ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-264 of 2012
(Pervez Akhtar & others versus Federation of Pakistan & others)

Date	Order with signature of Judge

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing and order: 06.8.2026

Mr. Manzoor Hameed Arain, advocate for the petitioners
Mr. Muhammad Akbar Khan, Assistant Attorney General
Mr. Muhammad Humayun, advocate for respondents No.2 and 3
Mr. Mujtaba Ahmed Bajwa, advocate for respondents No.2 and 3 in CP No. D-4280/2014

ORDER

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

> *a) Declare and hold that the action of the Respondent for not providing medical facility to the petitioners after superannuation is illegal, void and ultra vires and not tenable in law and is against the provisions of Article 23 and 24(1) of the Constitution, which protect the fundamental rights of the petitioners.*
>
> *b) Declare that the act of the Respondents in giving Rs.2 Lacs to some employees and Rs.12 lacs to some Employees is a discrimination and against the law of fundamental rights.*
>
> *c) Direct the Respondents to pay the difference of medical allowance paid to the petitioners No.1 to 61 as to Rs.10,00,000/- as given to the petitioners No.62 to avoid discrimination.*
>
> *d) Direct the respondents to provide medical facility to the Petitioners and their spouses after superannuation, as such they are legally entitled to the said benefits.*
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> *e) To hold and declare that action of the Respondents for not extending the facility of increase in pay, increment, promotion and revision of pay scale w.e.f. 1-7-2001 to 2004-2009 to the plaintiffs No.61 and 62, is illegal, void and ultra vires, not tenable in law and as well under the Constitution of Islamic Republic of Pakistan, 1973.*
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> *f) To direct the respondents to pay such increase in pay, increment, promotion and revision of salary and pension on revised rates to the petitioners No.61 and 62 as they were in active service of the Respondents organization till 2004-2009 as such they are legally entitled for the above said benefits.*

2. The petitioners, retired employees of Pakistan State Oil (PSO), have filed this Constitutional Petition under Article 199 of the Constitution, challenging the denial of post-retirement medical facilities and other service benefits after opting

for the Voluntary Separation Scheme (VSS)/Optional Retirement Plan (ORP). The petitioners submit that they joined PSO and were separated from service in different years, mainly 2001, while some were released later in 2004, 2009 and 2010 despite acceptance of their VSS.

3. It is contended by the learned counsel for the petitioners that under the VSS/ORP, the petitioners received a one-time medical allowance in lieu of post-retirement medical benefits. However, PSO subsequently introduced a Medical Policy dated 01.07.2010, under which employees completing twenty years of continuous service became entitled to medical facilities for themselves and their spouses after retirement. According to the petitioners, this later policy superseded the restrictive VSS clause and entitled all eligible retired employees, including VSS/ORP optees, to post-retirement medical benefits. The petitioners' counsel further argued that the respondents acted discriminatorily by paying different amounts of medical compensation to different employees, while denying regular medical facilities altogether. He relied upon the judgment of the Hon'ble Supreme Court in *Pakistan International Airlines Corporation v. S.M. Ismail Naqvi*, wherein employees opting for VSS were held entitled to benefits available to regular employees during the intervening period, and submits that the beneficial interpretation of the scheme should equally apply to their case. He also complained that deductions retained towards income tax were never properly accounted for or refunded. Petitioners additionally submit that although their VSS was accepted in 2001, they continued in uninterrupted service until 2004 and 2009, enjoying all regular service benefits. They contend that they were unlawfully denied annual increments, revised pay scales, promotions, pensionary benefits and salary revisions that became effective during their continued service, despite similarly situated employees receiving such benefits. On the issue of maintainability of the petition, the petitioners' counsel submits that PSO is a government-controlled entity amenable to the constitutional jurisdiction of this Court under Article 199 of the Constitution. He asserts that the denial of medical facilities, increments, revised pay and pensionary benefits violates Articles 2-A, 4, 23, 24, 25 and 27 of the Constitution and amounts to discrimination, arbitrariness and infringement of their vested rights. The petitioners, therefore, pray that the respondents be directed to provide post-retirement medical facilities to them and their spouses, declare the discriminatory payment of medical compensation illegal, extend revised pay scales, annual increments, promotions and pensionary benefits to the eligible petitioners, refund or account for withheld income tax amounts. They prayed to allow this petition.

