

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-2011 of 2026
(*Mst. Binish Hasan versus Federation of Pakistan and others*)

Date	Order with signature of Judge
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Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing: 03.09.2026

Mr. Muhammad Nishat Warsi, advocate for the petitioner.
Ms. Wajiha Mehdi, Assistant Attorney General, along with
Mr. Yasir Mehmood, Assistant Director ASF.

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: -

“a) Set aside the letter dated 11.03.2026;

(b) Direct the respondents to accept the resignation as the letter dated 11.03.2026 is not in accordance with the orders of this Hon'ble Court dated 10.02.2026:

(c) Direct the respondents to accept the resignation in accordance with the office memorandum dated 01.07.2020.”

2. Learned counsel for the petitioner submits that the petitioner, a Corporal (BPS-07) serving under Respondent No.2, was appointed vide memorandum dated 01.07.2020, and under the terms of her appointment, she was required to serve for a minimum period of five years, which period admittedly stood completed in July 2025. He further submitted that the petitioner was also deputed on a UN Peacekeeping Mission and, upon completion thereof, resumed her duties and subsequently tendered her resignation on personal grounds, stating that her proposed marriage was conditional upon her leaving service. He further contended that despite repeated requests, her resignation was not accepted. He added that the petitioner earlier approached this Court through C.P. No. D-5730/2025, which was disposed of on 10.02.2026, with directions to the respondents to consider and process her request in accordance with law and submit compliance, and pursuant thereto, the respondents, vide letter dated 11.03.2026, rejected the petitioner's resignation on the ground of acute shortage of specialized trained staff at Quetta Airport, prevailing security/threat situation and exigencies of service. He further added that the petitioner has challenged the said decision, contending, inter alia, that the ground now assigned was not the ground earlier communicated to her and that the subsequent policies/conditions regarding further service after the UN assignment cannot retrospectively be applied to her. He lastly prayed to allow this petition.

3. Learned Assistant Attorney General (AAG) submits that the instant petition is not maintainable in view of the constitutional bar of jurisdiction in terms of Article 199(3) of the constitution. She states that the Airports Security Force (ASF) was constituted under Section 3 of the Airports Security Force Act, 1975, and its officers and members are, by virtue of Section 7-A(1) thereof, subject to the Pakistan Army Act, 1952. She emphasized that section 7-A(4) of the ASF Act further excludes the jurisdiction of ordinary courts and tribunals in matters relating to ASF personnel, except as provided under the said Act. Consequently, Article 199(3) of the Constitution also operates as a bar to the exercise of constitutional jurisdiction in respect of persons subject to the Pakistan Army Act, 1952. She further contended that the petitioner was appointed as Corporal in ASF on 24.07.2020 and, after undergoing the prescribed selection and specialized pre-deployment training, voluntarily participated in a UN Peacekeeping Mission in Congo from 02.06.2023 to 02.08.2024, where she received mission allowances/earnings. Upon repatriation, she rejoined ASF and was subsequently posted to Quetta Airport. She further submits that, under the applicable ASF policy governing UN Mission deployments, personnel are required to serve the department for five years after repatriation, failing which the prescribed amount/share from the mission earnings becomes recoverable. The petitioner, having voluntarily availed the benefits of the UN Mission, cannot seek to evade the corresponding service and financial obligations imposed uniformly under the applicable policy. She further contended that acceptance of resignation is not an automatic or vested right, particularly in the case of personnel governed by a special statutory regime, and remains subject to the applicable rules, policy and exigencies of service. She emphasized that the personal or matrimonial circumstances pleaded by the petitioner, though sympathetic, do not confer upon her an enforceable legal right to secure immediate acceptance of her resignation. She added that the petition is barred by Article 199 (3) of the Constitution read with Sections 7-A(1) and 7-A(4) of the Airports Security Force Act, 1975, and is liable to be dismissed.

