

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Constitutional Petition No. D-378 of year 2024

Zulfiqar Ali and others V. P.O Sindh & others

**PRESENT: Mr. Justice Muhammad Saleem Jessar
Mr. Justice Nisar Ahmed Bhanbhro**

Petitioners: Zulfiqar Ali and others
Through Mr. Riaz Hussain A. Khoso, Advocate.

Respondents No 2 & 3: Chairman UC No 18 Malguzar and another
Through Mr. Safdar Ali Ghouri Advocate

Mr. Liaquat Ali Shar
Additional Advocate General, Sindh

Date of hearing: 16-09-2025

Date of Decision: 16 -09-2025

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ORDER

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Nisar Ahmed Bhanbhro J.- Petitioners seek indulgence of this Court, through instant petition to issue writ of mandamus for release of monthly salary stopped by the Respondents since month of June 2023.

2. Mr. Riaz Hussain Khoso learned counsel for the petitioners contended that petitioners are employees of Local Government Department. He argued that petitioners are working in Union Council 18 Malguzar Taluka Kandhkot since last about more than nine years. He contended that through order dated 14-07-2023 issued by Respondent No 1, petitioners were directed to report to their parent departments. He argued that petitioners were council employees and Local Government Department was their parent department. He argued that petitioners challenged order dated 14.07.2023 through Constitution Petition No. D-521 of 2023 Re – Zulfiqar Ali Khoso and others V. Province of Sindh and others before this Court. He argued that petition was disposed of by Learned Division Bench of this

Court vide order dated 08.05.2024 on the statement of Chairman District Council Kashmore @ Kandhkot that all orders for transfer of employees including impugned order dated 14-07-2023 were cancelled. He argued salaries of Petitioners were stopped pursuant to order dated 14.07.2023 and after disposal of CPD No - 521 of 2023, petitioners were restrained from attending office. He contended that petitioners were performing their duties with zeal and dedications in their respective fields in Union Council No.18 Malguzar, Taluka Kadhkot as the order dated 14-07-2023 or any other order for transfer of petitioners did not exist. He contended that petitioners were kicked off from office by Chairman and Secretary, stopped their salaries without any cause. He argued that petitioners were entitled to receive past and future salary. He therefore, prayed to allow this Petition.

3. Mr. Safdar Ali Ghouri learned counsel for respondents No.2 & 3 argued that petition was entirely misconceived and involved factual controversies as to genuineness of appointment of Petitioners. He argued that petition was not maintainable being hit under the doctrine of res judicata, as earlier petition C.P No.D-521 of 2023, filed by petitioners was dismissed. He contended that originally petitioners were not employees of Union Council. He contended that petitioners were taken into service on political grounds by Ex-Management of Union Council, which caused huge financial impact on budget of the council. He argued that due to shortage of budget union council cannot afford to pay salary of petitioners. He further argued that Deputy Director, Local Government Department, Kashmore @ Kandhkot letter dated 01-02-2021 intimated Respondent No 3 that an inquiry in respect of petitioners' appointment was in pipeline and their original and authenticated record was called for scrutiny. He argued that appointment of petitioners was suspicious, they were not entitled for salary. He prayed to dismiss the petition.

4. Mr. Liaqat Ali Shar Learned Additional Advocate General supported the stance of Respondents No 2 and 3 and contended that petition was misconceived and liable to be dismissed.

5. Heard Arguments. Perused material made available before us by the parties.

6. Taking up the issue of maintainability of instant petition, as the Respondents have raised a specific plea that petitioners had filed petition CPD No 521 of 2023 seeking the same relief, which was declined by this Court vide orders dated 08.05.2024, thus instant petition would be barred and defeated under the principle of *Res Judicata*. The careful examination of record revealed that petitioners had filed earlier petition before this against the order dated 14.07.2023 whereby they were directed to report to their parent department. The said petition was disposed of by Learned Division Bench of this Court on the ground that repatriation orders were withdrawn, such an undertaking as to withdrawal of repatriation order was filed by Chairman District Council Kashmore Mr Gul Mohammad Jakhrani through statement along with affidavit dated 28.02.2024.

7. The principle of Res Judicata is a principle of peace, it operates as estoppel and bar against multiple litigation on the same subject matter, between the same parties. Record made it explicitly clear that the cause of action to file instant petition is different to that of earlier petition. Through the instant petition, petitioners have sought indulgence of this Court against the action of Respondents of stoppage of monthly salary. Whereas, earlier petition was filed against repatriation orders dated 14.07.2023, making it abundantly clear that both litigations were filed on different premise, against a different cause of action, therefore, disposal of earlier petition No CPD 521 of 2023 will not operate in any manner, as re judicata.

