

# IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Constitution Petition No.D-1130 of 2022

**Before:**

*Mr. Justice Zulfiqar Ali Sangi;*

*Mr. Justice Abdul Hamid Bhurgri.*

Petitioner : Riaz Hussain son of Abdul Lateef Narejo,  
through M/s Manzoor Hussain N. Larik and  
Waqar Ali Phulpoto, Advocates

Respondents : Province of Sindh and others through Mr. Zulfiqar  
Ali Naich, Assistant Advocate General

**Date of Hearing : 06.05.2025.**

**Date of Judgment: 06.05.2025.**

## **J U D G M E N T**

**Abdul Hamid Bhurgri, J,** The petitioner has invoked the Constitutional Jurisdiction of this Court seeking release of withheld salaries, alleging unlawful omission on part of the Respondents, despite having been appointed to the post of Junior Physical Education Instructor (BPS-9).

**2.** The facts, as asserted, reveal that the Respondents advertised various vacancies in the education department through an advertisement dated 15.03.2012. The Petitioner, being eligible, applied for the post of Junior Physical Education Instructor and was permitted to appear in the written test conducted on 29.04.2012 at Government Mumtaz Degree College, Khairpur. He successfully qualified both the written and viva voce examinations.

**3.** Thereafter, Respondent No. 3 issued an offer of appointment on 29.11.2012, and the Petitioner underwent medical examination under the supervision of the Medical Superintendent at GMMC Hospital, Khairpur, who declared him fit. Character verification was also completed through the SSP, Khairpur.

**4.** Following the completion of codal formalities, an appointment order dated 13.12.2012 was issued, and the Petitioner was posted at Government Murad High School, Gambat. The Petitioner submits that he performed his duties with utmost diligence and honesty and that his

conduct remained satisfactory throughout, with no blemish on his service record.

**5.** Despite his appointment and service, it is alleged that the Petitioner was never paid any salary. He claims that after his posting, he was neither allowed to mark his attendance nor was his salary released. The Petitioner states he continued to serve, including performing duties as a Presiding Officer during elections. He prayed as follows:-

*(a) To direct the Respondents to act in accordance with the law and provide equal treatment to the Petitioner thereby releasing him salaries forthwith including other allowances without further delay.*

*(b) To grant interim injunction, thereby restraining the Respondents from taking any adverse action against the Petitioner in respect of their employment for filing the instant Petition before this Honourable Court.*

*(c) To grant any other relief, which this Honourable Court deems fit & proper in circumstances of the case.*

*(d) To award cost of the Petition.*

**6.** Counsel for the Petitioner argued that the denial of salary and service recognition constitutes a breach of the Petitioner's constitutional and service rights. It is contended that salary is not a bounty but a fundamental right of a public servant who has fulfilled official duties in good faith.

**7.** We have heard the learned counsel and examined the record. It is imperative to note that the instant petition had earlier been dismissed for non-prosecution on 26.10.2023. However, it was restored on 08.04.2025 with costs, and the matter was eventually fixed for hearing on 06.05.2025.

**8.** Upon scrutiny, it emerges that the Petitioner claims to have served continuously since 2012 without receiving any salary for over a decade. This narrative, without corroborative documentary evidence, defies plausibility. No prudent mind would believe that public servant perform official duties for ten years without remuneration.

**9.** The Petitioner asserts that he made multiple representations, but no such evidence has been placed on record. The file is silent on any

correspondence or representation made by the Petitioner during the alleged period of service. Given that the Petitioner is an educated person, it is highly doubtful that he remained silent for ten years without a single formal grievance.

**10.** Further review of the Petitioner's appointment order reveals that his appointment was explicitly temporary in nature, and he had only been posted for a six-month period. Thereafter, no evidence has been submitted to demonstrate that the Petitioner was confirmed or retained in service beyond this limited term.

**11.** In view of the above, this Court is constrained to observe that the instant petition suffers from inordinate and unexplained delay of over a decade. The doctrine of laches is fully attracted in this case. The Petitioner, having slept over his alleged right for ten years without asserting it, cannot now seek equitable relief. No valid explanation has been provided for the prolonged silence. The failure to pursue his claimed rights with diligence suggests implied acquiescence or abandonment.