4. Learned counsel for Respondents No.2 and 3 / Pakistan State Oil Company Limited opposed the instant petition and, at the outset, raised preliminary objections regarding their maintainability. It was submitted that

Respondents No.2 and 3 are merely functionaries of PSO, whereas the Company itself has not been impleaded as a party. It was further argued that PSO is governed by the Companies Ordinance and the relationship between the Company and its employees is purely that of master and servant, with no statutory service rules involved. Therefore, the petition under Article 199 of the Constitution is not maintainable. It was also contended that the petition suffers from laches, the petitioners had already accepted lump-sum compensation in full and final settlement of their medical benefits, had not challenged any specific impugned order, had concealed material facts, and had failed to avail the alternate statutory remedy available under the Payment of Wages Act, 1936. On merits, learned counsel submitted that PSO introduced three separate retirement schemes, namely VSS-2001, ORP-2004 and ORP-2009, each containing distinct terms and conditions. It was argued that every petitioner voluntarily opted for the relevant scheme after carefully reading and accepting its terms and was paid a lump-sum amount in lieu of post-retirement medical benefits. Under each scheme, it was specifically agreed that such payment would constitute full and final settlement of medical benefits and that no post-retirement medical facility would thereafter be admissible. Accordingly, the petitioners, having accepted the contractual benefits without protest, are estopped from reopening the matter after several years. Counsel further submitted that the petitioners' reliance upon the alleged Medical Policy dated 01.07.2010 is wholly misconceived. It was argued that the document relied upon by the petitioners is forged, unsigned and unapproved, whereas PSO had an existing medical policy since its inception, which was revised from time to time, including in 1993 and again in 2007. According to the respondents, the Company's medical policy applies only to employees who retire upon attaining the normal age of superannuation and not to those who voluntarily retire under VSS/ORP after receiving additional financial incentives in lieu of medical benefits. Therefore, the petitioners surrendered any future claim to medical facilities when they accepted the lump-sum payments under their respective schemes. It was further argued that there is no discrimination amongst employees, as each retirement scheme was introduced at a different point in time with different financial packages reflecting prevailing circumstances. Employees were free either to accept or reject the schemes, and many chose to continue in service without any adverse consequences. The varying amounts paid under different schemes were based upon their respective terms and cannot be equated so as to claim parity or additional compensation. With regard to Petitioners No.61 and 62, learned counsel specifically denied that they had opted for VSS-2001 or that their services were extended after acceptance of VSS. It was submitted that Petitioner No.61 voluntarily opted for ORP-2004 and Petitioner No.62 for ORP-2009, and both were relieved immediately upon acceptance of their respective retirement schemes after receiving full and final settlement. They added that during their service, they were granted all annual increments, salary revisions and benefits admissible under the Company's policy, including those approved in the 134th Board Meeting, and therefore no further claim survives. Counsel also distinguished the judgment of the Hon'ble Supreme Court in *Pakistan International Airlines Corporation v. S.M. Ismail Naqvi*, contending that the terms and conditions governing the PIA retirement scheme were materially different from those applicable to PSO and, therefore, the said judgment has no application to the present controversy. Finally, it was submitted that all eligible petitioners have already received their lawful pensionary and retirement benefits in accordance with the applicable schemes and that no legal, constitutional or statutory right of the petitioners has been violated. The respondents, therefore, prayed that this petition was earlier dismissed for non-prosecution however, the same was restored to its original position, but on merits this petition being devoid of merit and not maintainable, be dismissed. In support of his contentions, learned counsel for respondents No.2 and 3 has relied upon the case of *State Bank of Pakistan v. Imtiaz Ali Khan* (2012 SCMR 280).

5. Having heard the learned counsel for the parties, examined the pleadings, the Voluntary Separation Scheme (VSS)/Optional Retirement Plans (ORP), and the material placed on record.

6. The admitted position is that all the petitioners voluntarily opted for the VSS/ORP after fully understanding and accepting its terms and conditions. Under each Scheme, the petitioners executed their option with full knowledge that they would receive a specified lump-sum amount in lieu of post-retirement medical benefits and that such payment would constitute a full and final settlement of all claims relating to medical facilities. The Schemes further expressly stipulated that no post-retirement medical facility would thereafter be admissible. The petitioners accepted the monetary benefits without protest and acted upon the contractual arrangement. Having accepted the benefits flowing from the Scheme, they are estopped from challenging only those terms which subsequently became disadvantageous to them.