8. The petitioners are employees of Local Government Department. The services of petitioners are governed under the provisions of Sindh Local Government Act 2013 and Sind Local Councils Employees Service Rules 2017 framed thereunder. The petitioners do not fall within the definition of Civil Servant, thus cannot agitate their grievance before Sindh Service Tribunal, making instant petition maintainable for want of an adequate forum.

9. Adverting to the grievance of petitioners regarding stoppage of monthly salary. Petitioners claimed that they are working in Union Council 18 Malguzar since last nine years or so, they were not paid monthly salary since month of June 2023. Petitioners further complain that after the dismissal of earlier petition, they were not allowed to work in the office, by Respondents No 2 & 3. All the petitioners are low salaried employees viz. junior clerks, Naib Qasid, Malhi and Beldar. During proceedings, it transpired that petitioners were entitled for the

salary but they were not paid since long, therefore, as an interim measure/relief vide order dated 23.04.2025 this Court directed Respondents No 2 & 3 to present cheques in favor of Petitioners on account of non-payment of salary. It will be conducive to reproduce operative part of order dated 23.04.2025 for the sake of convenience:

“It is settled law that salary is not bounty of the State rather is a legal right which accrue to the employee against services which he rendered at the disposal of the employer; hence, the respondents present are directed to present cheques in favor of petitioners along with all arrears by tomorrow i.e 24.04.2025 at 11:00 a.m. it may be noted that non-compliance of order shall be deemed to be defiance, which in view of article 204 of the constitution is an offence.”

10. Pursuant to Court orders, Respondents No 2 & 3 submitted eleven cheques each amounting to Rs 100,000 in favor of petitioners, which were handed over to petitioners in court on 24.04.2025. Counsel for Respondents No 2 & 3 sought time to bring more cheques against the arrears of salary by next date, as such, the matter was adjourned for 15.05.2025.

11. Respondents No 2 & 3, during the intervening period filed Civil Petition 1713 of 2025 Re – Chairman UC No 18 Malguzar Versus Province of Sindh & others before Honorable Supreme Court against order dated 23.04.2025 and 24.04.2025 passed by this Court. It appears that Respondents No 2 & 3 by twisting the facts, misled Honorable Supreme Court that they had made excessive payments to petitioners, therefore, Honorable Apex Court was pleased to make following observations in order dated 15.05.2025 passed in the said Civil Petition:

The respondents, employees of the Union Council filed writ petition for grant of salaries etc. vide order dated 23.04.2025 the petitioners were directed to handover cheques of Rs 100,000/ in favor of each writ petitioners/ respondents herein. On 24.04.2025 each writ petitioner was handed over a cheque of Rs 100,000/. Further submits that vide same order it has been now directed to submit cheques of remaining amount in favor of writ petitioners whereas case of the present petitioners/ respondent in the writ petition is that they have already paid excess amount, more than their entitlement through the

order dated 24.04.2025. The order dated 24.04.2025 is not sustainable under the law. Notice to the Respondents.

CMA No 2643/2025

Order dated 24.04.2025 to the extent of payment of further amount in favour of the writ petitioners shall remain suspended till the next date of hearing.

12. On receipt of order dated 15.05.2025 passed by Learned apex Court, filed by Learned Counsel for respondents through statement, this court vide order dated 22.05.2025 directed Respondents No 2 & 3 to submit detailed record with regard to excess amount paid to petitioners, as claimed before Honorable Supreme Court. It was necessary to know how much amount in excess was paid to petitioners pursuant to this Court’s orders, so that, the same may be recovered from petitioners and paid back in public exchequer. Order dated 22.05.2025 of this Court reads as under:

In compliance of the directive contained under previous order learned Counsel for the respondents No 2 & 3 files statement dated 22.05.2025 along with photostat copy of esteemed order dated 15th May 2025 penned down by learned apex court in civil petition No 1713 /2025 taken on record. To come up on 04.09.2025. Meanwhile, the respondents shall submit detailed record with regard to excessive payment they allegedly paid to the petitioners, as is evidence from captioned order.

