HIGH COURT OF SINDH

Case Law Review

Fortnightly Bench Update

Published by: Legal Research Cell,
High Court of Sindh

Volume 1 | Issue XIV | 01-Nov-2025 to 15-Nov-2025

FORTNIGHTLY BENCH UPDATE

(01-11-2025 to 15-11-2025)

An Overview of Recent Judgments of the Supreme Court of Pakistan, Sindh High Court, and Lahore High Court, Latest Legislative Amendments and Important Articles, Compiled and Published by the Legal Research Cell, High Court of Sindh, Karachi

NOTABLE JUDGMENTS

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		Acquisition Act.?		
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1. **SUPREME COURT OF PAKISTAN**
C.P.L.A. 3169 of 2022

Parties: **Coca Cola Pakistan Ltd. VS Commissioner Inland Revenue, Lahore**

Present: **MR. JUSTICE MUNIB AKHTAR**
MR. JUSTICE MUHAMMAD SHAFI SIDDIQUI
MR. JUSTICE MIANGUL HASSAN AURANGZEB

Source: https://www.supremecourt.gov.pk/downloads_judgements/c.p._3169_2022.pdf

Facts: Coca-Cola Pakistan earned income from two distinct sources during tax year 2003: locally manufactured beverages, which produced normal-tax-regime (non-PTR) income, and imported finished beverages, on which tax was collected at the import stage under section 148 as final tax (PTR income). The company filed its return, which became a deemed assessment, and allocated its expenditures between these two income streams using a gross-profit-ratio method. The Department amended the deemed assessment and applied Rule 13 of the Income Tax Rules 2002, reallocating all "total admissible expenses," including manufacturing costs, through the Rule 13 formula based on gross receipts. Coca-Cola challenged the amendment, arguing that manufacturing expenses related solely to non-PTR income and that Rule 13 was not mandatory where another reasonable method existed. The Tribunal accepted Coca-Cola's position, but the High Court reversed it, leading Coca-Cola to seek leave before the Supreme Court.

Issue: Whether Rule 13 of the Income Tax Rules 2002 is mandatory for apportioning expenses under section 67 of the Income Tax Ordinance 2001, especially where a taxpayer has already adopted another basis that it considers reasonable for prorating expenditure between PTR or FTR income and non-PTR or NTR income?

Rule: The governing rule came from section 67(1), which requires that whenever expenditure relates to more than one class of income, it shall be apportioned on any reasonable basis, paying attention to the relative nature and size of the activities to which the expenditure relates. Section 67(2) authorizes the Federal Board of Revenue to make rules, but the provision is discretionary and does not override the mandatory requirement in subsection (1). Rule 13 sets out mechanisms for allocating expenditures, including expenses clearly attributable to a particular class and common expenses that may be allocated using a formula based on gross receipts. However, the Court emphasized that subordinate legislation such as Rule 13 cannot override the parent statute, nor can it replace the statutory instruction that "any reasonable basis" may be used

Application In analyzing the case, the Court first noted that Coca-Cola generated two distinct income streams during the relevant tax period. One related to locally manufactured beverages, which clearly fell under non-PTR income. The other related to imported drinks sold in Pakistan in the same form in which they were imported, producing

PTR income under section 148. Manufacturing and similar expenses connected with local production were clearly allocable to non-PTR income only. Under Rule 13(2), such expenditures were not common expenses and therefore could not be subjected to the proration formula in Rule 13(3). The Department nevertheless applied the Rule 13 formula to all the taxpayer's expenses, including manufacturing costs, which the Court found incorrect. The Court held that Rule 13 does not become the exclusive method of proration merely because it exists. Section 67(1) continues to require using any reasonable basis, both before and after rules are issued. Therefore, even where Rule 13 might be applicable, it cannot displace another basis chosen by the taxpayer if that basis is itself reasonable. On the facts, Coca-Cola used the gross-profit-ratio method, which the Court found consistent with the statutory factors in section 67. Because this basis was reasonable, the Department could not amend the deemed assessment under section 122(5) by claiming escapement of income merely because Rule 13 would have produced a higher tax liability. The Court also clarified that earlier High Court cases relating to export profits and Rule 231 had no bearing on the present dispute, which involved PTR income from imports.

Conclusion: In conclusion, the Court held that Rule 13 is not mandatory for apportioning expenses under section 67 The appeal was allowed in favor of the taxpayer.

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2. **SINDH HIGH COURT**
Constitutional Petition Nos.D-4105, D-4106 and D-4107 of 2024

Parties: **Tariq Ali and others v. Federation of Pakistan and others**

Present: **MR. JUSTICE MUHAMMAD KARIM KHAN AGHA**
MR. JUSTICE ADNAN-UL-KARIM MEMON

Source: https://caselaw.shc.gov.pk/caselaw/view-file/Mjg5Mjc3Y2Ztcy1kYzgz
2025 SHC KHI 3172

Facts: The petitioners were employees of the National Institute of Management (NIM), initially appointed on contract in 2009 and later regularized in 2022. They served in different posts such as P.A. (BS-16), Superintendent Works (BS-17), Driver, and LDC. In early 2024, disciplinary proceedings were initiated against them on allegations of misconduct, including use of the NIM Employees Welfare Association to exert influence on administrative matters, provoking unrest among staff, communicating unverified allegations about senior officers to external authorities in violation of ESTACODE rules, demanding records beyond entitlement, and making accusations of bias and incompetence against the Directing Staff. After issuing show cause notices, the Director General of NIM imposed the major penalty of compulsory retirement through orders dated 03.01.2024 and 26.04.2024. The petitioners claimed that no regular inquiry was conducted, that they were denied the right to cross-

examine witnesses, and that the authority who passed the orders lacked jurisdiction. Their departmental appeal filed on 24.07.2024 also remained undecided. Feeling aggrieved, they filed these constitutional petitions seeking reinstatement, back wages, and the setting aside of the impugned orders.

Issue: Whether the compulsory retirement orders passed against the petitioners were lawful and valid, particularly in light of the allegations that no regular inquiry was conducted, the competent authority acted without jurisdiction, and the proceedings violated the mandatory procedural safeguards—including the right to a fair trial under Article 10A of the Constitution—especially since the charges involved disputed questions of fact?

Rule: Under Rule 2(k) of the Government Servants (Efficiency & Discipline) Rules, 2020, "misconduct" encompasses behavior contrary to discipline, unbecoming of a government servant, or prejudicial to public interest. Although compulsory retirement is a permissible major penalty under the Rules, it can only be imposed after adherence to procedural requirements: issuance of a show cause notice, provision of a fair hearing, and holding a regular inquiry when allegations involve contested facts. As held in Abdul Qayyum v. D.G. Project Management Organization (2003 SCMR 1110) and Basharat Ali v. Director Excise & Taxation (1997 PLC (CS) 817), a regular inquiry is mandatory unless allegations can be conclusively established from admitted or unimpeachable evidence. Article 10A of the Constitution guarantees the right to a fair trial, including the right to cross-examination and an unbiased adjudication. Any disciplinary action taken in violation of these principles is void.

Application: Applying these principles, the Court examined the record and found no evidence that a regular inquiry had been conducted after the petitioners denied the allegations in their replies to the show cause notices. The accusations—relating to misuse of association posts, instigating unrest, and communication of allegations to external authorities—required evidentiary examination and could not be determined merely through questionnaires or administrative assumptions. The petitioners were not afforded an opportunity to cross-examine witnesses or to present evidence. The inquiry committee appeared to have pre-judged the matter, primarily focusing on union activity rather than impartial evaluation of misconduct. Since the allegations involved disputed facts, failure to conduct a regular inquiry constituted a violation of the mandatory procedural framework and the petitioners' right to fair trial under Article 10A. The Court also noted that no reasons were recorded to justify dispensing with a regular inquiry. Thus, the impugned penalty was imposed without adherence to the law and was therefore unsustainable.

Conclusion: The Court concluded that the penalty of compulsory retirement was imposed in violation of the mandatory provisions of the Efficiency & Discipline Rules, 2020, and fundamental rights under Article 10A. Accordingly, the impugned orders were set aside, and the petitioners became entitled to all back benefits withheld due to the penalty. However, the respondents were granted liberty to initiate a de novo regular inquiry in accordance with law, to be completed within two months from the date of communication of the Court's order.

