

THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 1540 of 2025

[Hosh Muhammad Panhwar v. Province of Sindh and others]

C. P. No. D – 1541 of 2025

[Ahsanullah Bhatti v. Province of Sindh and others]

C. P. No. D – 1542 of 2025

[Mudasir Akbar v. Province of Sindh and others]

C. P. No. D – 1551 of 2025

[Muhammad Yaseen Channa v. Province of Sindh and others]

C. P. No. D – 1914 of 2025

[Mst. Hameeda Rajper v. Province of Sindh and others]

Before:
Justice Arbab Ali Hakro
Justice Muhammad Osman Ali Hadi

Petitioners by : Mr. Achar Khan Gabol, Advocate

Respondents by : Mr. Ali Raza Baloch, Additional Advocate General Sindh

Date of Hearing : 02.09.2026

Date of Announcement : 10.09.2026

ORDER

ARBAB ALI HAKRO, J. – Through this common order, we intend to decide the above-captioned five connected petitions, wherein the petitioners seek directions to the respondents to release their salaries and to permit them to continue performing their duties at their respective places of posting, besides protection against any adverse action in respect of their employment, on the premise that they were appointed against the deceased employee quota after completion of the requisite departmental formalities and prior to the judgment dated 26.09.2024 passed by the Supreme Court. Since the reliefs claimed are substantially similar and rest upon a common substratum of fact, they are being decided together.

2. Shorn of unnecessary detail, the case pleaded in each petition runs along identical lines. Every petitioner claims to be the child, or, in one instance, the widow, of an employee of the School Education & Literacy Department who died in service; to have applied within two years for appointment against the deceased quota; to have had their case processed and forwarded departmentally, culminating in the approval of the processing sheet by the Chief Secretary, Sindh; to have been recommended by the District Selection Committee, Khairpur, at its meeting on 07.06.2024; and thereafter to have been issued an offer letter dated 08.08.2024 and an appointment order dated 15.08.2024 for the post of Junior Clerk (BPS-11) by the District Education Officer (Elementary, Secondary & Higher Secondary), Khairpur, upon which each joined the school of posting on 15/16.08.2024 and has since been shown present on the muster roll. The particulars are as follows: Hosh Muhammad Panhwar, son of Khuda Bux, HST, who died on 19.09.2022 (C.P. No. D-1540 of 2025); Ahsanullah Bhatti, son of Abdul Majeed, PST, who died on 29.12.2021 (C.P. No. D-1541 of 2025); Mudasir Akbar, son of Ghulam Asghar, Superintendent (BPS-17), who died on 19.06.2020 (C.P. No. D-1542 of 2025); Muhammad Yaseen Channa, son of Ali Khan, PST, who died on 03.08.2022 (C.P. No. D-1551 of 2025); and Mst. Hameeda Rajper, widow of Muhammad Hassan Rajper, JEST, who died on 10.08.2021 (C.P. No. D-1914 of 2025). The common grievance is that, although the appointments preceded the judgment dated 26.09.2024, the salaries have not been released and the right to continue in service has been questioned by reference to that judgment.

3. The respondents have controverted the petitions in terms that carry the matter beyond the ordinary. Through the para-wise comments filed by respondent No.3, the District Education Officer (ES&HS), Khairpur, which were adopted on behalf of respondent No.1 by the Additional Secretary (Law) of the Department, it is asserted that no recommendation, offer or appointment ever emanated from any competent authority. It is stated that at the meeting of the District Selection Committee held on 07.06.2024, only (08) eight cases pertaining to the office of respondent No.3, all falling within BPS-01 to BPS-07, were recommended, and that the minutes of that meeting were circulated by the Deputy Commissioner, Khairpur, under letter No. DC/EB/3618/2024 dated 30.07.2024. The minutes relied upon by the

petitioners, said to have been circulated under letter No. DC/EB/3662/2024 dated 31.07.2024 and containing the names of (26) twenty-six candidates for the post of Junior Clerk (BPS-11), are alleged to be forged and fabricated.