4. Learned counsel for the petitioner, in rebuttal, submits that the objection under Article 199(3) of the Constitution is misconceived, as the petitioner is neither challenging any disciplinary or court-martial proceedings nor any action taken under the Pakistan Army Act, 1952, but seeks redress against the respondents' refusal to accept her resignation on account of compelling personal and matrimonial circumstances. It is contended that Sections 7-A(1) and 7-A(4) of the Airports Security Force Act, 1975, cannot be construed as an absolute bar to constitutional jurisdiction in respect of every administrative or service matter, particularly where the impugned action is alleged to be arbitrary, without lawful authority or in violation of fundamental rights. Learned counsel further submits

that the alleged five-year post-mission service obligation cannot, by itself, justify refusal of resignation, and any financial liability arising from the UN mission may be determined and recovered in accordance with law. The petitioner's participation in the mission did not constitute an irrevocable undertaking to remain in service irrespective of subsequent circumstances. It is further argued that her genuine matrimonial and personal circumstances required fair and objective consideration by the competent authority, and although acceptance of resignation may be subject to rules and service exigencies, the discretion cannot be exercised arbitrarily or without a reasoned decision. Learned counsel, therefore, prays that the objection to maintainability be rejected and the respondents be directed to consider and decide the petitioner's resignation application in accordance with law, after taking into account her circumstances and any lawful financial liability.

5. We have heard learned counsel for the parties and examined the record as well as the relevant statutory provisions.

6. The principal question which arises for determination is whether the petitioner, being a Corporal of the Airports Security Force, can invoke the constitutional jurisdiction of this Court under Article 199 of the Constitution to seek a direction for acceptance of her resignation, particularly when the competent authority has declined the same on account of exigencies of service, shortage of trained personnel and prevailing security conditions.

7. It is an admitted position that the petitioner is a member of the Airports Security Force and is, therefore, governed by the Airports Security Force Act, 1975 and the rules, regulations and instructions made thereunder. Section 7-A(1) of the said Act expressly provides that every officer and member of the Force shall be subject to the Pakistan Army Act, 1952. The statutory scheme is thus materially different from that applicable to an ordinary civil servant. Section 7 of the ASF Act further obliges every officer and member to obey the lawful orders and instructions of the competent authority. It makes such member liable to serve wherever required by the competent authority. The official framework governing ASF personnel is accordingly founded upon discipline, mobility, operational requirements and the exigencies of service. An excerpt of Section 7-A(1) of the said Act is reproduced as under:-

7A. Officers and members to be subject to the Pakistan Army Act, 1952.— (1) Every officer and member of the Force shall, unless he is already so subject, be subject to the Pakistan Army Act, 1952 (XXXIX of 1952), hereafter in this Chapter referred to as the Act."

8. More importantly, Section 7-A(4) of the ASF Act contains an express exclusion of jurisdiction. It provides, notwithstanding anything contained in any other law for the time being in force, that, except the authorities specified in Section 7-A(1) and (2), no other authority, Tribunal or Court shall have

jurisdiction to vary, modify, alter, annul, set aside, revise or review an order passed by an officer of the Force authorized under the Pakistan Army Act, 1952. It is now well settled that the jurisdiction of other forums in relation to ASF personnel is excluded and that grievances concerning orders passed under the statutory framework of the ASF Act and the Pakistan Army Act have to be pursued through the remedies available under that special regime.

9. The constitutional position is further fortified by Article 199(3) of the Constitution, which expressly prohibits the High Court from making an order under Article 199(1) on an application made by or in relation to a person who is a member of the Armed Forces of Pakistan, or who is for the time being subject to any law relating to those Forces, in respect of his terms and conditions of service, any matter arising out of his service, or any action taken in relation to him as such member or person.

