

Form No: HCJD/C-121
ORDER SHEET
IN THE LAHORE HIGH COURT, MULTAN BENCH, MULTAN
JUDICIAL DEPARTMENT

W.P. No.11158 of 2022

Zafar Iqbal etc.
Versus
Government of Punjab etc.

S. No. of order/ Proceeding	Date of order/ Proceeding	Order with signature of Judge, and that of Parties or counsel, where necessary
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14.11.2022. M/s. Muhammad Amir Khan Bhutta, Muhammad Khalid Farooq, Imtiaz Ahmad Sarana, Ch. Muhammad Tariq Manj, Muhammad Atif Aziz Bhatti, Mian Kashif Amjad, Qamar-uz-Zamn Butt, Shafqat Ali Khan Baloch, Ch. Muhammad Ashraf Sindhu, Muhammad Khalid Farooq, Mian Tanveer Kamran, Imran Shahzad Bhatti, Abdul Salam Alvi, Sh. Javed Rashid, Abdul Rasheed Sheikh, Malik Aamir Manzoor Awan, Tariq Aziz Khokhar, Sardar Tariq Sher Khan, Khalil ur Rehman Mayo, Mirza Azeem Baig, Tahir Mehmood, Malik Abdul Ghaffar Sial, Muhammad Waseem Khan Jaskani and Inam Ullah Khan, Advocates for petitioners in instant as well as connected petitions.

Malik Masroor Haider Usman, Additional Advocate General, Punjab along with Naveed Ahmad Cheema, HR & Legal Officer District Health Authority, Khanewal.

This consolidated order shall dispose of instant writ petition along with cases detailed in Schedule "A", appended herewith, as common questions of law and facts are involved in these cases.

2. Through instant petition, petitioners have assailed vires of order dated 20.06.2022, passed by respondent No.6/Chief Executive Officer, Khanewal, whereby the up-gradation of respective posts held by the petitioners was withdrawn with the following prayer:-

"Therefore, in the light of foregoing reasons and submissions, it is respectfully prayed that this petition may be accepted and the order dated 20.06.2022 passed by the respondent No.4 may

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18/11/22
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LAHORE HIGH COURT
MULTAN BENCH MULTAN

very graciously be set aside by declaring as illegal and unlawful, so that the justice could be done.

It is further prayed that the operation of the impugned order/letter dated 20.06.2022 issued by the respondent No.4 may very graciously be suspended and the respondents may very kindly be restrained to stop the benefits of up-gradation and to recovery of previous amounts of petitioners, till the final decision of the instant writ petition.

Any other writ, relief or direction for which the petitioners are entitled may also be granted in their favour."

3. Learned counsel for petitioners submits that up-gradation of petitioners has been withdrawn without providing any opportunity of hearing and that too against the principle of *locus poenitentiae*, hence impugned orders being against the principle of natural justice are unsustainable in the eye of law. Further submits that petitioners have been condemned unheard in the matter as no opportunity of hearing was provided to them to plead their case, whereas, many batch mates of petitioners have been retired from services and they have received their pensionary benefits according to up-graded/re-designated scales.

When confronted, learned Law Officer could not rebut the fact that principles of natural justice have not been observed while passing impugned orders.

4. Heard. Available record perused.

5. Perusal of record shows that vide notification dated 24.11.2011, Government of the Punjab Health Department, approved reorganization of Paramedics Cadre under a 4-tier Allied Health Service Structure with the ratio of 50:34:15:01 and accorded sanction to upgrade/re-designate all existing categories of Allied Health Professionals (Paramedics) Posts from BS-05 to

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LAHORE HIGH COURT
MULAT BENCH MULLA

BS-17 in 4-tier service structure system. Petitioners were given benefit of aforesaid notification, however, the same was withdrawn subsequently through impugned orders.

In connected cases i.e. W.P.Nos.270 of 2021, 17111 of 2020 and 16876 of 2020, petitioners are employees of Education Department, whose time scale promotion was subsequently withdrawn.

6. Perusal of impugned orders clearly reflects that petitioners were neither issued any show cause notice nor provided opportunity of being heard before passing adverse orders against them. Thus, the well-established principle of natural justice i.e. *audi alteram partem* i.e. no one should be condemned unheard has been violated. No order affecting the right of a party / person could be passed without affording opportunity of hearing. Reliance is placed upon Ali Muhammad v. The State (PLD 2010 Supreme Court 623), Muhammad Zaheer Khan v. Government of Pakistan through Secretary, Establishment and others (2010 SCMR 1554), Muhammad Rafique Chaudhary v. Muhammad Yaqoob Janjua and 8 others (2016 CLC 1240) and Naeem Abbas v. Government of Punjab through Secretary and 4 others [2017 PLC (CS.) 404].