4. That assertion does not rest on the ipse dixit of respondent No.3. The Deputy Commissioner, Khairpur, who presided over the Committee, informed the learned Additional Advocate General, in response to his letter No. Addl.AG-4111 of 2025 dated 07.11.2025, that neither the said minutes nor letter No. DC/EB/3662/2024 dated 31.07.2024 were issued from his office or signed by the then Deputy Commissioner. The then Section Officer (SR-II), Services, General Administration & Coordination Department, a member of the Committee under Notification No. SORI(SGA&CD)11-7/74(Pt-I) dated 24.09.2014, has filed a statement in compliance with our order dated 16.04.2026, disowning his signature and stating that (26) twenty-six of the (34) thirty-four cases of the Department were deferred for want of a vacancy. The then District Education Officer, whose signature appears on the offer letters and appointment orders, has denied having signed them. The Senior Superintendent of Police, Khairpur, by letter dated 22.10.2025, has reported that the character antecedent certificates produced by the petitioners are fake and not issued by his office, and the Medical Superintendent, Khairpur Medical College (Civil) Hospital, by letter dated 22.10.2025, has reported the medical fitness certificates to be fake and bogus.

5. Upon the complaint of the Section Officer (SR-II), a fact-finding inquiry was conducted by the Additional Secretary (Services-I), SGA&CD, with the approval of the competent authority. After recording the statements of the then Deputy Commissioner, the then District Education Officer, the Section Officer (SR-II), and others, the Inquiry Officer found that two sets of minutes exist for the same meeting; that the set containing the twenty-six cases was neither signed nor issued by the Chairman or any member of the Committee; and that the Department holds no record of any appointment made on that basis. He recommended that the field offices be advised not to act upon the said minutes and that action be taken against a Senior Computer Operator of the office of the Deputy Commissioner, Khairpur, who is stated to have approached the Section Officer, including at his residence, without any official direction.

6. In their rejoinder, the petitioners have denied the allegations as false and motivated, asserted that the offer letters and appointment orders were in fact signed and issued by respondent No.3, and prayed that the original documents in their possession be referred to a handwriting expert and that the muster roll and joining database be forensically verified to ensure the truth emerges.

7. Learned counsel for the petitioners contended that each petitioner recommended by the District Selection Committee was issued an offer letter and an appointment order signed by respondent No.3, joined duty, and has since been shown present on the muster roll; that the offer letters and appointment orders are official documents carrying a presumption of regularity; and that the respondents, having permitted the petitioners to work for more than a year, cannot now be heard to disown their own acts. He submitted that even if any irregularity had crept into the process, the fault lay with the appointing authority and not with the appointees, who could neither be made to suffer for the lapses of the functionaries nor be deprived of the wages for work actually performed. In support, he relied upon **Collector of Customs**¹, where the Supreme Court declined to disturb the reinstatement of employees appointed without observance of the prescribed procedure, holding that the appointing authority, and not the appointee, was answerable for the lapse; upon **Zulfiqar Ali**², where it was held that an appointment, if illegally made, furnished no ground for proceeding against the employee under the Efficiency and Discipline Rules and that action lay against the officer who made it; upon **Muhammad Akhtar Shirani**³, where employees found to have been appointed contrary to the service regulations were ordered to be reinstated, and the practice of functionaries implementing illegal orders was deprecated; upon **Abdul Hafeez Abbasi**⁴ on the question of reinstatement and back benefits; and, in particular, upon **Ghulab Khan**⁵, where a direction of this Court for payment of salaries to employees whose appointments were alleged to be in violation of the recruitment rules was upheld by the Supreme Court with the observation that salaries could not be

¹ *Collector of Customs and Central Excise, Peshawar v. Abdul Waheed* (2004 SCMR 303)

² *Province of Punjab v. Zulfiqar Ali* (2006 SCMR 678)

³ *Muhammad Akhtar Shirani v. Punjab Text Book Board* (2004 SCMR 1077)

⁴ *Abdul Hafeez Abbasi v. Managing Director, Pakistan International Airlines Corporation* (2002 SCMR 1034)

⁵ *Administrator, District Council, Larkana v. Ghulab Khan* (2001 SCMR 1320)

withheld upon such a ground and that action, if any, ought to be taken against those at the helm of affairs.