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3. **SINDH HIGH COURT**
Constitutional Petition No. D-5209 of 2025

Parties: **Shahid Ali and others v. Province of Sindh and others**

Present: **MR. JUSTICE MUHAMMAD KARIM KHAN AGHA**
MR. JUSTICE NISAR AHMED BHANBHRO

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjkwMTU5Y2Ztcy1kYzgz**
2025 SHC KHI 3230

Facts: The petitioners were appointed as teachers in 2012 in District Shikarpur. Their salaries were later stopped, and their appointments were cancelled on 15.11.2012 on the ground that the recruitment process was bogus and conducted without mandatory recommendations from the District Recruitment Committee. Some petitioners challenged the cancellation before the Sindh Service Tribunal (SST), which initially allowed their appeal. The Department challenged this before the Supreme Court, which remanded the matter to SST. In de novo proceedings, SST dismissed the appeals and declared the recruitment process null and void. That decision was not challenged before the Supreme Court and thus attained finality. Instead of filing a timely departmental appeal or a fresh appeal before SST under the statutory time frame, the petitioners submitted a representation to the Chief Secretary after 11 years. They then filed the present constitutional petition, seeking a writ directing authorities to decide their pending appeal.

Issue: Whether a constitutional petition under Article 199 of the Constitution was maintainable when the petitioners, who were civil servants, sought relief regarding their terms and conditions of service despite the exclusive jurisdiction of the Service Tribunal under Article 212 and relevant statutory provisions?

Rule: Article 212(2) of the Constitution bars all courts—other than the Service Tribunal—from entertaining or adjudicating matters related to terms and conditions of service of civil servants. The Sindh Civil Servants (Appeal) Rules, 1980 require a civil servant to file an appeal within 30 days of an order before the competent authority,

with condonation possible only in limited circumstances. Section 4 of the Sindh Service Tribunal Act, 1973 provides that after exhausting departmental remedies, and upon lapse of 90 days without a decision, a civil servant may file an appeal before the SST, which has exclusive jurisdiction and powers equivalent to a civil court. The Supreme Court, in Muhammad Hassanullah v. Chief Secretary Balochistan (2025 SCMR 134), reaffirmed that where a matter concerns terms and conditions of service, the High Court cannot exercise jurisdiction under Article 199 due to the constitutional bar contained in Article 212.

Application: Applying these rules, the Court noted that the petitioners were civil servants whose appointments had been cancelled on the basis that they were made without compliance with mandatory recruitment rules. The petitioners either had their appeals adjudicated by SST or failed to challenge the cancellation within the lawful timeframe. Those who approached the SST received a judicial determination declaring the entire recruitment process illegal, and the decision attained finality as they did not pursue further appeal. The remaining petitioners did not file departmental appeals within the 30-day statutory period and instead filed a representation after 11 years, far beyond any reasonable timeframe. The Court found that since adequate statutory remedies existed—and were either exhausted or abandoned—the High Court could not exercise writ jurisdiction. Entertaining the petition would violate the explicit constitutional bar, as the matter squarely concerned service rights. The petitioners' claim that they were condemned unheard was rejected because the cancellation resulted from a recruitment process later judicially declared illegal. The Court observed that even if the authorities decided the belated representation, it would be futile since administrative authorities cannot override judgments passed by the Service Tribunal.

Conclusion: The Court concluded that the constitutional petition was not maintainable due to the clear bar under Article 212 of the Constitution and the availability of adequate statutory remedies before the Service Tribunal. Since the appointments were already adjudicated as illegal and the petitioners failed to follow the statutory appellate framework within time, the petition was misconceived and devoid of merit. Accordingly, the petition was dismissed in limine along with all pending applications, with no order as to costs.

04. **SINDH HIGH COURT**
Constitutional Petition No.D-1132 of 2024
Constitutional Petition No.D-1132 of 2024

Parties: **Muhammad Anwar Jellani v. Adminstrator, Defence Housing Authority & another**

Present: **MR. JUSTICE MUHAMMAD KARIM KHAN AGHA**
MR. JUSTICE NISAR AHMED BHANBRO

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjkwMzIxY2Ztcy1kYzgz
2025 SHC KHI 3265

Brief Facts: The petitioner, Muhammad Anwar Jellani, was appointed as Chief Town Planner in the Defence Housing Authority (DHA), Karachi, on a three-year contract beginning 28.11.2022, with an initial six-month probation period, extendable under DHA Services Policy 2008. After serving for about 14 months, his services were terminated on 30.01.2024 without a show-cause notice or inquiry. He filed the present constitutional petition seeking reinstatement, back benefits, and suspension of the termination order, arguing that his probation stood converted into regular service and that termination without inquiry violated Article 10-A (right to fair trial). DHA argued that its service regulations are non-statutory, its employees are governed under a master-and-servant relationship, and a probationer may be terminated without inquiry.

Issue: Whether a constitutional writ can be issued to reinstate a contractual probationary employee of DHA, a statutory body with non-statutory service rules, whose contract was terminated without inquiry, and whether such termination violates Article 10-A of the Constitution?

Rule: DHA is a statutory organization created under President's Order No. 7 of 1980; however, its service rules and employment policies are non-statutory, meaning disputes regarding terms and conditions of employees fall within the master-and-servant framework, not enforceable through constitutional jurisdiction. Under DHA's 2008 Employment Policy, a probationer may have probation extended up to two times, and no employee is deemed confirmed unless issued a confirmation letter. A probationer's services can be terminated without inquiry, and the procedure for regular inquiry applies only to major penalties such as dismissal. The Supreme Court in Rizwana Altaf v. Chief Justice High Court of Sindh (2020 SCMR 1401) affirms

that termination of a probationer does not require inquiry and does not constitute stigma.

Application: The Court noted that the petitioner was a contractual probationer whose confirmation was always contingent upon satisfactory performance, and no confirmation letter was ever issued to him. His probation had been extended twice, indicating performance concerns. Therefore, his claim that he became a regular employee by mere passage of time lacked support from the DHA service policy. Since DHA's service rules are non-statutory, disputes over employment terms cannot be challenged through a writ petition. The termination, being at the probationary stage and permitted under clause (f) of the appointment letter, did not require issuance of show-cause notice or inquiry, nor did it constitute a major penalty attracting Article 10-A protections. The Supreme Court's jurisprudence confirms that the competent authority may dispense with a probationer's services based on unsatisfactory performance without conducting formal proceedings. The precedents cited by the petitioner were found distinguishable and not applicable to the present facts.

Conclusion: The Court held that the petitioner failed to establish any illegality in the termination of his probationary contract and that constitutional jurisdiction could not be invoked for enforcement of non-statutory service rights. Accordingly, the petition was dismissed, though the petitioner was granted liberty to pursue any remedy available under the ordinary law before the appropriate forum.

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5. **SINDH HIGH COURT**
Constitutional Petition No. D-2365 of 2016

Parties: **Mian Khan v. Messrs Union Export (Pvt.) Ltd. and others,**

Present: **MR. JUSTICE MUHAMMAD FAISAL KAMAL**
ALAM JUSTICE MS. SANA AKRAM MINHAS

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjkwNjA3Y2Ztcy1kYzgz
2025 SHC KHI 3276

Brief Facts: Mian Khan, a permanent worker of Union Export (Pvt.) Ltd., claimed that he was removed from service after raising a dispute about unpaid overtime and that he was made to sign blank papers when receiving some amount from the employer. The Labour Court reinstated him with full back benefits, but the Sindh Labour Appellate Tribunal set aside that order and instead granted Rs. 200,000 as compensation, mainly because he was already above sixty years of age and had served less than

three years. He challenged the Tribunal's decision before the Sindh High Court, arguing that the evidence was not discussed and that compensation was inadequate. The Court agreed that reinstatement was not practical but found the compensation outdated due to nine years of delay, ultimately enhancing it to Rs. 300,000.