13. In compliance to Court orders Learned Counsel for the parties filed statements showing details of paid salaries and calculation of amount of arrears payable to petitioners. It will be conducive to reproduce statement dated 09.09.2025 filed by Respondents No 2 & 3, for the ease of reference:

Calculation of salaries

In compliance to Order dated 04.09.2025

S. No	Petitioner	Regular monthly salary since June 2023	Salary of April 2024	Total arrears	Paid in march 2024	Paid in court	Remaining
1.	Zulfiq Ali (Naib Qasid)	Rs 27,099 X 25 = Rs 677,475	Rs 22,728	Rs 700,203	Rs 22728	Rs 100,000	Rs 577,475

2.	Tharo Khan (Jr. Clek)	Rs. 34,700 X 25 = Rs 867,500	Rs 29,103	Rs 896,603	Rs 22,728	Rs 100,000	Rs 767,500
3.	Imran Ali (Jr. Clerk)	Rs. 34,700 X 25 = Rs 867,500	Rs 29,103	Rs 896,603	Rs 22,728	Rs 100,000	Rs 767,500
4.	Faiz Muhammad (Naib Qasid)	Rs 23,756 X 25 = Rs 594,125	Rs 19,932	Rs 614,057	Rs 19932	Rs 100,000	Rs 494,125
5.	Mohammed Ismail (Chowkidar)	Rs 23,565 X 25 = Rs 589,125	Rs 19,764	Rs 608,889	Rs 19,764	Rs 100,000	Rs 489,125
6.	Waris Ali (Chowkidar)	Rs 23,565 X 25 = Rs 589,125	Rs 19,764	Rs 608,889	Rs 19,764	Rs 100,000	Rs 489,125
7.	Mir Hazar Khan (Jr. Clerk)	Rs. 34,700 X 25 = Rs 867,500	Rs 29,103	Rs 896,603	Rs 22,728	Rs 100,000	Rs 767,500
8.	Nisar Ahmed (Naib Qasid)	Rs 23,756 X 25 = Rs 594,125	Rs 19,932	Rs 614,057	Rs 19932	Rs 100,000	Rs 494,125
9.	Imtiaz Hussain (Malhi)	Rs 23,565 X 25 = Rs 589,125	Rs 19,764	Rs 608,889	Rs 19,764	Rs 100,000	Rs 489,125
10.	Azizullah (Beldar)	Rs 23,565 X 25 = Rs 589,125	Rs 19,764	Rs 608,889	Rs 19,764	Rs 100,000	Rs 489,125
11.	Khair Jan (Malhi)	Rs 23,565 X 25 = Rs 589,125	Rs 19,764	Rs 608,889	Rs 19,764	Rs 100,000	Rs 489,125

Note: Total would be 27 months, out of which salary for the month of March 2024 was paid and salary for the month of April 2024 was calculated on the basis of their attendance, therefore, salary of these two months is different from regular monthly salaries.

Larkana

Sd/

Sd/

Dated: 09.09.2025

Respondent No 2

Respondent No 3

14. Petitioners also filed statement regarding arrears of salaries, for each petitioner separately and a joint statement showing arrears of salary. For the purpose of comparison, joint calculation sheet filed by petitioners is reproduced below for the sake of convenience:

NAME	DESIGNATION	MONTH	AMOUNT
Mir Hazar Khan	Junior Clerk	July 2023 to August 2025	1636,622
Imran Ali	Junior Clerk	=	1636622
Tharo Khan	Junior Clerk	=	1636622
Nisar Ahmed	Naib Qasid	=	1037520

Faiz Muhammad	Naib Qasid	=	1037520
Zulfiqar Ali	Naib qasid	=	1037520
Imtiaz Hussain	Malhi	=	1032320
Khair Jan	Malhi	=	1032320
Waris Ali	Chowkidar	=	1032320
Mohammad Ismail	Chowkidar	=	1032320
Azizullah	Beldar	=	1032320
Total			13184026

15 From the calculation statement so filed by parties, it can be safely held that petitioners were not paid salaries for last 26 months staring from June 2023. However, there was dispute as to the amount payable to petitioners in terms of salaries. From the calculation sheet filed by Respondents No 2 & 3 it transpired that petitioners were entitled to a monthly salary package which was less than threshold of minimum wages notified by government of Sindh through notification dated 28.07.2025 wherein a minimum monthly wage of Rs 40,000 was fixed for unskilled labor.

16. Respondent No 2 is a Local Government Institution, which enjoys financial independence articulated under the spirit of Constitutional Command through article 140 – A of the Constitution. It was untenable to conceive that monthly salary of employees of Local Government institutions would be below the fixed monthly minimum wage package of an unskilled labour.