10. The expression employed in Article 199(3) of the Constitution is sufficiently wide to encompass a person who is not necessarily a regular member of the Armed Forces but is, by operation of law, subject to a law relating to those Forces. Since Section 7-A(1) of the ASF Act expressly subjects every member of ASF to the Pakistan Army Act, 1952, the constitutional bar is directly attracted in the present case. It is well settled now that matters concerning terms and conditions of service of persons subject to the Army Act fall outside the constitutional jurisdiction of the High Court by virtue of Article 199(3) of the Constitution.

11. The contention of learned counsel for the petitioner that the petition is maintainable merely because the relief sought concerns acceptance of resignation, rather than disciplinary action, is also not tenable. The grievance raised by the petitioner directly concerns her continuation in service and the termination of that service through resignation. It is, therefore, intrinsically a matter relating to her terms and conditions of service. Prima facie the statutory bar applicable to ASF personnel is not confined to disciplinary proceedings; the jurisdictional exclusion operates against orders falling within the statutory framework governing ASF personnel.

12. Even on merits, the petitioner cannot claim acceptance of resignation as an automatic or vested right. Section 18 of the Pakistan Army Act, 1952, as presently enacted, specifically provides that the competent authority may, as prescribed, retire, release, accept or reject the resignation of a person subject to the Act. The statutory language is significant: it confers discretion upon the competent authority and does not provide that a resignation tendered by an enrolled member must invariably be accepted. Indeed, the provision recognizes the power to reject resignation, while the proviso further demonstrates the overriding importance

attached by the statute to exigencies and extraordinary circumstances of service.

Section 18 of the Pakistan Army Act, 1952 is reproduced as under:-

“18. Retirement, release, or discharge. The prescribed authority may, in conformity with such rules as may be prescribed in this behalf, retire, release or discharge from the service any person subject to this Act.”

13. Consequently, the petitioner's completion of the initial minimum service period of five years under her appointment memorandum dated 01.07.2020 does not, by itself, create an indefeasible right to separation from service. The initial five-year requirement and the subsequent obligation arising from her voluntary participation in the UN Peacekeeping Mission are two distinct matters. The respondents' case is that the petitioner voluntarily underwent specialized training, proceeded on the UN Mission in Congo from 02.06.2023 to 02.08.2024 and, after repatriation, became subject to the applicable policy requiring further service and providing for recovery of the prescribed portion of mission earnings in case of premature departure. Unless such policy is shown to be without lawful authority or inapplicable to the petitioner, her voluntary acceptance of the mission assignment and its attendant benefits cannot be divorced from the corresponding obligations attached thereto.

14. The petitioner's reliance upon the memorandum dated 01.07.2020 is, therefore, misplaced to the extent that she seeks to treat the expiry of five years from her original appointment as extinguishing all subsequent obligations arising from her service in ASF or from her voluntary participation in the UN Mission. The terms governing an employee's original appointment do not necessarily exhaust the subsequent statutory and regulatory conditions governing his or her service. The ASF Act itself subjects members of the Force to the applicable statutory rules and instructions, while the Supreme Court has recognized that ASF personnel remain governed by the special statutory regime applicable to the Force.

15. Prima facie, the petitioner's personal or matrimonial circumstances, though deserving of sympathetic consideration, cannot by themselves convert a discretionary matter of service into an enforceable legal right. The competent authority is required to balance the individual request against the institutional requirements of the Force.

16. In the present case, the impugned letter dated 11.03.2026 records specific reasons, namely shortage of specialized trained staff at Quetta Airport, prevailing security/threat conditions and exigencies of service. These are matters falling squarely within the administrative and operational domain of the competent authority. This Court, particularly in the face of an express constitutional and statutory bar, cannot substitute its own assessment of such operational

requirements for that of the competent authority. An excerpt of the impugned letter dated 11.03.2026 is reproduced as under:-

“OFFICE MEMORANDUM

SUB: RESIGNATION FROM GOVERNEMENT SERVICE-C-18645
CORPORAL BINISH HASSAN (F)

HQ ASF Karachi letter No. 33-18645/20/FS-4/1 dated 10-03-2026 refer.