8. Learned Additional Advocate General, on the other hand, filed a statement dated 02.09.2026, placing reliance on five decisions. He contended, first, that the appointments claimed by the petitioners never existed in the eye of the law, as every officer from whom the documents purport to emanate had disowned them, and that a petition founded on fabricated documents merits dismissal with costs; reliance was placed on the cases reported as **2025 PLC (C.S.) 1018**, **2020 PLC (C.S.) 557** and **2021 PLC (C.S.) 1573**, in the latter two of which petitions for release of salary were dismissed after the appointments and the medical fitness certificates were found by the competent authority to be fake. He next contended that the genuineness of the documents is a disputed question of fact which this Court cannot resolve in its constitutional jurisdiction, referring to the case reported as **2025 SCMR 2062**, where the Supreme Court held that a controversy regarding the recruitment process cannot be thrashed out without evidence and remanded the matter. Thirdly, relying again on the case reported as **2021 PLC (C.S.) 1573**, he submitted that salary is a term and condition of service exclusively within the province of the Service Tribunal. Lastly, with some emphasis, he relied on the case reported as **PLD 2025 SC 11** to contend that this Court possesses no suo motu jurisdiction under Article 199 of the Constitution, cannot grant relief that has not been sought, and would exceed its constitutional limits were it to direct an inquiry which none of the petitioners has prayed for.

9. We have heard learned counsel for the parties and have perused the record with their assistance.

10. We may first dispose of the objection to maintainability based on the bar in Article 212(3) of the Constitution. The objection is untenable on the respondents' own showing. Their case is that the petitioners were never appointed, hold no sanctioned post, and are not borne on the strength of the Department. If that be so, the petitioners are not civil servants within the meaning of section 2(b) of the Sindh Civil Servants Act, 1973, and the Sindh Service Tribunal would have no jurisdiction to entertain them. The petitions are accordingly maintainable, though for a reason that affords the petitioners

little comfort. The case reported as 2021 PLC (C.S.) 1573, relied upon by the learned Additional Advocate General in this behalf, does not advance the matter further. There, the competent authority had already probed the matter and found the appointment to be fake, and the bar was applied on that footing; here, no such determination has been made by any authority after hearing the petitioners. Nor can the respondents, in the same breath, deny that the petitioners were ever appointed and insist that they seek their remedy before a forum open only to civil servants. The objection is accordingly repelled.

11. Next, a misconception that pervades the departmental correspondence placed before us must be dispelled. The refusal to release the salaries has been rested squarely upon the judgment of the Supreme Court dated 26.09.2024 in **General Post Office, Islamabad**⁶. That judgment, while declaring Rule 11-A of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, and cognate provisions to be discriminatory and *ultra vires* Articles 3, 4, 5(2), 18, 25(1) and 27 of the Constitution, clarified in terms that it “shall not affect the appointments already made of the widow/widower, wife/husband or child of deceased or retired civil servants.” It is by now settled that the said judgment operates prospectively and that appointments already effectuated and matters which have attained finality, stand protected under the doctrine of past and closed transactions; reference in this behalf may usefully be made to **The Province of Sindh**⁷. Had the appointments of the petitioners been genuine, therefore, the judgment dated 26.09.2024 would have furnished no answer whatever to their claim. To that extent the stance of the respondents is misconceived and is repelled.

12. However, that does not conclude the matter in favour of the petitioners, for the defence set up is not that their appointments are bad in law, but that there were no appointments at all. The saving contained in the judgment supra protects appointments already made. A forged instrument is not an appointment made; it is not an act of the State at all, and there is nothing upon which the saving may operate. The controversy thus stands reduced to a single question, i.e., whether the documents upon which the petitioners rely are genuine.