Issue: The core issue is whether the Sindh Labour Appellate Tribunal acted correctly in setting aside the Labour Court's order of reinstatement and granting only Rs. 200,000 as compensation, and whether the High Court should restore reinstatement or enhance the compensation to ensure a fair remedy for the petitioner.

Rule: Courts may decline reinstatement and award monetary compensation when reinstatement is impracticable due to factors like the worker's advanced age, short length of service, or other equitable considerations. Compensation must reflect the employee's service span, salary, statutory dues, and the economic conditions at the time of adjudication. Higher courts can revise or enhance compensation when the original amount becomes inadequate because of delay, inflation, or depreciation in the value of money.

Application: The Court applied these principles by noting that the petitioner was already over sixty when his employment ended and had served for less than three years, which made reinstatement unrealistic. It accepted that the Appellate Tribunal was justified in choosing compensation instead of restoring service. At the same time, the Court recognized that the petition had remained pending for nine years and that inflation had eroded the value of the original Rs. 200,000 award. Since the petitioner's salary and statutory dues were modest, the original amount had been reasonable at the time, but it no longer provided a fair remedy. Because of this change in economic circumstances, the Court increased the compensation to Rs. 300,000 while keeping the Tribunal's refusal of reinstatement intact.

Conclusion: The High Court confirmed that reinstatement was not an appropriate remedy because of the petitioner's age and short length of service, so compensation remained the proper course. At the same time, the Court recognized that the original award no longer matched present economic conditions after nine years of litigation. It therefore upheld the Appellate Tribunal's approach but enhanced the compensation to Rs. 300,000 to ensure fairness.

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6. **SINDH HIGH COURT**
Constitutional Petition No. D-457 of 2024
Constitutional Petition No. D-893 of 2024

Parties: **Salahuddin and others vs Province of Sindh and others**

Salahuddin Siddiqui and others vs Province of Sindh and others

Present: **MR. JUSTICE MUHAMMAD FAISAL**
KAMAL ALAM JUSTICE MS. SANA AKRAM
MINHAS

Source: https://caselaw.shc.gov.pk/caselaw/view-file/Mjg5OTc3Y2Ztcy1kYzgz
2025 SHC KHI 3220

Brief Facts: The petitioners, who are permanent employees of the Provincial Ombudsman Sindh Secretariat, filed these petitions claiming that their career progression was being obstructed because the Ombudsman Office had been appointing Consultants, Advisors and Fellows under Section 20 of the Sindh Ombudsman Act, 1992, many of whom were retired government officers working for years on repeatedly extended contracts and even performing duties of regular posts such as Director (Admin). They argued that this practice violated the Service Rules and blocked promotions to posts reserved for regular staff. In the connected petition, the petitioners also sought directions for the Ombudsman Secretariat to move a summary to the Government of Sindh for approval of additional service benefits and allowances under Section 8(3), similar to those available to employees of other Secretariat institutions. The respondents defended the appointments as lawful temporary engagements based on KPIs and asserted that such contractual appointments do not affect the rights of permanent employees.

Issue: The central issue is whether the Provincial Ombudsman Sindh lawfully appointed Consultants, Advisors and Fellows under Section 20 of the Sindh Ombudsman Act, 1992 in a manner that does not obstruct the promotion prospects of permanent employees, and whether the petitioners, as regular staff of the Ombudsman Secretariat, are entitled under Section 8(3) to additional allowances and benefits similar to those granted to other provincial government secretariat employees.

Rule: Under **Section 20** of the Sindh Ombudsman Act, 1992, the Ombudsman may appoint Consultants, Advisors and Fellows on temporary, extendable contracts for assistance in discharging statutory functions, but such contractual appointments do not create vested rights nor can they override the service structure of permanent employees. **Section 8(3)** guarantees that the regular staff of the Ombudsman Secretariat are entitled to pay, allowances and service benefits equivalent to provincial civil servants of corresponding grades. The **Provincial Ombudsman (Employees) Service Rules, 1997**, as amended in 2023, govern recruitment, promotion and filling of regular posts, requiring that permanent vacancies be filled

through the prescribed procedure and not through long-term ad hoc arrangements. Courts have consistently held that discretionary contractual appointments cannot block career progression of regular employees

Application: Applying these rules to the case, the Court found that although the Ombudsman is legally empowered to appoint Consultants, Advisors and Fellows on temporary contracts, these appointments cannot interfere with or slow down the promotion rights of permanent staff whose service structure is protected under Section 8 and the governing Rules. The record showed that the contractual appointees were engaged on a performance-based system with no vested rights, and several had recently been discontinued for underperformance, which supported the respondents' stance that the process was not arbitrary. At the same time, the Court accepted the petitioners' concern about regular posts being given to contract staff, especially where a Junior Consultant was assigned to look after the role of Director (Admin), and held that such posts must be filled strictly through the Service Rules. For the benefits issue, the Court applied Section 8(3) and acknowledged that the petitioners were entitled to have a summary placed before the Government of Sindh for consideration of allowances comparable to other provincial secretariat employees.

Conclusion: The Court concluded that while the Ombudsman may appoint Consultants, Advisors and Fellows under Section 20, these contractual engagements cannot obstruct the promotion pathways of permanent employees, which remain governed by Section 8 and the Service Rules.

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7. **SINDH HIGH COURT**
Constitutional Petition No. D-3946 of 2015

Parties: **Muhammad Abid v. Province of Sindh and others**

Present: **MR. JUSTICE MUHAMMAD FAISAL KAMAL**
ALAM JUSTICE MS. SANA AKRAM MINHAS

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjkwNjEzY2Ztcy1kYzgz
2025 SHC KHI 3277

Brief Facts: Muhammad Abid joined the Sindh Small Industries Corporation in 1993 and was initially upgraded with two other Project Directors from BPS-18 to BPS-19 in 1998 through a formally approved working paper, and later to BPS-20 after the Board restructured posts and recognized his seniority and performance. While the other

similarly placed officers retained their upgraded scales until retirement, the petitioner alone was reverted to BPS-18 in 2015 through two impugned notifications issued on the basis of the *Azhar Baloch* case. He challenged these notifications, arguing his up-gradations were lawful, approved by the Board and identical to upgrades granted to others. The High Court found no illegality in his up-gradation, held that *Azhar Baloch* did not apply, and ruled that he is deemed to have retired in BPS-20 with all corresponding benefits.

Issue: Whether the petitioner's up-gradation from BPS-18 to BPS-19 and later BPS-20 could lawfully be withdrawn through the 2015 notifications, especially when similarly placed officers retained their upgraded scales and when the respondents relied on the *Azhar Baloch* judgment to justify his reversion?

Rule: Up-gradation of an isolated post is not a promotion but an administrative adjustment meant to address stagnation and provide a higher pay scale when no promotion channel exists, as recognized in *Anwar-ul-Haq* (2017 SCMR 890), *Fida Muhammad* (2021 SCMR 1895) and reaffirmed in *Kaneez Zehra*, where the Supreme Court held that lawful up-gradations are not hit by the principles laid down in *Azhar Baloch* (2015 SCMR 456). The *Azhar Baloch* rule applies only where appointments or promotions violate statutory service rules, not where an organization upgrades posts through approved restructuring, board decisions or established administrative policy.

Application: The petitioner's service record showed that every up-gradation he received was backed by working papers, Board approvals and organizational restructuring, and the respondents themselves admitted that the same upgrades were granted to two other Project Directors who later retired in their upgraded scales without ever being reverted. The only distinction was that the petitioner alone was downgraded twice in 2015 on the pretext of *Azhar Baloch*, even though the Service Rules were not violated and the up-gradation was not a promotion but an administrative adjustment, just like the officers in *Anwar-ul-Haq* and *Kaneez Zehra* whose up-gradations were upheld. The High Court noticed that other officers, including one who remained absent abroad, were allowed to retire in BPS-20, which made the selective reversion of the petitioner unreasonable and inconsistent with the rule of equality. Since the petitioner had an unblemished 30-year career, was senior-most, and his post had been upgraded along with others, there was no factual or legal basis to treat him differently or to apply *Azhar Baloch* against him.