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MULTAN BENCH

7. Under the law, decision steps have been taken as notifications regarding up-gradation have taken effect and certain rights have been created in favour of petitioners. Law is well-settled that once a right is created by extending benefit for no default of a person, the same cannot be taken away, destroyed or withdrawn as legal bar would come into play under the doctrine of *locus poenitentiae*. Reliance is placed upon Shams ur Rehman v. Military Accountant General, Rawalpindi and another

(2020 SCMR 188), Mst. Misbah Fatima v. Province of Punjab through Secretary and 4 others (2011 MLD 1494), District Headmasters/Principals Association District Multan through President v. Federation of Pakistan through Secretary Ministry of Finance, Islamabad and 3 others (2015 PTD 1714), Muhammad Farooq v. Ministry of Defence through Secretary Defence, Rawalpindi Cantt. and 3 others [2015 PLC (C.S.) 1018] and Mst. Bashrat Jehan v. Director-General, Federal Government Education, FGEI (C/O) Rawalpindi and others (2015 SCMR 1418).

8. Moreover, impugned orders are not reflecting valid lawful reasons, thus, the same are absolutely non-speaking within the contemplation of Section 24-A of the General Clauses Act, 1897. Reference, in this regard, is made to Messrs United Woollen Mills Ltd. Workers' Union v. Messrs United Woollen Mills Ltd. (2010 SCMR 1475), Fasih-ud-Din Khan and others v. Government of Punjab and others (2010 SCMR 1778) and Government of Pakistan through Director-General, Ministry of Interior, Islamabad and others v. Farheen Rashid (2011 SCMR 1).

9. Needless to say that petitioners are entitled to be treated in accordance with law, right to procedural fairness and right to procedural propriety in view of Articles 4 and 10-A of the Constitution of the Islamic Republic of Pakistan, 1973, which has boldly recognized these rights to be immutable rights of every citizen or of any other person for the time being in Pakistan. In this regard, reliance is placed on Ishtiaq Ahmed v Hon'ble Competent Authority through Registrar, Supreme Court of Pakistan (2016 SCMR

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15/11/22

EXAMINER
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LAHORE HIGH COURT
MULTAN BENCH MULTAN

10. In view of the above discussion, instant as well as connected petitions are allowed and impugned orders are declared to be illegal and without lawful authority, thus, same are set aside. The matter is remitted to respondent-authority, who passed the impugned orders, with direction to decide the same afresh through a speaking order, keeping in view the observations made hereinabove, after providing opportunity of hearing to petitioners and all concerned, strictly in accordance with law as well as case law referred supra, preferably within a period of thirty days from the date of receipt of certified copy of this order. Compliance report shall be furnished to this Court through Deputy Registrar (Judicial). Office to transmit copies of these petitions along with annexures to the respondent-authority forthwith.

Application No. 23865
Date of presentation 14-11-52
of Application
Date of Receipt of fee.
No. of Words/Pages
Copying fee
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Registration & Postage fee
Agency fee
Court of and application
Total 21.11.52
Name of Contestant
Date of Receipt of File 17-11-52
Date of preparation 19-11-52
Date of issuance of Copy

EXAMINER: [Signature]
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Q. [Signature]
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LAHORE: [Signature]
MULTAN BENCH: [Signature]

SCHEDULE "A"

**DETAIL OF CONNECTED CASES MENTIONED IN ORDER DATED
14.11.2022 PASSED IN W.P. NO.11158 OF 2022**

SR. NO.	CASE NUMBERS
1.	W.P.No.6559 of 2018
2.	W.P.No.5400 of 2019
3.	W.P.No.18098 of 2019
4.	W.P.No.14347 of 2020
5.	W.P. No.6112 of 2020
6.	W.P. No.16876 of 2020
7.	W.P. No.14349 of 2020
8.	W.P. No.17184 of 2020
9.	W.P. No.17111 of 2020
10.	W.P. No.17182 of 2020
11.	W.P. No.17183 of 2020
12.	W.P. No.14543 of 2020
13.	W.P. No.16654 of 2020
14.	W.P. No.16396 of 2020
15.	W.P. No.14317 of 2020
16.	W.P. No.5161 of 2021
17.	W.P. No.15956 of 2021

SR. NO.	CASE NUMBERS
18.	W.P. No.4274 of 2021
19.	W.P. No.9812 of 2021
20.	W.P. No.5828 of 2021
21.	W.P. No.270 of 2021
22.	W.P. No.5160 of 2021
23.	W.P. No.13071 of 2021
24.	W.P. No.12254 of 2022
25.	W.P. No.12442 of 2022
26.	W.P. No.13359 of 2022
27.	W.P. No.8550 of 2022
28.	W.P.No.11761 of 2022
29.	W.P.No.11939 of 2022
30.	W.P.No.11311 of 2022
31.	W.P.No.14753 of 2022
32.	W.P.No.12692 of 2022
33.	W.P.No.3518 of 2022
34.	W.P.No.12185 of 2022

(Muhammad Sajid Mehmood Sethi)
Judge

Ahsan

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 AUTHORIZED OFFICIAL ARTICLE 37
 OF LAHORE HIGH COURT ORDER 1504
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