

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)



Bench-II:

Mr. Justice Syed Mansoor Ali Shah
Mr. Justice Aqeel Ahmed Abbasi

C.P.L.A. No. 808/2023

(Against the order dated 21.12.2022 passed by the Lahore High Court, Bahawalpur in W.P. No. 5193/2017)

The Chief Commissioner Regional Tax Officer, Bahawalpur, etc.

... Petitioner(s)

Versus

Shaheen Yousaf

.... Respondent(s)

For the petitioner(s): Hafiz S. A. Rehman, Sr. ASC.

For the respondent(s): N.R.

Assisted by: Umer A. Ranjha, Judicial Law Clerk.

Date of hearing: 16.04.2025.

JUDGMENT

Syed Mansoor Ali Shah, J.- Respondent's husband, an employee of the Income Tax Department, passed away while in service on 14.02.2006. Under the *Prime Minister's Assistance Package for the Families of Deceased Government Employees*¹ ("Prime Minister's Assistance Package") respondent was appointed as a Lower Division Clerk ("LDC") on a two-year contract on 26.05.2010. The said contract was extended on multiple occasions, however, *vide* order dated 04.01.2016 issued by the Secretary (MGT) IR-V, Federal Board of Revenue, (HRM), Islamabad, her services were terminated. Notably, this action was based on an Office Memorandum ("O.M.") dated 15.12.2015², which stipulated that upon remarriage, a widow becomes ineligible for any compassionate

¹ The Prime Minister's Assistance Package is a government policy initiative in Pakistan designed to provide financial and employment-related support to the families of government employees who die while in service. It is aimed at offering immediate relief and longer-term stability to the deceased employee's dependents, particularly their spouses and children. It was introduced vide O.M. dated 13 June 2006 by the Establishment Division, Government of Pakistan.

² It provides: "It is clarified that appointment of a widow of the deceased Government servant is a part of terminal benefits to which a widow is entitled. After remarriage the widow becomes ineligible to receive family pension. Therefore, this Division is of the view that her contract should be terminated from the date of her remarriage. In case, she got married after regularization of her service, she would only be ineligible for pensionary benefits of Her earlier deceased husband."

employment granted under the *Prime Minister's Assistance Package* and the same shall stand terminated from the date of such remarriage. The respondent filed a writ petition challenging the said order before the Lahore High Court. The petition was disposed of with a direction to the Member (Admin), Federal Board of Revenue to treat the same as a representation and to redress her grievance through a speaking order. In compliance, the Second Secretary, Board of Revenue, considered the matter and rejected her representation *vide* order dated 11.05.2017. The respondent filed a second writ petition before the Lahore High Court, challenging the above departmental orders, which was allowed *vide* judgment dated 21.12.2022 ("impugned judgment"), and the respondent was reinstated in service. Hence, the instant petition seeking leave to appeal against the impugned judgment.

2. We have heard the learned counsel for the petitioner at length and examined the impugned judgment of the High Court and the record of the case.

3. At the outset, it is pointed out for record that the O.M. dated 15.12.2015, which formed the basis of the respondent's termination from service has since been withdrawn *vide* O.M. dated 07.11.2024.³ While the withdrawal of the earlier O.M. is a welcome corrective step, it has no bearing on the present case, which was decided when the O.M. was in existence. Hence, this Court finds it necessary to examine the broader constitutional and legal implications of the said O.M., particularly, in the context of the rights and entitlements of widows under public welfare frameworks.

4. The question before us is whether the right to compassionate employment extended to a widow (respondent) under the *Prime Minister's Assistance Package* can be withdrawn on the pretext that she has subsequently remarried?

5. This Court addressed a comparable issue in *Zahida Parveen*⁴, where it struck down an executive clarification that excluded

³ It provides: "The condition regarding termination of contract appointment, in case of re-marriage of the widow provided in this Division's O.M. No. 8/10/2013 E-2 dated 15-12-2015 is hereby withdrawn with immediate effect."

⁴ *Zahida Parveen v. Government of Khyber Pakhtunkhwa* C.P.L.A No. 566/2024 (2025 SCP 107).

daughters, whether already married or married subsequent to the grant of the compassionate employment as unconstitutional. We reaffirm that the Constitution of the Islamic Republic of Pakistan, 1973 ("Constitution"), secures fundamental rights for individuals as equal citizens, not as appendages of patriarchal roles or marital identities. Women are not defined by the men in their lives; they are autonomous and rights-bearing individuals. Denying a woman the right to employment on the basis of her remarriage is a blatant reinforcement of patriarchal control, seeking to subordinate her legal identity to societal expectations. Financial independence is not a concession to women, it is the foundation of their constitutional agency, dignity, and full participation in public life. The law must dismantle, not perpetuate, the structures that reduce women to secondary citizens in the eyes of society.

6. Turning to the O.M. dated 15.12.2015, it is manifestly discriminatory as it singles out widows, the female spouses of deceased government employees for disqualification from compassionate employment upon remarriage, without imposing a corresponding restriction on widowers, notwithstanding the *Prime Minister's Assistance Package* which offers compassionate employment to both a widow and a widower.⁵ This gender-specific disqualification amounts to direct discrimination based on sex, contravening Articles 25(1) and 25(2) of the Constitution, which guarantee equality before the law and prohibit discrimination on the basis of sex.⁶ The O.M.'s discriminatory nature is further underscored by its inapplicability to widowers in identical circumstances, rendering it inherently unequal, arbitrary, and devoid of constitutional justification. It therefore fails the test of reasonable classification and cannot be sustained in law.⁷ It also offends the guarantees of non-discrimination in public service

⁵ The Prime Minister's Assistance Package was amended *vide* O.M. dated 20 October 2014 and additional benefits were granted with effect from 15 June 2013 to the families of Government employees who die in service including employment of widow/widower/one son or daughter to the posts in BPS-1 to 15 on regular basis without advertising the post provided the applicant fulfils the criteria of the said post.