Conclusion: The petitioner's up-gradation was lawful and consistent with established rules and Supreme Court precedent, so the 2015 notifications reverting him were invalid. His case did not fall within the scope of *Azhar Baloch*, and he was entitled to the same

treatment as other officers who retained their upgraded scales. The Court therefore set aside both notifications and held that he retired in BPS-20 with all related benefits.

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8. **SINDH HIGH COURT**
CP No. D-2306 of 2025, CP No. D-1533 of 2025 & CP No. D-4197 of 2025

Parties: **Javed Iqbal Barqi v. Province of Sindh & Others (Along with Connected Petitions)**

Present: **MR. JUSTICE MUHAMMAD FAISAL**
KAMAL ALAM JUSTICE MS. SANA
AKRAM MINHAS

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjkwNTY5Y2Ztcy1kYzgz
2025 SHC KHI 3272

Brief Facts: Three connected petitions challenged the appointment and qualification framework for the post of Director General (DG) SEPA. One petitioner questioned the promotion and posting of Waqar Hussain Phulpoto as ADG and later Acting DG on the ground that he did not meet the technical qualifications and experience required under the Original Recruitment Rules 2009. Another petitioner challenged the Notification dated 21.7.2025, which altered the method of appointment for DG SEPA by allowing transfer of PAS / Ex-PCS / PSS / PMS officers without requiring the earlier mandatory environmental qualifications. A third petition, filed jointly by WHP and Ashique Ali Langah, also assailed this Notification, arguing that the DG post had previously been removed from the cadre list due to its technical nature and that the Government's reliance on old Supreme Court directions was misplaced. The Government defended its actions by citing the Supreme Court's 2017 orders but later conceded that the 2009 Rules remained intact. The Court examined the sequence of notifications and found inconsistency in the Government's conduct, particularly its selective reliance on judicial directives, which ultimately led to judicial scrutiny of both the Impugned Notification and the eligibility of the competing officers.

Issue: The issue in these petitions was whether the Government of Sindh could lawfully change the appointment method for the post of DG SEPA through the Notification dated 21.7.2025 by allowing transfer of general cadre administrative officers without requiring the advanced technical qualifications and experience mandated under the Original Recruitment Rules 2009, and whether the promotion and posting of Waqar Hussain Phulpoto as ADG and Acting DG SEPA complied with those governing rules.

Rule: The governing rule came from the **Original Recruitment Rules 2009**, which remain legally operative. Under these rules, the post of DG SEPA is a **technical position** that can be filled either by (i) initial appointment requiring a Ph.D. or a postgraduate degree in Environmental Engineering or Environmental Science along with extensive experience in environmental research, teaching, or project management, or (ii) promotion from Directors (Technical/Lab) BPS-19 on a seniority-cum-fitness basis. These rules establish that the DG must possess specialized academic qualifications and significant technical experience. The Notification dated 21.7.2025 can only operate **supplementarily**, meaning it cannot override, dilute, or remove the technical qualifications and experiential requirements already prescribed in the 2009 Rules.

Application: Applying these rules to the facts, the Court examined the Government's attempt to appoint a DG SEPA through the Impugned Notification of 21.7.2025, which allowed transfers from PAS, Ex-PCS, PSS, and PMS officers without requiring any technical qualifications. Since the Government itself admitted that the Original Rules 2009 were still intact and had not been superseded, the Court held that the Notification could not eliminate the mandatory academic and experiential criteria for the DG post. This meant that any officer—whether transferred, promoted, or directly appointed—must still meet the environmental science or engineering qualifications required under the 2009 Rules. Applying this standard, the Court found that the Impugned Notification created an inconsistency by lowering the qualification threshold and was therefore to be read only as a supplementary mechanism, not a replacement. The Court further noted that the promotion of Waqar Hussain Phulpoto as ADG needed reconsideration because the record did not establish whether he met the required service length and mandatory training under the 2020 Notification. Finally, the Court directed the Higher Education Commission to verify whether the academic degrees of WHP and Ashique Ali Langah satisfy the technical requirements for eligibility under the 2009 Rules, with their ultimate suitability to be decided by the competent authority in line with those rules.

Conclusion: The Court concluded that the Original Recruitment Rules 2009 continue to govern appointments to the post of DG SEPA, and the Impugned Notification of 21.7.2025 cannot override or dilute the mandatory technical qualifications and experience required under those rules. The Notification is to be treated only as supplementary, meaning any officer considered for DG SEPA—whether through transfer, promotion, or initial appointment—must possess the academic background, technical expertise, and professional experience prescribed in the 2009 framework. The Court directed HEC to verify the academic credentials of Waqar Hussain Phulpoto and Ashique Ali Langah, and required the Government of Sindh to reassess their eligibility strictly under the 2009 Rules. It also ordered a re-examination of WHP's promotion as ADG due to incomplete evidence of compliance with the 2020 criteria. The operating administrative setup may continue temporarily, but all future decisions must align with the statutory technical requirements.

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9. **SINDH HIGH COURT**
Constitutional Petition No. D-1691 of 2024

Parties: **Rozi Zahid v. Federation of Pakistan & Others**

Present: **MR. JUSTICE MUHAMMAD FAISAL KAMAL ALAM**
JUSTICE MS. SANA AKRAM MINHAS

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjkwMzQ5Y2Ztcy1kYzgz
2025 SHC KHI 3261

Brief Facts: The petitioner, **Dr. Rozi Zahid**, was promoted by the Karachi Port Trust (KPT) to the post of **Deputy Chief Medical Officer (Administration), BPS-19**, with effect from 14 January 2022. She completed her probation on 13 January 2023. Soon after, KPT issued a letter dated 23 January 2023 that **re-designated another BPS-19 post**, Deputy CMO (Clinical), into a new title called **Senior Medical Officer (Clinical)** and **transferred her to that newly created post**, even though she had never been promoted to it. A junior officer, Respondent No. 4, was placed as **Acting Dy. CMO (Admin)** in her place.

Later, through another letter dated 13 June 2023, KPT **confirmed the petitioner on this newly re-designated post** of SMO-Clinical, and the confirmation was made **retrospective to 14 January 2023**, even though this post did not exist on that date.

The petitioner challenged the re-designation, her transfer, the placement of a junior officer over her post, and her retrospective confirmation. She argued that these

actions were unlawful because the Chairman relied on **Board Resolution No. 334 (2003)**, which she claimed was beyond the Board's authority to delegate under the Karachi Port Trust Act, 1886.

Issue: Whether the Chairman of the Karachi Port Trust could legally rely on Board Resolution No. 334 (dated 8-5-2003) to re-designate a BPS-19 post, transfer the petitioner from Dy.CMO (Administration) to the newly created SMO-Clinical post, and retrospectively confirm her on that post, when the Karachi Port Trust Act, 1886 allows delegation of the Board's powers only to committees of trustees and reserves all BPS-19 matters exclusively for the Board itself?

Rule: Under the Karachi Port Trust Act, 1886, the Board's authority can only be delegated in the manner set out in Section 17(3), which allows delegation **solely to committees of trustees**, not to individual officers such as the Chairman. Section 24(ii) further provides that all matters relating to officers in **BPS-19** fall within the exclusive domain of the **Board**, meaning the Chairman has no independent power to re-designate posts, transfer officers, or issue confirmations in that grade. The KPT Officers Regulations 2011 reinforce this structure. Regulation 6 limits confirmation to the post to which an officer has actually been appointed or promoted after successful probation, while Regulation 9 permits the Chairman to make transfers only within the statutory limits and does not expand his authority over BPS-19 matters. Regulation 3 protects pre-2011 service-related decisions but does not shield delegations of statutory authority like Board Resolution No. 334.

