

Form No: HCJD/C-121.

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No. 1487 of 2020

Ahsan Naveed Farooqi

Vs

The Federation of Pakistan, etc

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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06-07-2020 Mr Shumayl Aziz, Advocate for the petitioner.
S.M Tayyab, DAG.
Mr Naseer Ahmed, ASPO/DG Pakistan Post,
Islamabad.

The petitioner through this petition has invoked the constitutional jurisdiction of this Court challenging the outsourcing of financial services by Pakistan Post to a private entity i.e. Habib Bank Limited. The petition and the prayers sought therein are in the nature of raising questions of public importance.

2. Mr Naseer Ahmed, ASPO/Director General, Pakistan Post has appeared alongwith Syed Muhammad Tayyab, Deputy Attorney General. The official of Pakistan Post was asked, what services rendered by the Pakistan Post have been outsourced to the private bank. He has stated that Pakistan Post disburses pensions of retired soldiers and employees of armed forces in grades 1 to 16, retired employees of Pakistan

Telecommunication Company Limited and Pakistan Post. He was asked who pays for the services rendered by the private bank? He initially informed that fee is deducted from the payments made to the pensioners but later stated that he was not sure. He also could not inform the Court the total amount paid as consideration to the private bank. He could not satisfy this Court that Pakistan Post was legally empowered under a particular law to perform functions which otherwise fall within the exclusive domain of two government institutions i.e. the Accountant General of Pakistan and the Controller of Military Accounts. He was also not able to point out the relevant law which empowers the Pakistan Post to deduct fee from the payments made to pensioners. There was no explanation why fee is not being deducted from the pensioners who retire from the service of Pakistan Post.

3. The questions raised in the instant petition are of paramount public importance. It, prima facie, appears that deduction of fee from payments made to pensioners is in violation of their constitutionally guaranteed fundamental rights. It also, prima facie, appears to this Court that the payment made to a private bank and outsourcing of services relating to payment of pensions in case of some classes is an

unnecessary expense and a burden on the exchequer because it is an intrusion in the mandate and functions assigned to the Accountant General of Pakistan and the Controller General of Military Accounts.

4. The Director General, Pakistan Post is, therefore, directed to nominate a senior official to appear before this Court and explain the aforementioned queries and to satisfy this Court why an injunctive order may not be passed restraining deduction of fee from payments made to the pensioners.

5. Keeping in view the importance of the questions raised in the petition in hand, this Court deems it appropriate to appoint the Accountant General of Pakistan and the Controller of Military Accounts as Amici for assistance. M/s Habib Bank Limited is also impleaded as a respondent.

6. The Accountant General of Pakistan and the Controller of Military Accounts are requested to submit a joint report regarding the following questions;

- i. How and under what authority of law Pakistan Post is disbursing pensions to some classes of pensioners?*
- ii. Why retired employees of the armed forces in grades 1 to 16 are*

treated differently from those who are in the higher grades?

- iii. Why the disbursement of pensions cannot be made by the established institutions of Accountant General of Pakistan and the Controller General of Pakistan as is being done in case of other pensioners?*
- iv. Can deductions in the form of fee be lawfully made by the Pakistan Post from payments made to pensioners and that too for services which exclusively fall within the domain of other institutions of the government?*
- v. In case the answer to (iv) above is in the negative, then whether the pensioners will be entitled and eligible to refund of the amounts deducted as fee and by whom?*
- vi. Can disbursement of pensions be outsourced to a private entity under the law?*

7. The Amici are expected to submit their joint opinion on or before 14.07.2020. The Secretary, Ministry of Communication and the Director General, Pakistan Post are directed to

submit their respective comments, inter-alia, satisfying this Court regarding the questions framed in paragraph 6 above.

8. The office is directed to send copies of this order to the above officials including the Amici through facsimile and special messenger.

9. Relist for tomorrow i.e. 07.07.2020 for appearance of an authorized officer of the Director General, Pakistan Post. The petition will be taken at 10:30 am.

(CHIEF JUSTICE)

Asif Mughal/*

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