

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
CP No. D-5144 of 2015

(*Dr. Altaf Hussain & Others v. Federation of Pakistan & Others*)

DATE:	ORDER WITH SIGNATURE(s) OF JUDGE(s)
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Before:

Mr. Justice Muhammad Faisal Kamal Alam
Justice Ms. Sana Akram Minhas

1. For Orders on CMA No. 8788 / 2022 (Stay App.)
2. For Orders on CMA No. 8789 / 2022 (Contempt App.)
3. For Orders on CMA No. 24115 / 2021 (Stay App.)

Mr. S. Muhammad Saulat Rizvi & Mr. Mehdi Raza, Advocates for Petitioners
Dr. Raana Khan, Advocate for WAPDA (Respondents No.2 to 4)
Mr. Muhammad Akbar Khan, Assistant Attorney General

Date of Hearing: 13-8-2025

Date of Decision: 10-9-2025

O R D E R

1. **Sana Akram Minhas J:** To start with, the Office has incorrectly listed the three applications “For Orders”, as notices have already been issued on them pursuant to the order dated 28.3.2022. Since then, various Counsel have entered appearance on behalf of the alleged Contemnors, the most recent being the Counsel appearing at this hearing. Accordingly, the applications are to be treated as fixed for hearing.

Facts In Brief

2. This Petition, which was disposed of by Order dated 28.4.2021 (“**HC Disposal Order**”), had been instituted by the Petitioners (comprising doctors, surgeons, paramedical staff and others) seeking regularization of their temporary appointments/services in Respondent No.2 viz. the *Water and Power Development Authority* (“**WAPDA**”). The Petitioners contended that they had been serving in WAPDA since 2011–2012, and that the letters issued by WAPDA in or about mid-2015 for their “*rehiring*” in temporary service were merely a device to create a break in their continuous service, to frustrate their legitimate expectation of regularization, despite the Petitioners being duly eligible and qualified for such regularization.

High Court's Disposal Order Dated 28.4.2021

3. By the HC Disposal Order, WAPDA was directed to consider the Petitioners for regular appointment through “*fresh interview*” as provided in “*recruitment rules*”, in light of the judgment in Dr. Naveeda Tufail v. Government of Punjab (2003 SCMR 291). For precision, the relevant paragraph is reproduced below:

7. For the reasons given above, we find it appropriate to direct the competent authority of respondent–WAPDA to consider the case of the petitioners for appointment on regular basis by conducting a fresh interview as provided under the recruitment Rules, within one month from the date of order of this Court, while considering their case for the said purpose, the ratio of judgment passed by the Honorable Supreme Court in the case of Dr. Naveeda Tufail supra must be kept in mind, in the intervening period, the posts which were being held by the petitioners shall not be filled.

High Court's Disposal Order Dated 28.4.2021 Attains Finality

4. The HC Disposal Order was assailed by WAPDA before the Supreme Court (through CP No.1519–K/2021). However, this petition came to be dismissed as not pressed vide order dated 10.3.2022, on a statement made by WAPDA's Counsel (viz. Dr. Raana Khan), which records as under:

*Mr. Justice Sajjad Ali Shah
Mr. Justice Syed Mansoor Ali Shah*

*Learned Counsel for the petitioner says that the order of the High Court has been complied with, therefore, this petition has become infructuous and she does not press this petition.
Dismissed as not pressed.*

5. It bears emphasis that WAPDA, relying on its own assessment, unilaterally determined that it had complied with the HC Disposal Order and, in doing so, assumed the attendant and consequential legal risk, as will be demonstrated in detail below (in paragraphs 15 to 19, 22 and 23).
6. In the meanwhile, the Petitioners moved the following applications:
- i) CMA No. 24115/2021 (Stay Application presented on 23.9.2021) – Seeking suspension of WAPDA's order/letter dated 7.9.2021 regarding the induction examination proposed to be conducted by WAPDA on 26.9.2021 (and which were conducted through Pakistan Testing Service on 5.12.2021).
 - ii) CMA No. 8788/2022 (Stay Application presented on 28.3.2022) – Seeking suspension of WAPDA's order/letter dated 17.3.2022 declaring the Petitioners unsuccessful in the written test conducted on 5.12.2021 through Pakistan Testing Service, and terminating their services.

- iii) CMA No. 8789/2022 (Contempt Application presented on 28.3.2022)
– Seeking initiation of contempt proceedings against the alleged Contemnors for wilful disobedience of HC Disposal Order.