Application: The Court applied these rules by examining whether the Chairman had any lawful basis to re-designate the Dy.CMO (Clinical) post, transfer the petitioner from her promoted position of Dy.CMO (Administration), or confirm her on a newly created post. Since Section 17(3) only allows the Board to delegate its powers to committees of trustees, the Court found that Board Resolution No. 334 could not legally transfer the Board's BPS-19 authority to the Chairman. Because Section 24(ii) reserves all BPS-19 decisions exclusively for the Board, the Chairman's actions went beyond what the statute permits. The Court also noted that the petitioner had been promoted as Dy.CMO (Administration) and had completed probation, yet she was never promoted to the post of SMO-Clinical. Regulation 6 therefore barred her confirmation on that post. Regulation 9 offered no support to the KPT because it only allows transfers within the limits of the Act and cannot enlarge the Chairman's powers over BPS-19 matters. The Court also rejected KPT's reliance on Regulation 3, explaining that BR 334 was not a service decision and therefore received no protection. Since the confirmation letter was issued with retrospective effect to a date when the SMO-Clinical post didn't even exist, the Court held that the entire exercise

of re-designation, transfer, and confirmation was without statutory authority and legally ineffective.

Conclusion: The Court concluded that the Chairman of KPT had no lawful authority to act under Board Resolution No. 334 because the Karachi Port Trust Act, 1886 only permits the Board to delegate its powers to committees of trustees and reserves all decisions relating to BPS-19 officers for the Board itself. As a result, the re-designation of the Dy.CMO (Clinical) post, the petitioner's transfer from Dy.CMO (Administration) to SMO-Clinical, and her retrospective confirmation were all declared void and without legal effect. The Court directed KPT to reconsider her confirmation and present posting strictly under the Act and the applicable regulations.

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10. **HIGH COURT SINDH**
Constitutional Petition No. D-334 of 2025

Parties: **Yar Muhammad S/o Muhammad vs Ali Mohammad S/o Allah Dino and others**
Constitutional Petition No. D-1449 of 2024
Yar Muhammad S/o Muhammad Khaskheli Vs Ali Mohammad S/o Allah Dino and others.

Present: **MR. JUSTICE SHAMSUDDIN ABBASI,**
MR. JUSTICE MUHAMMAD HASAN (AKBER). (Author).

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjkwNjY4Y2Ztcy1kYzgz
2025 SHC MPK 3282

Facts: The petitioner, Yar Muhammad, and Respondent No.1, Ali Mohammad, entered into a land sale agreement dated 9 December 2016, which led the petitioner to file F.C. Suit No.73 of 2018 for specific performance, ending in a consent decree on 25 October 2019 requiring the petitioner to execute a sale deed and Respondent No.1 to pay the balance sale consideration. The petitioner himself sought enforcement of this decree through Execution Application No.1 of 2022, while Respondent No.1 filed his own execution application for completion of the sale deed. After acting upon the decree, the petitioner reversed course and filed an application under section 12(2) CPC alleging fraud, which the trial court accepted but the appellate court later set aside, restoring the consent decree. Once restored, Respondent No.1 deposited the balance consideration due to the petitioner's refusal, and the Nazir executed the sale deed on 20 June 2024 through Execution Application No.3 of 2023. The petitioner then challenged both the appellate court's order restoring the decree and the execution court's order allowing the sale deed, leading to the two constitutional petitions that were decided together.

Issue: The core issue before the court was whether the petitioner, after having sought execution of a consent decree, could later challenge that same decree through an

application under section 12(2) of the Civil Procedure Code on the ground of fraud and misrepresentation. A connected issue was whether the execution proceedings, in which the sale deed had already been executed by the Nazir after deposit of the balance sale consideration, could legally be undone?

Rule: Section 12(2) CPC applies only where specific, clearly pleaded and proven fraud, misrepresentation or lack of jurisdiction is shown. A consent decree cannot be reopened once it has been fully acted upon. A party who accepts and implements a decree cannot later repudiate it, because the doctrines of estoppel, approbate-and-reprobate, and the maxim volenti non fit injuria prevent such contradictory conduct. Case law such as Dadabhoy Cement Industries Ltd. v. NDFC (2002 SCMR 1761), Muhammad Khan v. Massan (1999 SCMR 2464), Qabul Khan v. Shah Nawaz (1991 SCMR 1287) and Muhammad Sajid Amin v. Rizwan Ahmed Bhatti (2016 YLR 1497) reinforces that mere allegations of fraud do not justify reopening a compromise, especially where the decree has already been implemented and has become a past and closed transaction.

Application The court observed that the petitioner had himself filed Execution Application No.1/2022 seeking enforcement of the consent decree. By doing so, he had already accepted the decree and treated it as valid. His later attempt to challenge the same decree under section 12(2) CPC was therefore contradictory and reflective of an afterthought. The court found no illegality in the appellate court's decision restoring the decree. The record also showed that Respondent No.1 had fulfilled his obligations by repeatedly offering the balance sale consideration and, upon the petitioner's refusal, depositing it in court. The Nazir executed the sale deed on 20 June 2024 in Execution Application No.3/2023. Once this happened, the decree became fully acted upon and closed. The petitioner's refusal to accept the balance payment and his attempts to delay implementation demonstrated an absence of bona fides. The allegations of fraud were never supported by specific facts or evidence, nor was there any suggestion of fraud upon the court. Since section 12(2) applications require precise particulars of fraud, the petitioner's general accusations were insufficient to reopen the decree. The executing court had followed the law by giving the petitioner opportunities to comply and, upon his failure, by permitting Respondent No.1 to deposit the amount and complete the sale deed. The High Court saw no legal error in that process and noted that the petitioner was still free to receive the deposited balance sale consideration.

Conclusion: The court concluded that the essential requirements for invoking section 12(2) CPC were not met. The petitioner failed to demonstrate any fraud or misrepresentation, while the consent decree had already been fully satisfied and acted upon. The ratio decidendi of the judgment is that a party who has enforced a consent decree and allowed it to be fully executed cannot later challenge it under section 12(2) CPC without proving clear fraud, and a decree that has been acted upon becomes a past and closed transaction. The court's remarks about the petitioner's conduct and reluctance to accept the balance consideration. Consequently, both constitutional petitions were dismissed and the orders of the appellate and executing courts were

upheld.

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11. **HIGH COURT SINDH**
First Appeal No. D-11 of 2024

Parties: **Province of Sindh and others VS Muhammad Waris S/o Sher Muhammad,**

Present: **MR. JUSTICE SHAMSUDDIN ABBASI,**
MR. JUSTICE MUHAMMAD HASAN (AKBER). (Author).

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjkwNjcwY2Ztcy1kYzgz
2025 SHC MPK 3283

Facts: The respondent, Muhammad Waris, owned land acquired in 2009 for the Makhee Farsh Link Canal Project, where he accepted the compensation without protest, executed an affidavit confirming unconditional acceptance of the award, and received a cheque for Rs. 28,11,318 on 07.09.2009. For the next seven years he never challenged the award before any forum. In 2016, a Land Acquisition Reference was suddenly filed on his behalf seeking enhanced compensation, based on an undated and un-received application that he claimed to have submitted to the Land Acquisition Officer. The record showed that the award had been passed in his presence, no objection was ever filed within time, and the alleged application lacked both a date and any receiving mark. The Reference Court nonetheless enhanced compensation to Rs. 500,000 per acre with 15 percent compulsory charges, prompting the Province of Sindh to file the present appeal, arguing limitation, laches and unconditional acceptance of the award.

Issue: The heart of the appeal was whether the respondent could lawfully claim enhanced compensation many years after the award of 2009, despite having unconditionally accepted that award, received the full amount, and executed an affidavit confirming his acceptance. A linked issue was whether the reference filed seven years later could stand when the record showed no timely objection or application under section 18 of the Land Acquisition Act.?

Rule: A land acquisition award attains finality when the owner accepts compensation without protest and raises no objection within the statutory period. A belated claim for enhanced compensation is barred by limitation and by the doctrine of laches. Courts have consistently held that stale land acquisition disputes cannot be revived after long, unexplained delays, especially when public money is at stake. The Supreme Court in PLD 2016 SC 514 (The love Hasan case), 2024 SCMR 2071 (Fazli Akbar Khan v Government of KPK) and 1991 SCMR 2300 (Noor Jahan Begum v Mujtaba Ali Naqvi) reaffirmed that claims filed years after acceptance of an award cannot be entertained unless the claimant demonstrates a valid, timely objection made to the Land Acquisition Officer.

Application The court began by examining whether the respondent had actually filed any objection or application before the Land Acquisition Officer after the 2009 award.