⁶ **Article 25. Equality of citizens.** (1) All citizens are equal before law and are entitled to equal protection of law.

(2) There shall be no discrimination on the basis of sex.

(3) Nothing in this Article shall prevent the State from making any special provision for the protection of women and children. See *Government of Khyber Pakhtunkhwa v. Syed Sadiq Shah* 2021 SCMR 747.

⁷ *Federation of Pakistan v. Shuja Sharif* 2023 SCMR 129; *Hadayat Ullah v. Federation of Pakistan* 2022 SCMR 1691; *Syed Azam Shah v. Federation of Pakistan* 2022 SCMR 201 and *Dr. Mobashir Hassan v. Federation of Pakistan* PLD 2010 SC 265.

(Article 27)⁸. By conditioning continued employment on a widow's remarriage status, the O.M. reinforces outdated patriarchal assumptions, treating widows as passive dependents entitled to benefits only while they remain unmarried. This violates the fundamental rights to livelihood and dignity under Article 14 of the Constitution.⁹ It penalizes a woman for choosing to remarry, a constitutionally protected liberty by extinguishing her employment rights.

7. The rights of widows should not be viewed as acts of state generosity, but as legal entitlements rooted in constitutional guarantees, statutory protections, and developing judicial principles. Furthermore, international human rights instruments¹⁰ to which Pakistan is a party, including the Convention on the Elimination of All Forms of Discrimination Against Women ("CEDAW") impose obligations on the State to dismantle legal and social barriers to women's full economic participation.¹¹ Any policy that makes public employment contingent upon a woman's marital status not only entrenches dependency but effectively penalizes her for exercising a fundamental liberty. Widows, like all citizens, are entitled to employment, dignity, equality, and autonomy without discrimination or reprisal.¹² The law must serve as a shield against exclusion, not a tool for reinforcing outdated social hierarchies.

8. It is also critical to consider the social context in which such executive decisions operate. Widowhood, in its simplest sense, refers to the status of a woman whose spouse has died.¹³ However, in many societies, including ours, it carries a layered social identity often accompanied by stigma, isolation, and a diminished sense of social

⁸ **Article 27. Safeguard against discrimination in services.** (1) No citizen otherwise qualified for appointment in the service of Pakistan shall be discriminated against in respect of any such appointment on the ground only of race, religion, caste, sex, residence or place of birth.

(2) ...

⁹ **Article 14. Inviolability of dignity of man.** (1) The dignity of man and, subject to law, the privacy of home, shall be inviolable.

(2) ...

¹⁰ International Covenant on Civil and Political Rights (1966) and International Covenant on Economic, Social, and Cultural Rights (1966). Pakistan ratified ICCPR in 2010 and ICESCR in 2008.

¹¹ Articles 1, 3, and 13, CEDAW. Pakistan ratified the CEDAW in 1996.

¹² Widow's Charter for the Rights of Widows, Widows for Peace through Democracy (February, 2017) <<https://www.widowsforpeace.org/widows-charter/#:~:text=The%20Charter%20for%20WIDOWS'%20RIGHTS,or%20traditional%20and%20religious%20authorities.>> accessed 21 April 2025. See Article 20: Widow Rights, African Charter on Human and Peoples' Rights (Maputo Protocol, 2005).

¹³ Oxford English Dictionary Online (Oxford University Press) <https://www.oed.com> accessed 21 April 2025.

worth.¹⁴ Widows are too often viewed through the prism of loss and dependence, rather than as individuals with agency and resilience. This perception restricts their choices, particularly when it comes to remarriage or economic independence. The law must reject these harmful cultural narratives and affirm that widowhood is not a diminution of identity but a life circumstance deserving of dignity, protection, and equal opportunity. It is incumbent upon courts to ensure that public policy reflects this understanding and shields widows from both overt and covert forms of systemic discrimination.

9. For completeness of record, it is clarified that the judgment of this Court reported as *General Post Office, Islamabad and others v. Muhammad Jalal* (PLD 2024 SC 1276) has struck down the *Prime Minister's Assistance Package* as unconstitutional but has no application on appointments that have been already made.¹⁵ It is well settled that the judgments of this Court operate prospectively, unless declared otherwise.¹⁶ Therefore, the present case remains unaffected by the said judgment.

10. In this view of the matter, we see no reason to interfere in the impugned judgment. This petition is, therefore, dismissed. Leave is refused.

Judge

Islamabad,
16th April, 2025.
Approved for reporting
Iqbal

Judge

¹⁴ Margaret Owen, 'The Human Rights of Widows in Developing Countries' in Kelly D Askin and Doreen M Koenig (eds) *Women and International Human Rights Law* (Brill 2023) and Kate Young, 'Widows without rights: challenging marginalization and dispossession' (2016) 14(2) *Gender and Development*.

¹⁵ Paragraph 25 of the judgment provides that "it is clarified that the instant judgment shall not affect the appointments already made of the widow/widower, wife/husband or child of deceased or retired civil servants."

¹⁶ *Zarai Taraqiati Bank v. Sarfraz Khan Jadoon* 2021 SCMR 1305 and *Pakistan Medical and Dental Council v. Muhammad Fahad Malik* 2018 SCMR 1956.