- 7. By Order dated 28.3.2022, notices were issued on the aforesaid applications and the operation of WAPDA's termination letter dated 17.3.2022 – terminating the Petitioners' services upon their alleged failure in the written test – was suspended.

High Court's Subsequent Order Dated 21.4.2022

- 8. On 21.4.2022 ("HC Subsequent Order"), the Court ordered as follows:

This is disposed of petition. Compliance report is submitted by the counsel for the respondent–WAPDA, in which it is mentioned that operation of the termination letter dated 17.03.2022 has been suspended till the final disposal of the case and petitioners are allowed to join their services. Mr. Ghumro expressed dissatisfaction over said compliance report and referred to the order passed by this Court dated 28.04.2021. Para-7 of the aforesaid order is reproduced as under:

7. For the reasons given above, we find it appropriate to direct the competent authority of respondent–WAPDA to consider the case of the petitioners for appointment on regular basis by conducting a fresh interview as provided under the recruitment Rules, within one month from the date of order of this Court, while considering their case for the said purpose, the ratio of judgment passed by the Honorable Supreme Court in the case of Dr. Naveeda Tufail supra must be kept in mind, in the intervening period, the posts which were being held by the petitioners shall not be filled.

We have perused the compliance report. It appears that directions were issued by this Court in the aforesaid order to the competent authority of the respondent–WAPDA to consider the case of the petitioners for appointment on regular basis by conducting a fresh interview within one month from the date of the order, while considering for the said purpose, the ratio of judgment passed by the Honourable Supreme Court in the case of Dr. Naveeda Tufail was directed to be kept in view. It appears that orders passed by this Court have not been complied with in letter and spirit. Respondent–WAPDA once again is directed to comply with the order as directed by this Court in the order dated 28.04.2021. Two weeks' time is granted to the respondent–WAPDA for doing the needful in letter and spirit. Adjourned, to be fixed after 02 weeks.

High Court's Subsequent Order Dated 21.4.2022 Too Attains Finality

9. The HC Subsequent Order was likewise assailed by WAPDA before the Supreme Court (through CPLA No.1580/2022) (“**CPLA 1580**”). The core question before the Supreme Court in this CPLA was whether the requirement of a written test, as stipulated under WAPDA’s service rules (as claimed by WAPDA), could be dispensed with by the HC Subsequent Order, thereby permitting regularization on the basis of interviews alone. This is evident from the contents of WAPDA’s CPLA (particularly Grounds (c) and (d)¹ and in Concise Statement²). On 7.7.2025, upon request of WAPDA’s Counsel, the Supreme Court was pleased to grant time for filing additional documents. The Order reads as follows:

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

Learned Counsel for the petitioners seeks time to place additional documents on record especially Water and Power Development Authority Medical Service Rules 1982 to specify that written test was a mandatory requirement for the post in question. Relist for 16.07.2025.

[Emphasis added]

10. By Order dated 22.7.2025, the Supreme Court dismissed WAPDA’s CPLA 1580 in the following words:

Syed Mansoor Ali Shah J: We have heard the learned counsel for the petitioner at some length and have gone through the impugned order of the High Court, the record of the case and the law on the subject. We have not been able to take any exception to the impugned order and are of the view that it does not warrant any interference. Leave is therefore declined and this petition is dismissed.

Opinion Of The Court

11. Arguments of Counsel for the parties have been heard by us, each emphasizing selective portions of the HC Disposal Order that support their respective stance.

¹ Ground No.(c): That the WAPDA is not under obligation to further process the recruitment of the respondents, when they have failed in written test taken by an outside independent agency and they having been informed of their employments having ceased as per law.

Ground No.(d): That after the due process of employment having been completed after orders of this Hon'ble Court dated 03.11.2021 in CP No. 1519-K/2021 as per rules of WAPDA still needs to be again undertaken in terms of impugned order dated 21.04.2022, when the written test taken by doctors and they having failed, which would need no further process for recruitment through interview, when Rules required written test to be taken and not only interview.

² Concise Statement Section No.V – Question Requiring Consideration And Decision By The Supreme Court:

(C) Whether the specific requirement in WAPDA service rules to conduct written test before interview of an applicant in WAPDA in BPS-16 and above, can be condoned by WAPDA Authority in terms of decision of the Hon'ble division Bench of Sindh High Court at Karachi requiring regularization without written test and on the basis of interviews only.

12. Counsel for the Petitioners contends that only fresh interviews are to be conducted for considering their appointments on a regular basis, whereas Counsel for WAPDA submits that such appointments must be made in accordance with WAPDA's recruitment rules – which according to it require a written test – and in light of the principles enunciated in *Dr. Naveeda Tufail*.