1. The resignation tendered by C-18645 Corporal Binish Hassan (F), has been duly, examined by the competent authority. The matter has been considered in its entirety, including the applicable policy and the prevailing legal frameworks governing service conditions of Airports Security Force (ASF) personnel.

2. Upon due consideration of relevant facts, circumstances, the competent authority has regretted the resignation request submitted by C-18845 Corporal Binish Hassan (F), due to acute shortage of specialized trained staff at Quetta Airport (Balochistan), the present threat situation / war on the borders and overall exigencies of service.

3. The Individual concerned may be informed accordingly, please.

(Wasim Abbas)
Deputy Director (Admin)
For, Chief Security Office”

17. Nor does the order dated 10.02.2026 passed in C.P. No. D-5730/2025 assists the petitioner. The said order merely required the respondents to consider and process her request in accordance with law. It did not direct unconditional acceptance of her resignation, nor did it create a substantive right in her favour contrary to the governing statutory regime. The respondents, having considered the request and communicated their decision through a letter dated 11.03.2026, cannot be said, on the material before us, to have acted in disregard of the earlier order.

18. The further argument that the respondents subsequently assigned grounds different from those earlier communicated to the petitioner also does not furnish a ground for interference under Article 199 of the Constitution, particularly when the decision challenged is one concerning continuation of service of a person subject to the Pakistan Army Act. In any event, the impugned communication discloses intelligible service-related reasons and does not demonstrate, on the face of the record, any want of jurisdiction or exercise of power by an incompetent authority.

19. It is also significant that the petitioner has not pointed out any provision of the ASF Act, Pakistan Army Act, applicable Service Rules or binding policy which makes acceptance of resignation obligatory upon completion of the initial five-year period. On the contrary, the statutory framework recognizes the competent authority's power to accept or reject resignation. Section 18 of the Pakistan Army Act is, therefore, a complete answer to the proposition that the petitioner acquired an absolute right to secure acceptance of her resignation merely by tendering it.

20. The law is settled that where a special statute creates a self-contained regime governing a class of personnel and expressly excludes the jurisdiction of ordinary courts or tribunals, the constitutional jurisdiction cannot be invoked to circumvent that statutory scheme. In the context of ASF, the Supreme Court has specifically held that Section 7-A(4) operates to oust the jurisdiction of other forums and that grievances of ASF personnel must be dealt with within the hierarchy provided by the relevant statutory framework.

21. In view of the foregoing discussion, we are of the considered view that the present petition is hit by the express bar contained in Article 199(3) of the Constitution read with Sections 7-A(1) and 7-A(4) of the Airports Security Force Act, 1975. The matter complained of relates directly to the petitioner's service and the refusal to accept her resignation, and the petitioner is, by operation of Section 7-A(1), subject to the Pakistan Army Act, 1952. This Court, therefore, lacks jurisdiction to examine the merits of the impugned decision in constitutional jurisdiction. An excerpt of Article 199(3) of the Constitution is reproduced as under:-

“199(3) (3) An order shall not be made under clause (1) on application made by or in relation to a person who is a member of the Armed Forces of Pakistan, or who is for the time being subject to any law relating to any of those Forces, in respect of his terms and conditions of service, in respect of any matter arising out of his service, or in respect of any action taken in relation to him as a member of the Armed Forces of Pakistan or as a person subject to such law.”

22. Even otherwise, the petitioner has failed to establish any vested or enforceable right to have her resignation accepted by the order of this court under Article 199 of the Constitution.

23. Accordingly, the Constitutional Petition is not maintainable and is dismissed. The impugned letter dated 11.03.2026 does not warrant interference in the constitutional jurisdiction of this Court. The petitioner, if otherwise so advised, may avail such remedy as is available to her under the special statutory regime governing ASF personnel. Consequently, the prayer for issuance of a direction to the respondents to accept her resignation cannot be granted. There shall be no order as to costs.

JUDGE

JUDGE

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