The record showed that the respondent executed an affidavit dated 07.09.2009, clearly stating that the award had been announced in his presence and that he willingly accepted the compensation of Rs. 28,11,318 along with the cheque. The affidavit carried no hint of protest or reservation. The respondent relied on an undated and un-received application, marked as Exhibit 31/A, but during cross-examination he admitted that the document did not contain the date, month or year, nor any receiving mark from the LAO. The court noted that from 2009 to 2016, there was no complaint, no follow-up, and no move by the respondent to challenge the award anywhere. The award stood accepted, implemented and unchallenged for seven years. Since public funds were involved, the court emphasized that public officers are required to exercise heightened vigilance. The unexplained seven-year delay in filing the reference, coupled with the respondent's own admissions, attracted the principles of laches as laid down in the Supreme Court precedents. Given these contradictions and the uncertainty surrounding the respondent's alleged application, the court held that the factual situation required an independent inquiry into whether any application had ever been filed, and if the delay was caused by the LAO. Both sides stated they had no objection to such an inquiry. The court then referred the matter to the Chief Secretary to determine: whether any application by the respondent actually existed, when it was filed and received; whether the LAO was responsible for the seven-year delay; and whether the LAO should bear personal liability for any loss to the public exchequer. If mala fide was found, the Chief Secretary was directed to refer the matter to anti-corruption authorities.

Conclusion: The court concluded that the award of 2009 had been accepted without protest and had long attained finality. The respondent's undated and un-received application could not justify a reference filed after seven years.

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12. **SINDH HIGH COURT**

C.P. No. D-4793 of 2025

Parties: M/s. Rawat Oil & Ghee Mills (Pvt.) Ltd versus Federation of Pakistan, Collector of Customs, MCC Appraisement (West), Karachi, Another Customs Authority

Present: **MR. JUSTICE ADNAN IQBAL CHAUDHRY,**
MR. JUSTICE MUHAMMAD JAFFER RAZA (author of the judgment)

Source: https://caselaw.shc.gov.pk/caselaw/view-file/Mjg5MzQ1Y2Ztcy1kYzgz
2025 KHI 3177

Facts: The petitioner imported goods that were assessed on 16.05.2025 under Valuation Ruling No. 1948/2025. Other importers (but not the petitioner) challenged this ruling through Revision Petitions under Section 25D of the Customs Act. The Director General (Valuation) remanded the ruling on 25.03.2025, and after further proceedings before the Customs Appellate Tribunal, a new Valuation Ruling No. 2008/2025 (dated 14.07.2025) replaced the earlier one. The petitioner's goods remain in the bonded warehouse, and no ex-bond GD has been filed yet. The petitioner seeks re-assessment based on the new valuation ruling, as duty/taxes have

not yet been paid. Customs authorities oppose this, arguing the petitioner never participated in the revision proceedings, so the revised ruling should not apply to them.

Issues: Is the petitioner entitled to re-assessment of its into-bonded consignments under the revised Valuation Ruling No. 2008/2025, despite not filing a revision petition earlier? Does Section 109 of the Customs Act require re-assessment when duty/valuation is altered before release of warehoused goods?

Rule: Valuation Rulings are statutory and binding until revised or rescinded. A revised valuation ruling takes effect from the date of the original ruling. Revised rulings apply broadly—not only to the parties who filed revision petitions. Section 109 (re-assessment on alteration of duty): Warehoused goods must be re-assessed on the basis of altered duty/valuation before clearance. Ambiguities or errors in valuation rulings must benefit the importer/taxpayer.

Application: The court rejects the respondents' argument that revised rulings benefit only those who filed revisions. Since Valuation Ruling 1948/2025 was replaced by 2008/2025, the earlier ruling is no longer in the field. Applying it to the petitioner would be unjust and contrary to settled law. The petitioner's goods are still warehoused; duties are unpaid. Therefore, Section 109 mandates re-assessment based on the current ruling. Previous similar petitions were granted, and the customs department re-assessed consignments lying in bond under the new ruling; the court finds no reason to treat the petitioner differently. Any ambiguity in valuation must favor the taxpayer.

Conclusion: The High Court allows the petition and directs customs authorities to re-assess the petitioner's consignments under Valuation Ruling No. 2008/2025 and release them in accordance with law.

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13. **SINDH HIGH COURT**
Const. P. 5148 / 2025, Const. P. 5149 / 2025, Const. P. 5150 / 2025, Const. P. 5151/2025

Parties: M/s Imperial Panel Industries (Pvt.) Ltd, M/s Akbari Polymers Pvt. Ltd., Ameer Hamza, Sadaf Zahid Versus Federation of Pakistan & Others, Respondents No. 2–5 represented by M/s Sardar Zafar Husain & Faheem Raza Khuhro, Ms. Ishrat Ayaz, Principal Appraise

Present: **MR. JUSTICE ADNAN IQBAL CHAUDHRY,**
MR. JUSTICE MUHAMMAD JAFFER RAZA (AUTHOR)

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjkwMDM5Y2Ztcy1kYzgz

2025 KHI 3231

Facts: Petitioners imported PVC Non-Flexible (Decorative/Printed) wall panel sheets/films. Valuation Ruling No. 1984/2025 existed but, according to petitioners, did not cover their specific products. On 04.08.2025, the Deputy Director of Customs Valuation issued an Impugned Letter, which allegedly: Expanded or altered the scope of the Valuation Ruling. Made the ruling applicable to the petitioners' products. Petitioners assert that assessment orders on their consignments were either: Directly based on the Impugned Letter, or Substantially influenced by it. Petitioners challenged the Impugned Letter and the resulting assessment orders. Customs authorities argued: Assessment orders relied only on the Valuation Ruling, not the letter. If aggrieved, petitioners must file an appeal under Section 193 of the Customs Act. Writ jurisdiction is therefore barred.

Issues: Whether the Deputy Director had the legal authority to issue the Impugned Letter that altered or expanded the scope of Valuation Ruling No. 1984/2025? Whether assessment orders based on or influenced by such a letter were lawful? Whether the petitioners were required to file an appeal under Section 193 instead of filing writ petitions?

Rule: Statutory provisions referenced: Section 25-A (Customs Act): Only the Director of Customs Valuation has the jurisdiction to determine valuation and issue Valuation Rulings. Section 25-D: Provides for review of valuation by the Director General. Section 193: Provides appellate remedy for aggrieved persons against assessment orders.

Application: The Court examined the assessment orders: Two petitions (5150 & 5151) explicitly referenced the Impugned Letter. Two others (5148 & 5149) did not mention it but were clearly influenced by it. The Respondents' assertion that assessments were independent of the letter was contradicted by the record. Section 25-A grants the exclusive power to issue or amend valuation rulings ONLY to the Director of Customs Valuation. The Impugned Letter was issued by the Deputy Director, who possessed no such authority. Relying on Universal Recycling, the Court reiterated: Internal departmental letters or advice cannot bind assessment officers. Subordinate officers cannot insert new interpretations into a ruling. Therefore: The Deputy Director transgressed statutory boundaries. The Impugned Letter was issued without jurisdiction. Assessment orders based on or influenced by it were invalid.

Conclusion: The Court declared the Impugned Letter illegal and without jurisdiction. The assessment orders based on or influenced by the letter were set aside. The Respondents were directed to conduct fresh assessments under Section 80 of the Customs Act. Officers must ensure that the new assessments are not influenced in any manner by the Impugned Letter. Petitioners retain the right to challenge the fresh assessments under the Act if they remain aggrieved. All four petitions were allowed.

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14. **SINDH HIGH COURT**
Constitutional Petition Nos. D–775 of 2025, D–777 to D-786 of 2025

Parties: **Engro Powergen Qadirpur Limited and 05 others v/s. Peer Bux & others**

Present: **MR JUSTICE AMJAD ALI BOHIO**
MR JUSTICE KHALID HUSSAIN SHAHANI

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjkwMjY1Y2Ztcy1kYzgz
Sindh High Court Citation (2025 SHC SUK 3252)

Facts: The respondents filed grievance applications before the Labor Court claiming that they had been working for Engro Powergen Qadirpur Limited for several years, performing permanent duties under the company's supervision, and were therefore entitled to be treated as regular employees rather than contractor workers. They asserted that the company issued them gate passes, deducted social security contributions, and included them in the Workers Profit Participation Fund, yet failed to issue appointment letters or regularize their services. The company denied any employment relationship, stating that the respondents were never appointed, never issued letters, and never paid through company payroll. During the proceedings, the Labor Court issued an interim order restraining the company from taking adverse action or stopping salaries, and when the workers alleged non-compliance, the Court issued contempt notices—giving rise to the present constitutional petitions.