17. Since it stood admitted by Respondents No 2 & 3 that petitioners were not paid monthly salary from the month of June 2023 onwards and only an amount of Rs 100,000 was paid to each of the petitioners that too in compliance of this Court order. The calculation sheet so furnished by parties revealed that huge amount as arrears of salary was payable to petitioners, arrears piled up on account of the wicked attitude of Respondents, which cannot be appreciated at all.

18. We were of the considered view, looking at the persistent denial of Respondents No 2 & 3 to pay salary to petitioners, that Union Council was facing financial deficit due to over employment or for other reasons, but were shocked to know that only salary of Respondent No 3 was charged from the account of Union Council and remaining amount of OZT share was utilized for unseen projects. When inquired about monthly OZT share received by Union Council, Respondents were reluctant to disclose such information. On inquiry where the OZT funds were being utilized, no proper response was tendered, even it

transpired that Union Council had no office and official work was done at the private residence of Respondents No 2 & 3. When confronted for refusal to pay monthly salary, Respondents No 2 & 3 responded that petitioners were no more employees of Union Council, therefore, they cannot be paid salary. The query so answered itself manifested the desire of Respondents No 2 & 3 to devour public funds as admittedly out of monthly OZT share only Secretary was withdrawing salary and remaining funds were being misused.

19. Record further transpired that Respondent No 2 through letter dated 26.06.2023 requested the then Minister for Local Government to transfer the services of Petitioners so that Union Council may seek financial ease. After transfer of petitioners through order dated 14.07.2023 Union Council 18 Malguzar went without staff. Per own admission of Respondents that order dated 14.07.2023 was withdrawn latter on, the service status of petitioners got restored to the position it was prior to issuance of said order, they remained employees of Union Council No 18. Respondents No 2 & 3 denied the right of salary to petitioners so that public funds could be utilized for personal needs as was evident from the gloomy picture of the affairs in Union Council, such an action on the part of Respondents spoke volumes about their high handedness.

20. The Respondents No 2 and 3 adamantly filed a statement showing salary of Petitioners less than 40,000 rupees per month, purportedly to deprive them of their due right. It is worthwhile to notice that Respondents No 2 & 3 did not realize that false statement before a Court of law can hold them liable for prosecution. The Court observes a reasonable restraint for treachery; respondents have played but cannot close its eyes on the corrupt practices on the part of respondents to deprive petitioners from their due right to receive monthly salary.

21. Under the provisions of Sindh Local Government Act, 2013, (SLGA), Local Government Department was assigned responsibility to monitor the services of its employees. The Chairman of Union Council under section 80 of SLGA was conferred the powers of supervision and control over proceedings of employees, but this supervision and control did not amount to victimize its employees and deprive them of salaries. It would be in the fitness of things to reproduce section 80 of SLGA, which reads as below:

80. Powers of Mayor or Chairman (1) *The Mayor or Chairman, as the case may be, shall- (a) unless prevented by reasonable cause, preside at all meetings of the Council, and regulate the conduct of business at such meetings in accordance with rules;*

(b) watch over the financial and executive administration of the Council and perform such executive functions as are assigned to him by or under this Act;

(c) exercise supervision and control over the acts and proceedings of all employees of the Council and dispose of all questions relating to their service, pay, privileges and allowances in accordance with the rules; provided that service matters of the members of the Sindh Councils Unified Grades shall be referred to Government;

(d) have power in cases of emergency to direct the execution or stoppage of any work or the doing of any act which requires the sanction of Government or the Council, and the immediate execution or stoppage or doing of which is, in his opinion, necessary for the service or safety of the public and the action so taken shall forthwith be reported to Government or, as the case may be, to the Council at its next meeting; provided that he shall not act under this clause in contravention of any provision of this Act or order of the Council or Government.

(2)

22. Bare reading of above provision of law made it crystal clear that Chairman of the Council was burdened with a responsibility to deal with the matters relating to pay and privileges of the employees of Council, but in the present case Chairman has failed to discharge such responsibility in accordance with law. Rather to resolve the grievance of Petitioners Respondent No 2 had made them a pendulum to run here and there. All the Local Councils established under the provisions of SLGA were subject to general supervision and control of Government of Sindh in terms of section 87 and 88. The Chairman of a Council cannot bypass orders issued by competent authority. Petitioners were transferred in the Union Council No 18 in year 2016 or earlier and since then they were working there. Respondent No 2's desire to have employee free Union Council was untenable, as Union Council was a grass roots service provider and it cannot work without employees. Petitioners were transferred from Union Council over a written request dated 26.06.2023 made by Chairman of Union Council / Respondent No 2 to Minister Local Government. Respondent No 2 did not assign

any particular reason for discharge of service of petitioners from his Union Council, which established the factum of mala fide on his part that on transfer respondent No 2 would achieve financial space to lubricate his palms. Once it was brought to the notice of this Court that respondents had withdrawn repatriation order dated 14.07.2023, there existed no reason to stop salary of Petitioners, as they were employees of Union Council No 18 and entitled to receive pay from said council. Salary of an employee was not a bounty but his fundamental right as a compensation for the work done.