⁶ *General Post Office, Islamabad v. Muhammad Jalal* (PLD 2024 SC 1276)

⁷ *The Province of Sindh v. Azhar Ali* (2025 SCLR 6)

13. On that question, the record is neither silent nor evenly balanced. The briefing paper circulated by the office of the Deputy Commissioner before the meeting shows (34) thirty-four cases listed against respondent No.3. The minutes circulated under the letter dated 30.07.2024, the authenticity of which is not disputed, show (08) eight. The minutes relied upon by the petitioners contain precisely the residue of (26) twenty-six. The two sets, though purporting to be minutes of the same meeting held on the same date, at the same hour and at the same venue, differ in their opening recital, in the number of members shown to have participated, and in their entire content. Both cannot be genuine. To this must be added the disownment of their signatures by every officer from whom the documents purport to emanate, together with the reports of the Senior Superintendent of Police and of the Medical Superintendent. Prima facie, the material is weighty.

14. It is, however, one thing to say that the material is weighty and quite another to record a finding of forgery. The genuineness of a signature is a question of fact which ordinarily requires the production of the originals, comparison by an expert and the testing of the deponents by cross-examination. It is trite that this Court, in exercise of its jurisdiction under Article 199 of the Constitution, does not enter the realm of disputed and contentious questions of fact incapable of resolution without the recording of evidence; see⁸. The petitioners themselves recognise as much, for their rejoinder prays that the disputed documents be referred to a handwriting expert. We are therefore not persuaded to embark upon that exercise and we expressly refrain from recording any finding upon the authenticity of the documents. The case reported as 2025 SCMR 2062, cited by the learned Additional Advocate General, is to the same effect and we respectfully follow it: where a controversy regarding an appointment or recruitment process turns upon facts which cannot be thrashed out without evidence, the High Court cannot record evidence or involve itself deeply in that controversy and the Supreme Court considered the appropriate course to be that the matter be determined in accordance with law rather than decided either way upon affidavits. That, in substance, is the course we propose to adopt.

⁸ *Special Secretary-II (Law & Order), Home & Tribal Affairs Department, Government of Khyber Pakhtunkhwa v. Fayyaz Dawar* (2023 SCMR 1442) and *Sprint Oil & Gas Services Pakistan FZC v. Oil & Gas Development Company Limited* (2024 SCMR 117)

15. Nor can the fact-finding inquiry already held by the Additional Secretary (Services-I), SGA&CD be treated as concluding the matter against the petitioners. We entertain no doubt as to that Department's competence to hold it, given that the forged signature was that of its own officer, and that Rule 26 of the Sindh Government Rules of Business, 1986, charges it with the principles of recruitment and with the discipline and control of Government servants. The infirmity lies elsewhere. Not one of the petitioners was noticed, summoned, or heard, and their names are not mentioned in the report. The inquiry proceeded on the basis of photocopies and images transmitted via WhatsApp; no original was examined and no expert consulted. Its terms of reference were confined to the minutes and did not extend to the offer letters and appointment orders upon which these petitions rest. The reports of the Senior Superintendent of Police and of the Medical Superintendent, being of a later date, were never before the Inquiry Officer. A fact-finding inquiry is an internal and preliminary step taken to ascertain whether a case for further action exists; it is no substitute for a proceeding in which the person affected is confronted with the material and heard. In **Muhammad Yaseen**⁹, where appointments were alleged to have been fraudulently obtained, the Supreme Court held that the affected persons ought to have been afforded an opportunity of hearing, that being a fundamental right guaranteed by Article 10-A of the Constitution. The principle applies here with full force.

16. Two consequences follow from pulling in opposite directions. The first is that no writ can issue for the release of salary or for continuation in service upon the strength of instruments whose authenticity is denied by every authority from which they purport to emanate and in respect of posts which, upon the record, were never sanctioned, the deferral of the (26) twenty-six cases being itself attributed to the want of a vacancy position. Should the documents ultimately be found forged, they would be *void ab initio* and would confer no vested right, nor could the doctrine of *locus poenitentiae* or that of past and closed transactions be pressed into service to perpetuate them¹⁰. Fraud vitiates the most solemn proceedings¹¹. The second is that nothing upon this record connects any of the petitioners personally with the fabrication.