WAPDA To Follow Three-Fold Process

13. Contrary to these competing viewpoints, this Court must consider paragraph 7 of the HC Disposal Order dated 28.4.2021 in its entirety (as delineated in paragraph 3 above), and reconcile its language with the broader context of the proceedings, ensuring that no part of the HC Disposal Order is rendered redundant. As borne out from the said paragraph 7, the process to be followed by WAPDA is three-fold, viz.:
- i) The Petitioners must be given a fresh interview;
 - ii) This interview should be conducted under the applicable recruitment rules;
 - iii) While deciding, WAPDA must also keep in view the principles laid down in the Supreme Court case of *Dr. Naveeda Tufail* (supra).

Dr. Naveeda Tufail Case

14. Taking up the last point first, viz. the application of the *Dr. Naveeda Tufail* case to the Petitioners (as directed in the HC Disposal Order), it is evident that the principles laid down therein emphasize fair treatment and due consideration of long-serving employees. *Dr. Naveeda Tufail*, inter alia, holds that although ad hoc employees do not possess a vested right to regularization, consistent governmental policies and practices create a legitimate expectation and invoke the principle of equality under Article 25 of the *Constitution of Pakistan, 1973* thereby requiring that such employees be treated fairly and on par with similarly situated employees.

Fresh Interview And Determination of Applicable Recruitment Rules

15. Turning now to the first two points – both concerning a fresh interview under the recruitment rules – since they are interlinked, they shall be addressed together. The Petitioners' appointments are governed by the *Water and Power Development Authority Medical Service Rules, 1982*³ (“**Medical**

³ At Court File Page 73 (Annex A–2 of main Petition)

Service Rules, 1982”) framed under Section 18 of the *Water and Power Development Authority Act, 1958*⁴. This fact was noted by the Court in paragraph 4 of the HC Disposal Order, reproduced below:

4. We have gone through the record of the case and have given due consideration to the contentions urged before us. **Primarily Pakistan Water and Power Development Authority Medical Service Rules 1982 (Rules, 1982) prescribe the procedure of initial appointment to the post-BPS-17 in WAPDA on the recommendation of the Selection Board, based on interview.** At this stage we asked the learned counsel for the respondent-WAPDA whether, at the time of the petitioner's induction in service, the interview was conducted, he candidly conceded the factual position, however, stated that due to imposing of Ban on general recruitment, the competent authority of respondent-WAPDA decided for the hiring of the petitioners on the posts of Specialist Doctors (BPS-18), General Duty Medical Officers (GDMOs) (BPS-17) and Nursing Staff (BPS-16) temporarily at various health units for one year or till completion of regular recruitment process whichever is earlier, but the ban continued to remain in field and this was the reason that no public notice was issued and now they have initiated the recruitment process through public notice and the petitioners are required to participate in the competitive process and if they meet the criteria they would surely be considered for appointment on the subject posts. We again asked the learned counsel whether the performance of the Petitioners, in the respondent-WAPDA, has ever been called in question throughout their service period by the respondent-WAPDA.

[Emphasis added]

16. The above-quoted passage makes it abundantly clear that the “*recruitment rules*” referred to in the concluding paragraph of the HC Disposal Order are none other than the Medical Service Rules, 1982. This understanding is further reinforced by the Supreme Court’s Order dated 7.7.2025 (reproduced in paragraph 9 above) passed in WAPDA’s CPLA 1580, whereby WAPDA was specifically afforded an opportunity to place the said Rules, 1982 on record to substantiate its contention that a written test was a mandatory requirement. Significantly, however, that CPLA was dismissed by the Supreme Court immediately thereafter through its Order dated 22.7.2025 (extracted in paragraph 10 above).
17. The Supreme Court’s Order dated 22.7.2025 dismissing WAPDA’s CPLA 1580 (see paragraph 10 above) logically admits of only two possibilities:
 - (i) Either WAPDA failed to produce the Medical Service Rules, 1982 despite being given a clear opportunity; or
 - (ii) If the Rules, 1982 were in fact produced, they did not persuade the Supreme Court that a written test was a mandatory requirement for the posts in question.

⁴ At Court File Page 49 (Annex A–1 of main Petition)

In either case, the dismissal of WAPDA's CPLA 1580 conclusively affirms that the High Court's approach – directing consideration of the Petitioners for regularization only on basis of fresh interview without a written test – was upheld and left undisturbed by the Supreme Court.