23. The gloomy picture of affairs as painted in the present case, was sufficient to invite provincial government for supersession of Union Council 18 Malguzar by invoking section 91 and 93 of SLGA, but the Court leaves it up to the Government to inquire into the affairs of union Council under section 91 of SLGA by appointing an officer of repute and to decide whether an action in terms of section 92 or 93 of SLGA may be taken or not. For the sake of convenience section 91 is reproduced below:

***91. Inquiry into affairs of the Councils.** (1) Government may, on its own or on application made to it by any person, cause an enquiry to be made by such officer or authority as may be appointed by it in this behalf, into the affairs of a Council generally, or into any particular matter concerning that Council, and take such remedial measures as may be warranted by the findings of such enquiry.*

(2) Such officer shall, for the purposes of the enquiry, have the powers of a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), to take evidence and to compel the attendance of witnesses and the production of documents.

24. Above provision of law empowered Government to inquire into the affairs of a Council. As a result of inquiry if found that Council persistently failed to discharge its duties or was unable to run its affairs or accused of abuse of its powers and provincial government deems appropriate, it may supersede the council by exercising powers conferred under section 93 of SLGA, which reads as under:

93. Supersession of Councils. (1) *If, after such enquiry as may be necessary, Government is of the opinion that a Council- (a) persistently fails in discharging its duties; or*

(b) is unable to administer its affairs or meet its financial obligations despite directions by Government; or

(c) otherwise abuses its power, it may, after considering the objections from the Council, by notification in the official Gazette, declare the Council to be superseded for a period not exceeding six months.

(2) On the publication of a notification under sub section (1)-. the person holding the office of the Mayor, Deputy Mayor, Chairman or Vice-Chairman or Member shall cease to hold such office; the functions of the Council shall during the period of supersession be performed by such person or Authority as is appointed by Government until the Council reconstituted under sub-section (3) assumes office; all funds and property of the Council shall, during the period of supersession, vest in Government for the purposes of this Act and be expended accordingly.

(3) On or before the expiry of the period of supersession, the Council shall be reconstituted in accordance with the provisions of this Act: Provided that where the period of supersession of the Council is expiring within four months of the expiry of its normal term of office, the Council shall not be reconstituted for the residual period of the term and the consequences of supersession under sub section (2), shall continue to operate.

(4) Government may, by notification in the official gazette, extend the period under sub-section(1) but such extension shall not exceed six months.

25. Salary of an employee was a source of running routine affairs. Stoppage of salary for extraneous consideration may result in starvation. Stoppage of salary in arbitrary manner without assigning plausible and cogent reasons was an act of victimization for a family dependent for its bread and butter on salary, such an act cannot be allowed to perpetuate if found taken without reasonable cause and rationale and in violation of laws and rules providing for stoppage of salary through departmental proceedings.

26. For aforementioned discussion, we have arrived at an irresistible conclusion that petitioners are entitled to receive their monthly salary from the account of Union Council No 18 Malguzar. The acts of Respondents No 2 & 3 to stop salary of petitioners are illegal, perverse and taken without any lawful

authority, warranting indulgence of this Court to exercise powers of judicial review conferred under article 199 of the Constitution. Consequently, this Petition is allowed. The Petitioners shall be deemed to have never been transferred or relieved or repatriated from Union Council No 18 Malguzar. Petitioners are entitled to withdraw salary form Union Council No 18 Malguzar. Respondents are directed to release monthly salary of Petitioners forthwith.

27. Since monthly salary package of petitioners was disputed by Respondents No 2 & 3, we therefore, refer the matter to Regional Director Local Government Larkana to decide the issue of amount of monthly salary payable to petitioners keeping in view the last salary drawn by petitioners prior to June 2023 within a period of fifteen days from today. Petitioners remained without salary for last about 27 months, therefore, they shall receive two salaries each month until a period of 27 months starting from the month of October 2025, one as the arrears and other as the regular salary.

The Petition stands disposed of in above terms. Office is directed to send copy of this order to Respondents and Regional Director Local Government Larkana for compliance.

JUDGE

JUDGE

Asghar/P.A

Approved for Reporting

Larkana – 16.09.2025