTPA); however, she declined to undergo the said test. Nevertheless, the medical assessment must be examined in its entirety, particularly as to whether the available clinical findings and investigation reports were sufficient to arrive at a definitive conclusion regarding her medical fitness, or whether the issue remained inconclusive in the absence of the proposed investigation. It is also relevant that the petitioner's representation against the withdrawal of her offer was pending before the respondent Bank. In these circumstances, the withdrawal of the offer through an email, founded upon the medical opinion without any further reasoned determination, raises a question as to whether the decision was made in accordance with the applicable guidelines and the principles of fairness and natural justice. At the same time, the petitioner's refusal to undergo the proposed CTPA investigation must be considered in its proper context. The right to bodily integrity and personal autonomy protects an individual's ability to decline a medical procedure; however, such refusal does not necessarily relieve a candidate of the consequences that may lawfully follow where a prescribed and medically necessary investigation remains incomplete. The relevant question, therefore, is whether the petitioner was afforded a fair opportunity to complete the assessment and

whether the respondent Bank's decision was justified on the basis of the evidence actually available.

14. In **Khalid Hameed v. Special Judge, Anti-Corruption, PakPattan Sharif (2026 SCMR 1780),** the Honourable Supreme Court observed that fundamental rights safeguard bodily integrity and protect an individual's autonomy to manage their physical self and reject unsolicited medical procedures.

15. In **Muhammad Shoaib v. Government of N.-W.F.P. (2005 SCMR 85), t**he Honourable Supreme Court emphasized the judicial duty to dispense justice, rectify wrongs and prevent the perpetuation of injustice, observing that the powers of the Court cannot be exercised in aid of an act that is patently unjust, unfair or unlawful, as it was held as under:

> ***12. The object of the establishment and the continued existence of the Courts of law is to dispense and foster justice, and to right the wrongs. This purpose can never be completely achieved unless the injustice done was undone and unless the Courts stepped in and refused to perpetuate what was patently unjust, unfair and unlawful. It is for this reason that the Courts have never permitted their judicial powers to be invoked or used for retention of illegal and ill-gotten gains. Nor having the Courts ever opted to exercise their powers in aid of injustice or to grant any relief to persons with unclean hands or for protecting the unethical or undeserved benefits. One would find umpteen number of judgments in support of the above mentioned proposition but I would refer only to some of them:-***
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> ***(1) Nawab Syed Raunaq Ali and others v. Chief Settlement Commissioner and others PLD 1973 SC 236, (2) The Chief Settlement Commissioner, Lahore v. Raja Muhammad Fazil Khan and others 1975 SC 331 at 350, (3) Syed Nazim Ali and others v. Syed Mustafa Ali and others 1981 SCMR 231, (4) Wali Muhammad and others v. Sakhi Muhammad and others PLD 1974 SC 106, (5) Tufail Muhammad and others v. Raja Muhammad Ziaullah and others PLD 1965 SC 269, (6) Khiali Khan v. Haji Nazir and others PLD 1997 SC 304, (7) Abdul Haq Indhar and others v. Province of Sindh and others 2000 SCMR 907 and (8) Farzand Ali v. Province of West Pakistan PLD 1970 SC 98.***

16. The Superior Courts have, in various pronouncements, laid down principles which, though not necessarily directly applicable to

the facts of the present case, may nevertheless provide guidance for examining the dispute in its proper legal perspective. For consideration of the relevant principles, reliance is placed upon **Mst. Basharat Jehan v. Director-General, Federal Government Educational Institutions (FGEI) (C/Q), Rawalpindi (2015 SCMR 1418),** wherein the Honourable Supreme Court held as follows:

> ***20. Once a right is accrued to the appellant by appointment letters issued after complying with all the codal formalities could not be taken away on mere assumption and or supposition and or whims and fancy of any executive functionary. Such right once vests, cannot be destroyed or withdrawn as legal bar would come into play under the well doctrine of locus poenitentiae, well recognized and entrenched in our jurisprudence (One may refer to Director, Social Welfare, N.-W.F.P., Peshawar v. Sadullah Khan (1996 SCMR 1350).***

17. For the foregoing reasons and discussion, the instant Constitutional Petition is partly allowed in the following terms:

> (a). The email dated 19.05.2026, whereby the petitioner's offer was withdrawn, is set aside, being unsupported by a sufficiently reasoned determination addressing the relevant facts and medical findings.
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> (b). The reconstituted Medical Board shall undertake a further assessment of the petitioner's medical fitness in light of the available medical record, investigation reports and its previous recommendations, and shall specifically determine whether the petitioner's condition falls within the disqualification contemplated by clause 6(d) of the Guidelines for Pre-Appointment Medical Fitness Examination, namely, "Organic/Valvular Congenital Heart Disease with definite clinical signs and symptoms." If the Board considers any further diagnostic investigation necessary, the petitioner may be informed of the nature and purpose of such investigation and may undergo the same with her informed consent. In the event that she declines to undergo any further investigation, the Board shall record such refusal and proceed to formulate its reasoned medical opinion on the basis of the material available on record, while duly addressing the implications, if any, of the absence of the proposed investigation. The petitioner shall communicate her decision in this regard to the respondent Bank.
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> (c). Upon receipt of the final assessment and recommendations of the reconstituted Medical Board, the competent authority of

the Respondent Bank, shall examine the matter afresh and pass a reasoned and speaking order in accordance with law, the applicable medical-fitness guidelines, addressing all relevant legal and factual aspects.

(d). The entire exercise, including the final assessment by the reconstituted Medical Board and the decision by competent authority of Respondent Bank, shall be completed within a period of sixty (60) days positively.

JUDGE

JUDGE