⁹ *Muhammad Yaseen v. Province of Sindh* (2023 SCMR 1703)

¹⁰ *Ali Azhar Khan Baloch v. Province of Sindh* (2015 SCMR 456) and *Mohsin Raza Gondal v. Sardar Mahmood* (2025 SCMR 104)

¹¹ *Lahore Development Authority v. Firdous Steel Mills (Pvt.) Limited* (2010 SCMR 1097)

The finger of the Inquiry Officer points at officials of the office of the Deputy Commissioner, and the circular issued by respondent No.3 on 20.08.2025 itself speaks of groups and individuals engaged in misleading job seekers and in manipulating appointment-related documents. Of the (26) twenty-six persons named in the disputed minutes, only five are before us. In such circumstances it would work serious injustice to brand these petitioners as forgers upon affidavits, in a proceeding to which they were never made parties.

17. The authorities cited by learned counsel for the petitioners do not advance their case at this stage, as each of them proceeds upon a premise which is here in dispute. In **Collector of Customs, Zulfiqar Ali and Muhammad Akhtar Shirani**, the appointments had in fact been made by the competent authority, however irregularly, and the question was whether the appointee should bear the consequences of a lapse committed by the appointing authority; the Supreme Court answered that he should not. In **Ghulab Khan**, the employees had admittedly been engaged and had worked, and the only ground urged for withholding their salaries was that the recruitment rules had been violated, while **Abdul Hafeez Abbasi** concerned the back benefits of employees whose reinstatement had already been ordered. The principle which runs through these decisions, that an appointee is not to be penalized for the fault of the appointing authority, is well settled and we do not doubt it. Should the documents be found genuine, it would apply to the petitioners with full force, for then any irregularity in the process would be one for which the functionaries, not the petitioners, must answer, and the salary for the period actually worked could not lawfully be withheld. But the principle presupposes an appointment made by someone in authority. It has no application where the very existence of the act of appointment is denied and the instruments evidencing it are said to be forged, for a forgery is not the lapse of an appointing authority; it is the absence of one. Whether that is the position here is the question which remains to be determined, and until it is, the authorities relied upon are of no assistance to the petitioners.

18. The submission founded on the case reported as **PLD 2025 SC 11** requires closer attention, for it goes to this Court's power to make the order

we propose. The principle laid down there, that a High Court possesses no suo motu jurisdiction under Article 199, that its jurisdiction is set in motion only upon the application of an aggrieved party, and that it cannot travel beyond what is sought in the petition, now finds expression in clause (1A) of Article 199 itself, and we are bound by it. We are, however, unable to agree that the course we intend to adopt offends it. These proceedings were not initiated by the Court; they were instituted by the petitioners as persons aggrieved under clause (1) of Article 199. Their prayer is for release of salary, for continuation in service, and for protection against adverse action in respect of their employment. The respondents resist that prayer upon the strength of a fact-finding inquiry and verification reports, and have themselves placed on record a recommendation that action be taken in respect of the disputed minutes, while the petitioners, in their rejoinder, have prayed that the disputed documents be forensically examined. The question whether the petitioners may be denied salary and removed from the muster roll upon an allegation of forgery which has never been put to them is therefore squarely within the contents of the applications before us. A direction that the allegation be determined by the competent authority upon notice and hearing, before any adverse consequence is visited upon the petitioners, is not a relief foreign to these petitions; it is a lesser relief comprehended within the greater one which they seek and which we decline for the present. Sub-clause (i) of clause (1)(a) of Article 199 empowers this Court, on the application of an aggrieved person, to direct a person performing functions in connection with the affairs of the Province to do that which he is required by law to do, and Article 10-A requires that a person be heard before a finding of this gravity is recorded against him. In directing that the respondents determine the very question upon which their own defence rests, in the manner which the law requires, we grant no relief which was not sought, assume no jurisdiction which we do not possess, and decide nothing which falls to be decided upon evidence. The decision relied upon is, with respect, a warning against the Court substituting its own inquiry for that of the executive; it is not authority for the proposition that a Court, having found that an allegation cannot be resolved on affidavits, must either grant or refuse relief upon that unresolved allegation.