Issue: Whether the Labor Court had the lawful authority under the Sindh Industrial Relations Act, 2013, to issue contempt notices against the employer for alleged violation of an interim order, and whether the Labor Appellate Tribunal correctly upheld such jurisdiction?

Rule: Section 48(8) SIRA grants contempt powers exclusively to the Labor Appellate Tribunal. Labour Courts, though deemed Civil Courts under Section 46(2), may enforce orders through CPC mechanisms such as Order XXXIX Rule 2(3) but have no independent contempt jurisdiction. Under Section 45(5), an interim order automatically lapses after 20 days unless extended through a reasoned order.

Application: The Labor Court issued contempt notices for alleged disobedience of its interim order despite lacking statutory contempt powers. The interim order had also lapsed under Section 45(5) because it was never extended in writing. The Labor Appellate Tribunal failed to address these jurisdictional defects and incorrectly upheld the Labor Court's actions. The High Court held that contempt jurisdiction is extraordinary and cannot be assumed by implication, and that the Labor Court exceeded its authority by initiating contempt proceedings rather than using civil enforcement mechanisms or referring the matter to the Tribunal.

Conclusion: The High Court allowed the constitutional petitions, set aside the Tribunal's order, and declared the contempt notices void for lack of lawful authority. The main grievance applications were permitted to continue and must be decided expeditiously in accordance with law.

15. **SINDH HIGH COURT**
J.C.M. No. 24 of 2019

Parties: Syed Saeed Ahmed, son of late Syed Junaid Ahmed versus M/s. Mehran Oils (Pvt.) Ltd., Syed Shabbir Ahmed, son of late Syed Junaid Ahmed (CEO) & 5–8. Nemo (No appearance), S.S.A.M. Qadri, Ex-Company Secretary (present in person), Syed Saad Ahmed, son of late Syed Junaid Ahmed

Present: **MR. JUSTICE ADNAN IQBAL CHAUDHRY**

Source: https://caselaw.shc.gov.pk/caselaw/view-file/Mjg5NzU5Y2Ztcy1kYzgz

2025 KHI 3195

Facts: The Applicant, his brothers (Respondents 2 & 9), and their father Syed Junaid Ahmed were shareholders and directors of Mehran Oils (Pvt.) Ltd. On 23.10.2012, the Applicant and Respondent 9 transferred 600 shares (300 each) to their father, increasing his shareholding to 1500 shares, and reducing theirs to 300 each. This transfer was duly recorded in the members register. Due to disputes between the father (Chairman) and Respondent No.2 (CEO), tensions escalated within the company. On 02.09.2014, Junaid Ahmed passed away. His shares were to devolve on his legal heirs. However, on 30.09.2014, the Company: Cancelled 600 shares standing in Junaid Ahmed's name, Illegally transferred those shares to Respondent No.2, Also attempted to show an additional 600-share transfer from the deceased to Respondent No.2. These changes were concealed in Form-A filings with SECP and came to light only when SECP shared documents with the Applicant in December 2018. The Applicant filed this rectification application under Section 126 of the Companies Act, 2017, alleging fraud and seeking restoration of shares.

Issues: Whether the rectification application under Section 126 is time-barred under Article 181 of the Limitation Act? Whether the Company's cancellation of 600 shares and transfer to Respondent No.2 on 30.09.2014 was lawful? Whether the alleged earlier transfer deeds dated 26.03.2012 in favor of Respondent No.2 were genuine or fabricated? Whether the Company had authority to reverse entries already made in the register without a Court order?

Rule: Section 126 of the Companies Act, 2017 – empowers the Court to rectify the members register. Article 181 of the Limitation Act – discussed but held *not applicable* to rectification applications based on binding precedent (Naila Naeem v. Indus Services Ltd., 2022 SCMR 1171). Even if Article 181 applied, Section 18 of the Limitation Act excludes time where fraud concealed the applicant's right. A company cannot cancel or alter share entries already made without: Valid Board authorization, and A Court order under section 126. Fraudulent changes in company records are void. Transfers alleged by fabricated transfer deeds carry no legal effect.

Application: On Limitation: The Court held that Article 181 does not apply to a Section 126 application. Even assuming applicability, limitation would start from the Applicant's knowledge of fraud (2018), therefore the petition (2019) is within time. On Validity of Share Transfers: The 23.10.2012 transfer to Junaid Ahmed was validly approved by majority Board resolution and properly entered. The 26.03.2012 transfer deeds claimed by Respondent No.2: Were never presented to the Company until after the father's death, Had no evidence of consideration, Appeared fabricated, and Respondent No.2 provided *no sworn counter-affidavit*. Therefore, the Company's claim was rejected. On Fraudulent Changes (30.09.2014): Cancelling the deceased's shares after his death without a Court order was unlawful. SECP's correspondence proved that filings were misleading or rejected due to inconsistencies. On Devolution of Shares: On Junaid Ahmed's death, all 1500 shares passed to his legal heirs under Muslim personal law.

Conclusion: The Court allowed the application and ordered: Declaration of Shareholding: On 02.09.2014, the date of Junaid Ahmed's death: Junaid Ahmed held 1500 shares Applicant, Respondent 2, and Respondent 9 each held 300 shares Fraudulent Entries: The 30.09.2014 changes were fraudulent and unlawful and must be reversed. Rectification: The Company is directed to rectify the members register and share certificates accordingly. Transmission: Shares of Junaid Ahmed must be transmitted to his legal heirs. Costs: Applicant awarded Rs. 500,000 as costs (Rs. 250,000 payable by the Company and Rs. 250,000 personally by Respondent No.2). Warning: Court issued a caution to the CEO and Company Secretary but refrained from criminal reference.

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16. **SINDH HIGH COURT**
Criminal Bail Application No. 2659 of 2025

Parties: **Dr. Mubina Cassum Agboatwala vs. The State**

Present: **HON'BLE MR. JUSTICE JAN ALI JUNEJO**

Source: https://caselaw.shc.gov.pk/caselaw/view-file/Mjg5Njc5Y2Ztcy1kYzgz
2025 SHC KHI 3194

Facts The applicant, Dr. Mubina Cassum Agboatwala, Chairperson of the NGO HOPE, sought post-arrest bail under Section 497 Cr.P.C. after her pre-arrest and post-arrest bail applications were dismissed by the Special Judge (Central) II, Karachi. She was arrested in FIR No. 212/2025 registered by FIA Anti-Human Trafficking Circle for offences under Sections 3, 4, and 6 of the Prevention of Trafficking in Persons Act, 2018 (as amended in 2025). The FIA alleges she facilitated the transfer of abandoned infants to foreign nationals under the guise of adoption without lawful authorization. The matter originated from a communication by the U.S. Consulate highlighting irregularities in inter-country adoptions processed through HOPE. Inquiry and investigation revealed that HOPE was not authorized

as an orphanage or adoption agency, identical guardianship petitions were filed, adoptive parents were abroad at the time of custody transfer, and two minors were personally retained by the applicant without due process. The FIA contended that these acts constituted facilitation of trafficking in persons.

Issue Whether the applicant is entitled to post-arrest bail under Section 497 Cr.P.C. in light of allegations of facilitating trafficking in persons, considering (i) the statutory requirements under the Prevention of Trafficking in Persons Act, 2018, (ii) the seriousness of the allegations, (iii) the claimed lack of coercion or exploitation, and (iv) the statutory concession available to women under the first proviso to Section 497(1) Cr.P.C.