18. We are equally mindful of the recent pronouncement of the Supreme Court in Vice-Chancellor Agriculture University, Peshawar v. Muhammad Shafiq (2024 SCMR 527) as well as the ruling of our Full Bench in Muhammad Arif v. Federation of Pakistan (2025 PLC (CS) 93), which unequivocally establish that process of regularization must rest on statutory or policy framework of the organization concerned. It is equally well-settled that regularization cannot be directed solely on the basis of parity, equal treatment, or alleged discrimination.
19. Proceeding on the aforesaid principle, since the High Court in its Disposal Order treated the Medical Service Rules, 1982 as the applicable framework, therefore, the law governing the recruitment of WAPDA employees in the medical and dental services, including the Petitioners, are the above Rules, 1982. These said Rules do not prescribe any requirement of a written test; instead, they expressly provide for appointment through Selection Board(s). WAPDA, having itself relied upon and acted under these Rules, cannot now be permitted to deviate from them or to import additional conditions not contemplated therein, as doing so would introduce a condition foreign to the Rules. To allow such a course would not only be contrary to the governing legal framework but would also run afoul of the HC Disposal Order, the HC Subsequent Order and the two Supreme Court Orders affirming them. Accordingly, the only lawful course open to WAPDA is to conduct fresh interviews of the Petitioners for regular appointment strictly in accordance with the Medical Service Rules, 1982 as directed in the HC Disposal Order.

Allegations Of Contempt Of Court

20. The last matter requiring determination is whether the alleged Contemnors (all officials of WAPDA) are guilty of contempt of court. Ordinarily, contempt of court arises in cases involving intentional defiance of an explicit direction of the Court, leaving no room for ambiguity or alternative interpretation. The principle is now firmly entrenched that where an order admits of more than one plausible interpretation, a charge of contempt cannot be founded thereon⁵. In the present case, the alleged Contemnors have not refused

⁵ PLD 1969 SC 77 (S.M. Yousuf v. S.K. Rahim); 1975 SCMR 505 (*Muhammad Naseem Ahmad v. Central Board of Revenue*); 2007 CLD 1210 (*Anjum Rashid v. Shehzad*)

compliance with the HC Disposal Order. Rather, they have endeavoured to give effect to it in accordance with their own understanding of its scope and application, particularly in light of the Order of a learned Single Judge of the Lahore High Court dated 20.10.2016 (Criminal Original No.2461-W of 2016 – *Dr. Farid Ullah Dawar v. Dr. Akmal Faiz Bhatti*) who, in more or less similar circumstances, dismissed a contempt petition against WAPDA. Therefore, while WAPDA's interpretation may ultimately be found erroneous or inconsistent with the true spirit of the HC Disposal Order, such conduct does not amount to wilful defiance of the Court's authority. That apart, the authority of the Court is not so fragile as to be undermined by every act of erroneous interpretation, provided the conduct is not contumacious but stems from a genuine effort to follow an order.

21. Accordingly, the charge of contempt is not made out against the alleged Contemnors. Consequently, the listed CMA No.8789/2022, though originally filed for contempt, is hereby treated as an application under Section 151 of the *Code of Civil Procedure, 1908*, for implementation of HC Disposal Order dated 28.4.2021 and HC Subsequent Order dated 21.4.2022.

Conclusion

22. It therefore emerges from the foregoing discussion that in the peculiar circumstances of the case – particularly in view of the two Supreme Court Orders affirming the High Court's Disposal and Subsequent Orders – it is not open to WAPDA to contend that any other set of rules was applicable, or that the requirement of a written test constituted an indispensable pre-condition for the Petitioners' regularization. Accordingly, the written test purportedly conducted on 5.12.2021 (through the Pakistan Testing Service), as well as the termination letters dated 17.3.2022⁶, whereby an attempt was made to bring the Petitioners' services to an end, being inconsistent with the governing Medical Service Rules, 1982 cannot be sustained. They are, therefore, held to be without lawful authority, of no legal effect and cannot form the basis for denying the Petitioners' regularization.
23. Given that considerable time has already elapsed since the passing of the HC Disposal Order dated 28.4.2021, any further delay in its implementation would amount to denial of justice to the Petitioners and frustrate the very object of the Court's Order. Accordingly, WAPDA is directed to complete the process of conducting fresh interviews of the Petitioners and to communicate the results to them **within forty-five (45) days** from the date of this order.

⁶ As highlighted in paragraph 7 above, these termination letters were suspended by the High Court vide order dated 28.3.2022, which order continues to hold the field to-date

24. The three (3) applications viz. CMA No.24115/2021, CMA No.8789/2022 and CMA No.8789/2022 stand disposed of in the terms set out above. No costs are awarded.

JUDGE

JUDGE