**12.** The person, who remained silent for a decade, without asserting his alleged right or approaching any competent forum for redress, cannot be allowed to claim relief from this Court after an inordinate delay. Courts of equity do not assist the indolent, the law favours the vigilant. A State claim, especially one involving alleged continuous denial of salary, requires timely assertion and prompt recourse to legal remedies. The unexplained silence of ten years renders the petition not maintainable and warrants its dismissal on the ground of laches alone.

**13.** It is incomprehensible that an individual would continue to serve for such an extended period from 2012 to 2022, without receiving any remuneration, yet make no effort to seek redress until the filing of this petition. This conduct, on the face of it, appears to be inherently, unreasonable and devoid of due diligence. The petitioner's prolong inaction speaks volumes and indicates acquiescence or, at the very least, a lack of seriousness in pursuing any legal right. The principle of laches is founded on the idea that equity aids those who are prompt and vigilant in asserting their rights. Where a party sleeps over their claim for a decade,

such delay, unexplained and unjustified, defeats the equity of the claim and disentitles him from any discretionary relief under constitutional jurisdiction.

**14.** The petitioners conduct reflects a classic case of acquiescence and neglect, where no plausible explanation has been provided for approaching after an unexplained delay of ten years. This Court relies upon case of **Ahmed and 25 others Vs. Ghama and 5 others" (2005 SCMR 119)** Honourable Supreme Court of Pakistan has held as under:

*"There is not cavil with the proposition that existence of laches is sufficient for dismissal of petition in limine".*

Likewise, in the case of **Asghar Khan and 5 others v. Province of Sindh through Home Secretary Government of Sindh and 4 others (2014 PLC (C.S) 1292)**, it was held as under:-

*"We feel no hesitation in our mind to hold that the petition is hit by laches. The consideration upon which the court refuses to exercise its discretion where the petition is delayed is not limitation but matters relating to the conduct of parties and change in the situation. Laches in simplest form mean failure of a person to do something which should have been done by him within a reasonable time if remedy of constitutional petition is not availed within reasonable time the interference can be refused on the ground of laches. Even otherwise, grant of relief in writ jurisdiction is discretionary, which is required to be exercised judiciously. No hard and fast rule can be down for the exercise of discretion by the Court for grant refusal for the relief in the exercise of extra ordinate jurisdiction".*

In another case of **State Bank of Pakistan through Governor and another v. Imtiaz Ali Khan and others (PLJ 2012 SC 289)**, the Honourable apex Court has held as follows:-

*"---Laches was a doctrine whereunder a party which may have a right, which was otherwise enforceable, loses such right to the extent of its endorsement, if it was found by the Court of law that its case was hit by the doctrine of laches/limitation----Right remains with the party, but he cannot enforce it---Limitation is examined by the Limitation Act, 1908 or by special laws which have inbuilt provisions for seeking relief against any grievance within the time specified under the law and if party aggrieved does not approach the appropriate forum within the stipulated period/time, the grievance though remains, but it cannot be redressed because if on the one hand there was a right with a*

*party which he could have enforced against the other, but because of principle of Limitation/laches, same right then vests/accrues in favour of the opposite party."*

The Honourable Supreme Court in the case of **Jawad Mir Muhammad and others v. Haroon Mirza and others reported in PLD 2007 SC 472**, has held as under:-

*"Article 199. Constitution petition. Laches. Principles. Laches per se is not a bar to the constitutional jurisdiction and question of delay in filing would have to be examined with reference to the facts of each case. Question of delay/laches in filing constitutional petition has to be given serious consideration and unless a satisfactory and plausible explanation is forthcoming for delay in filing constitutional petition, the same cannot be overlooked or ignored subject to facts and circumstances of each case".*

Likewise in the case of **Chairman PCSIR v. Dr. Mrs. Khalida Razi reported in 1995 SCMR 698**, the Honourable Supreme Court observed as under:-

*"Article 185. Constitution of Pakistan 1973, Employee's Constitutional petition before High Court suffered from gross laches. Such fact by itself was sufficient to deny her relief sought in the constitutional petition. Anyone seeking restoration to the office from which he/she had been removed in an illegal manner was required to show some measure of diligence which had been entirely wanting in the case".*

**15.** Accordingly, this petition is found to be barred by laches, devoid of merit, and is hereby dismissed along with listed applications, if any.

Judge

Judge

ARBROHI