7. A Voluntary Separation Scheme constitutes a complete contractual package governing the reciprocal rights and obligations of the employer and the employee. Once the option is voluntarily exercised and accepted, it results in severance of the relationship between the parties. Such severance brings to an end all rights and obligations arising out of the contract of employment except those expressly preserved under the Scheme itself. Consequently, an employee who has voluntarily exited service under VSS cannot subsequently claim benefits introduced for employees retiring in the ordinary course of service unless the

Scheme itself expressly extends such benefits. No such provision has been shown by the petitioners.

8. The principal foundation of the petitioners' claim is the Medical Policy dated 01.07.2010. Even assuming, without deciding, that such policy was validly introduced, the same cannot retrospectively alter the contractual rights and liabilities already crystallized under the earlier VSS/ORP. The rights of the parties became vested on the date the petitioners accepted the Scheme and received full and final settlement. A subsequent administrative policy cannot rewrite or vary concluded contractual arrangements in the absence of an express retrospective provision. Therefore, the petitioners cannot derive any enforceable right from a policy framed after their voluntary separation.

9. The plea of discrimination is equally without substance. Equality under Article 25 of the Constitution postulates equal treatment amongst persons similarly situated. The petitioners, who voluntarily retired under VSS/ORP after receiving additional financial incentives, do not constitute the same class as employees who continued in service and retired on attaining the age of superannuation under the normal service rules. Likewise, employees opting under different retirement schemes introduced in different years with different financial packages cannot claim absolute parity merely because the quantum of benefits varied. Different schemes framed in different economic circumstances constitute separate classifications founded upon intelligible differentia having a rational nexus with the object sought to be achieved. In the absence of any material showing that employees governed by the same Scheme and identical terms were granted superior benefits, no actionable discrimination has been established.

10. The reliance placed upon *Pakistan International Airlines Corporation v. S.M. Ismail Naqvi* is also misplaced. The ratio of a judgment is applicable only where the contractual framework, statutory provisions and factual matrix are substantially identical. The petitioners have failed to demonstrate that the terms governing the PSO VSS/ORP are pari materia with those considered by the Hon'ble Supreme Court in the PIA case. On the contrary, the PSO Schemes specifically and unequivocally excluded post-retirement medical facilities after payment of a lump-sum amount in full and final settlement. Therefore, the said precedent does not advance the petitioners' case.

11. The plea of Petitioners No.61 and 62 regarding increments, revised pay scales and promotional benefits is also unsupported by the record. The respondents have consistently maintained that these petitioners did not opt for VSS-2001 but separately opted for ORP-2004 and ORP-2009 respectively, and that all admissible increments, salary revisions and service benefits up to the date

of their respective retirement had already been granted. No cogent material has been produced by the petitioners to rebut this factual position or establish any surviving legal entitlement.

12. Moreover, no allegation or evidence of fraud, coercion, undue influence or misrepresentation has been brought on record to invalidate the petitioners' consent while opting for the VSS/ORP. In the absence of any such vitiating factor, a concluded voluntary settlement cannot be reopened merely because the petitioners subsequently consider the bargain to be less advantageous. Courts cannot rewrite contracts freely entered into between competent parties or substitute new terms under constitutional jurisdiction.

13. Even otherwise, the relief sought arises essentially from contractual obligations flowing from a voluntary retirement package and does not disclose infringement of any statutory service rule or enforceable legal duty. The relationship between the parties after acceptance of the VSS/ORP remained contractual in nature, and no violation of any mandatory statutory provision has been demonstrated warranting interference in the exercise of constitutional jurisdiction under Article 199 of the Constitution.

14. For all the foregoing reasons, this Court holds that the petitioners have failed to establish any violation of law, constitutional guarantee or enforceable legal right. The petitioners voluntarily accepted the VSS/ORP with open eyes, received full and final settlement of their claims, and cannot now seek to selectively avoid the obligations arising from the very Scheme under which they accepted substantial financial benefits.

15. Accordingly, this Constitutional Petition is dismissed being not maintainable along with all pending applications, if any however with no order as to costs.

JUDGE

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