19. Nor do the remaining authorities cited by the learned Additional Advocate General compel a different result. In the cases reported as 2020 PLC (C.S.) 557 and 2021 PLC (C.S.) 1573, the appointments and fitness certificates were found to be fake by the competent authority after a probe into the matter, and the petitions for salary were dismissed on the footing of that finding; in the case reported as 2025 PLC (C.S.) 1018, the fictitious character of the documents was established before the Court, and the petition was dismissed as tainted by suppression. These decisions affirm two propositions which we have accepted, namely, that no writ for salary can issue upon documents found to be fabricated and that this Court will not itself investigate such a charge under Article 199. They do not hold that a Court may treat as established, in a summary proceeding, an allegation of forgery which no competent authority has determined after hearing the persons affected. Should the Committee record such a finding against the petitioners after due process, those decisions will apply to them in their full rigour.

20. What the case calls for, therefore, is neither the grant of the relief prayed for nor a bare dismissal, but an inquiry that does what the earlier one did not and that does so upon notice to all concerned. That course is the more necessary because the allegations, if made out, disclose the fabrication of the public record of a Deputy Commissioner, a Section Officer of the Services, General Administration & Coordination Department, a District Education Officer, a Senior Superintendent of Police, and a Medical Superintendent, a matter that goes far beyond the individual grievances before us.

21. Accordingly, in view of the disputed factual matrix and the seriousness of the allegations raised by both parties, these petitions are **disposed of** as follows:

- (i) The Chief Secretary, Government of Sindh, shall constitute an inquiry committee, headed by an officer not below BPS-20 of the Services, General Administration & Coordination Department, with a nominee each from the Deputy Commissioner, Khairpur, and the School Education & Literacy Department as members.
- (ii) The Committee shall determine the authenticity of the minutes of the District Selection Committee dated 07.06.2024, circulated

under letters No. DC/EB/3618/2024 dated 30.07.2024 and No. DC/EB/3662/2024 dated 31.07.2024; of the offer letters dated 08.08.2024; of the appointment orders dated 15.08.2024; and of the medical fitness and character antecedent certificates. For that purpose, it shall require the production of the original documents, together with the admitted signatures of the officers concerned, and shall refer them to the Government handwriting expert or questioned documents examiner, in addition to examining the dispatch and outward registers, the attendance sheet of the meeting, and the connected files.

- (iii) The Committee shall issue notice to each of the petitioners and to every other person named in the disputed minutes, supply them with copies of the inquiry report of the Additional Secretary (Services-I), SGA&CD, and of the verification reports referred to above, afford them a personal hearing and an opportunity to produce their originals, and record a speaking finding in respect of each.
- (iv) Having recommended action against those responsible, the respondents' own fact-finding inquiry shall further determine the persons responsible for the fabrication, whether officials or private persons, and shall ascertain how the petitioners came to be permitted to join and to remain on the muster roll of Government schools from August 2024 onwards without detection.
- (v) The inquiry shall be concluded within sixty days of receipt of a copy of this order and the report, and the entire material shall thereafter be placed before the competent authority for such action, departmental as well as criminal, as may be warranted, strictly in accordance with law.
- (vi) Should the Committee find the documents genuine, the competent authority shall, within thirty days of receipt of the report, pass a speaking order confirming the petitioners' entitlement to salary from the date of joining and to continuation

in service, in light of the principles set out in paragraph 17 above.

- (vii) Until the conclusion of the inquiry and the passing of a speaking order, no coercive action shall be taken against the petitioners beyond the process herein directed. Equally, for the reasons recorded above, no direction is issued for the release of salary or for continuation in service in the interregnum.

22. It is clarified that we have expressed no opinion on the genuineness of the documents in question and that nothing in this order shall be construed as reflecting on the personal conduct of any of the petitioners. The Committee shall reach its own conclusions, uninfluenced by any observations made herein, which are tentative and confined to the disposal of these petitions. The observations made in paragraphs 13 and 16 above regarding the weight of the material are likewise tentative and are recorded only to explain why interim relief has been withheld.

23. The office shall communicate a copy of this order to the Chief Secretary, Government of Sindh; the Secretary, School Education & Literacy Department, Government of Sindh; the Deputy Commissioner, Khairpur; and the District Education Officer (Elementary, Secondary & Higher Secondary), Khairpur, for compliance.

Petitions stand **disposed of** in the above terms. Office to place a signed copy of this order in the captioned connected matters.

J U D G E

J U D G E

Abdul Basit