Rule Section 497(1) Cr.P.C. imposes restrictions on the grant of bail in offences falling within the prohibitory clause but allows discretionary concession for women in appropriate circumstances. Section 497(2) allows bail where the case calls for further inquiry. The Prevention of Trafficking in Persons Act, 2018 (Sections 3, 4, and 6) criminalizes recruitment, transfer, harboring, or receipt of persons, including minors, for exploitation, with punishment extending beyond ten years, thus attracting the prohibitory clause. Jurisprudence holds that bail may be denied to women where allegations involve grave, organized, or transnational offences, or where their role appears central. FIA may act upon credible information from any domestic or foreign source in cases involving transnational crime.

Application The Court held that prima facie material establishes a chain of conduct amounting to "recruitment, transfer, and receipt of children for exploitation." HOPE was not registered or authorized to place minors for adoption, abandoned infants were not reported to relevant authorities, and identical fabricated templates were used in multiple guardianship petitions. Transfers of custody occurred even when adoptive parents were outside Pakistan, indicating deliberate manipulation. Two minors were unlawfully retained by the applicant. Documentary record and verification by authorities corroborate the prosecution's allegations. The argument that the act originated from a foreign source was rejected as irrelevant given the FIA's mandate to investigate transnational offences. The Court noted that although Section 497(1) Cr.P.C. allows concession for women, this discretion does not apply in cases involving serious organized crime such as human trafficking. The material does not create reasonable doubt or bring the case within the ambit of further inquiry. The applicant's prior unavailability for arrest and ongoing investigation further undermined her plea.

Conclusion The Court found reasonable grounds to believe the applicant was involved in facilitating offences punishable under Sections 3, 4, and 6 of the Prevention of

Trafficking in Persons Act, 2018. The case does not attract the principle of further inquiry under Section 497(2) Cr.P.C., nor does it qualify for discretionary relief under the first proviso to Section 497(1) Cr.P.C. The bail application was dismissed. The Court clarified that its observations are tentative and will not prejudice the trial court.

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17. **SINDH HIGH COURT**
Criminal Bail Application No.2276 of 2025

Parties: **Usman son of Samad vs. The State**

Present: **HON'BLE MR. JUSTICE JAN ALI JUNEJO**

Source: https://caselaw.shc.gov.pk/caselaw/view-file/Mjg5ODk1Y2Ztcy1kYzgz
2025 SHC KHI 3198

Facts The applicant, Usman son of Samad, sought post-arrest bail under Section 497 Cr.P.C. in FIR No. 07/2025 registered by FIA AML/CFT Circle, Karachi, for money laundering under Sections 3 and 4 of the Anti-Money Laundering Act, 2010 (as amended 2020). The FIA alleges the applicant was involved in an online financial fraud ("lottery scam") targeting victims inside Pakistan and abroad, inducing them to send money via Western Union and other channels. It is alleged that proceeds of these frauds were laundered by acquiring assets including a Toyota Revo and various bank transactions. The alleged predicate offence is FIR No. 41/2023 under PECA and PPC. The applicant was arrested, his bail was dismissed by the District & Sessions Judge, Malir, and he approached the High Court. The defence claims the FIR is motivated by personal enmity of the FIA officer, the Revo is not registered in the applicant's name, there is a two-year unexplained delay in lodging FIR, and no direct evidence connects him to tainted funds. The prosecution asserts that the applicant is central to a transnational scam, acquired assets using illicit funds, bank statements confirm suspicious transactions, and he absconded during a raid.

Issue Whether the applicant is entitled to post-arrest bail in a money-laundering case under Sections 3 and 4 of the AMLA 2010, considering the absence or presence of a proven predicate offence, sufficiency of evidence linking assets to "proceeds of crime," applicability of Section 497(2) Cr.P.C. regarding further inquiry, and the prosecutorial claim that money-laundering is made out on the available material.

Rule	Under Sections 3 and 4 of the Anti-Money Laundering Act, 2010, money laundering is established only where the property is "proceeds of crime" derived from a predicate offence listed in the Schedule, and the accused knows or has reason to believe the property to be tainted. Explanation II to Section 3 clarifies that conviction for predicate offence is not required, but its existence and nexus with funds must be shown. Under Section 497(1) Cr.P.C., bail may be denied where reasonable grounds connect the accused to the alleged offence; however, Section 497(2) mandates bail where the case calls for further inquiry. Courts have held that money-laundering cannot exist in isolation without prima facie evidence of proceeds of crime. Reference was made to the Supreme Court judgment in *Jabran & another v. State* (2025 SCMR 1099), confirming that where the money trail is doubtful or unsupported, further inquiry is attracted.
Application	The Court held that the prosecution failed to establish a prima facie link between the alleged fraudulent funds and the assets attributed to the applicant. Although the prosecution referenced FIR No. 41/2023 as the predicate offence, no convincing material was produced to show that the applicant's Toyota Revo or bank deposits originated from that offence. The Revo is not registered in the applicant's name, no tainted money was recovered from him, and the bank statements relied upon by FIA do not conclusively demonstrate an audit trail connecting the assets to illegal proceeds. The delayed lodging of FIR, although explained by FIA as complexity in tracing funds, weakens immediacy of accusations. Investigation is documentary in nature, and further detention would not serve investigative purposes. The Court found the matter analogous to the Supreme Court ruling in *Jabran*, where absence of a proven money trail justified bail. The applicant had also produced rent and sale agreements demonstrating legitimate transactions. Collectively, these factors brought the case within the ambit of "further inquiry" under Section 497(2) Cr.P.C.
Conclusion	The Court concluded that reasonable grounds to believe the applicant committed money laundering were lacking, and the matter required further inquiry under Section 497(2) Cr.P.C. The applicant Usman son of Samad was admitted to post-arrest bail upon furnishing solvent surety of Rs. 500,000/- and P.R. bond in the like amount to the satisfaction of the trial court. The Court noted that all observations were tentative and would not prejudice the trial court during final adjudication.

SELECTED ARTICLES

From Traffic Fines to Criminal Offenders: Analyzing the Legal and Constitutional Consequences of CNIC Suspension

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Links:
https://www.academia.edu/144819485/From_Traffic_Fines_to_Criminal_Offenders_Analyzing_the_Legal_and_Constitutional_Consequences_of_CNIC_Suspension

https://www.linkedin.com/pulse/from-traffic-fines-criminal_offenders-analyzing-legal-ali-s-chandio-ann0f.

In the article *"From Traffic Fines to Criminal Offenders"*, the author explores how the idea of blocking CNICs whether for unpaid traffic fines or to pressure proclaimed offenders, has surfaced as an enforcement tool in Pakistan. He explains that a CNIC today functions as the gateway to nearly every aspect of daily life: banking, travel, SIM registration, employment, medical services, and financial transactions. Suspending it, therefore, does far more than penalize a person; it effectively isolates them from society. He stresses that this measure has no basis in Pakistani law. The Cr.P.C. does not authorize CNIC blocking for absconders, and the NADRA Ordinance only permits cancellation in specific cases such as fraud or national security. As a result, he argues that such actions violate Articles 4 and 9 of the Constitution, and especially Article 10-A, which protects the right to a fair trial and due process, making the practice legally flawed and constitutionally unsafe.

The author supports his analysis with several **key judicial precedents**, including **Supreme Court's decision in *Agha Abid Majeed v. Idrees Ahmed***, where the Court reaffirmed that identity-related restrictions without explicit statutory backing violate fundamental rights. He then discusses the **Sindh High Court's important judgment in *Abdul Monem***, which made it clear that any executive action affecting civil rights must strictly comply with Articles 4 and 10-A, and cannot be taken without due process or legal authority. After addressing these two leading cases, Mr. Chandio cites additional judgments such as *Execution No. 25 of 2012*, *Hafiz Hamdullah Saboor*, *Abbu Hashim*, *Muhammad Umar*, *Syed Hasamuddin*, and *Hafiz Owaiz Zafar,* all of which consistently describe CNIC blocking as "alien to law" and unconstitutional. He also situates the issue within **international human rights standards**, noting that Pakistan's obligations under the

ICCPR forbid arbitrary deprivation of legal identity. In conclusion, he acknowledges that the State has a legitimate interest in tracing absconders, but insists that this must be achieved through lawful, transparent, and technologically sound methods, not by stripping citizens of their identity in ways that violate constitutional protections and fair-trial guarantees.