

IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No.D-3143 of 2023

[Akhter Rasool and others versus Federation of Pakistan and another]

Constitutional Petition No.D-3144 of 2023

[Jehanzaib Tariq versus Federation of Pakistan and another]

Before:

Justice Muhammad Karim Khan Agha
Justice Adnan-ul-Karim Memon

M/s. Muhammad Iqbal Choudhry and Muhammad Akram Tariq, advocates for the petitioners in both petitions.

M/s. Kashif Hanif and Sarmad Ali, advocates for the respondent No.2.

Ms. Wajiha Mehdi, Assistant Attorney General.

Dates of hearing & Order: 15.10.2025

ORDER

Muhammad Karim Khan Agha, J. Through these petitions the petitioners seek the following relief(s):-

In view of above facts this Honorable court may be pleased to allow the instant petition and issue directions to the Managing Director/CEO House Building Finance Company to implement the order of Supreme Court and reinstate the petitioners with all back benefits and set aside the cancellation/withdrawal letters dated 27.09.2017 issued to petitioners by Assistant Vice President,(HRD) HBFC Ltd which has been declared unlawful and of no legal effect by the Supreme Court of Pakistan.

2. According to the facts narrated in the memo of petition are that in 2017, the Human Resources Committee of HBFC's Board of Directors approved the regularization of 21 employees, including the petitioners, and Offer Letters were issued on 18.08.2017. The petitioners, previously working as third-party contract employees, submitted their joining reports and assumed their duties. Petitioner No. 1 received a formal appointment letter with an employee number. However, on 27.09.2017, the Assistant Vice President (HRD) unlawfully withdrew/cancelled these Offer Letters without authority or due process. At that time, the post of Managing Director was vacant, and the approving HR Committee members had completed their tenure. The petitioners sought reinstatement, but the management refused to act and contested ongoing court cases. In one case, the Supreme Court of Pakistan, on 31.03.2023, set aside the cancellation letter for Mr. Sajid Mumtaz, reinstating him with full back benefits and declaring the withdrawal letter legally void. Following this, the petitioners requested HBFC to implement the Supreme Court's order in all 21 cases, but the management has ignored their applications.

3. Learned counsel for the petitioners contended that the Supreme Court's judgment of 31.03.2023, which set aside the cancellation of appointments dated

27.09.2017, applies equally to all 21 employees. He referred to judgments reported as **2022 SCMR 448** and **2023 SCMR 8**, which hold that a legal ruling on terms of service of a civil servant benefits similarly situated employees, even if they did not approach the court. The counsel submitted that HBFC management should have applied the Supreme Court's order to all 21 employees, but it has only reinstated Sajid Mumtaz, forcing the others to litigate, contrary to the principles laid down in the above judgments. They prayed for allowing the petitions.

4. Learned counsel for Respondent No.2 contended that the HRC of the Board, in its meeting on 01.08.2017, recommended regularization of certain contract employees, but the Board, as the competent authority, must approve such matters. The AVP-HR, acting as MD, issued Offer Letters to third-party contract employees without Board approval, contrary to HBFC policy. Accordingly, the Offer Letters were withdrawn on the advice of the Board and Ministry of Finance by invoking Clause 3. He further stated that the petitioners' petition before the NIRC was dismissed. He argued that the Supreme Court's order dated 31.03.2023 in Sajid Mumtaz v. HBFCL is a judgment in personam, addressing only the rights of the named parties, and does not create rights for others. Therefore, the petitioners cannot claim its benefit as third parties. In support of his contentions he relied upon the cases of Ms. Salma Moosajee and another v. Federation of Pakistan and others (2014 SCMR 135), Mst. Khadija Bibi and others v. Judge Banking Court and others (2025 CLD 1226), Muhammad Ishaq v. Muhammad Shafiq and 09 others (2007 SCMR 1773), Saleha Hassan v. Federal Public service Commission through Chairman and others (2016 SCMR 1136), Muhammad Afzal v. Secretary Establishment Division (2021 SCMR 1569), Hussain Badshah and another v. Akhter Zaman and others (2006 SCMR 1163), Rao Abdul Rahim v. Muhammad Afzal (2023 SCMR 815), Pakistan Medical and Dental Council v. Muhammad Fahad Malik (2018 SCMR 1956), Muhammad Moizuddin and another v. Mansoor Khalil and another (2017 CLD 1459) and unreported order dated **27.03.2025** passed by this Court in **C.P No.D-858 of 2025**. He lastly prayed for dismissal of these petitions.

5. Learned AAG adopted the arguments of learned counsel representing the respondents.

6. We have heard learned counsel for the parties and considered the record and case law cited at the bar.

7. In 2017, HBFC's HR Committee approved regularization of 21 employees, including the petitioners, and Offer Letters were issued on 18.08.2017. The petitioners joined their duties, with Petitioner No.1 receiving a

formal appointment. On 27.09.2017, the AVP (HRD) withdrew these Offer Letters. Meanwhile, their colleagues approached the NIRC, Islamabad High Court, and Supreme Court, and succeeded in having the cancellation letters set aside. The petitioners seek enforcement of the Supreme Court's order dated 31.03.2023, which reinstated Mr. Sajid Mumtaz and declared the withdrawal of Offer Letters dated 27.09.2017 as unlawful. The counsel for the respondents emphasized that the Supreme Court's decision in the Sajid Mumtaz case is a judgment in personam, meaning it specifically addressed the rights and obligations between the parties involved. He argued that the judgment in personam does not automatically bind third parties who were not part of the litigation, while the judgment is not binding on non-parties. Nevertheless, its principles may still be persuasive. At the same time, in Federation of Pakistan v. M/s. Taisei Corporation (2024 SCMR 640), the Supreme Court emphasized the pro-enforcement bias in recognizing and enforcing foreign arbitral awards, underscoring the judiciary's commitment to uphold legal decisions

8. The central issue is whether this judgment, rendered in the Sajid Mumtaz case, extends to similarly situated employees who were not parties to the original case.

9. In the Sajid Mumtaz case, the Supreme Court considered the appeal against the Islamabad High Court's judgment of 09.09.2020, which had affirmed the orders of the NIRC. The Supreme Court observed that once the petitioner had taken charge and acted upon the appointment letter, the Respondents had no authority to withdraw it, as a vested right had been created. The Supreme Court rejected the contention that "withdrawal" meant termination. Consequently, the Supreme Court allowed the appeal, set aside the lower forum judgments, declared the withdrawal letter dated 27.09.2017 without lawful authority and of no legal effect, and directed reinstatement of the petitioner with all back benefits.

10. The respondents counsel contended that the Supreme Court's judgment in Sajid Mumtaz is in personam and binding only on the parties, that the withdrawal of appointment letters was lawful, and that the AVP (HRD) had authority to act. However, it is settled that a judgment in personam can bind third parties if it concerns public interest or similarly situated individuals. Once an appointment letter is issued and duties assumed, a vested right is created, which cannot be revoked without due process. An acting official does not possess the authority of a permanent incumbent to contravene established policies. Appointment letters, once issued, create legal rights that cannot be ignored or withdrawn silently. The Supreme Court in Sajid Mumtaz case has already declared such withdrawals unlawful, and the present petitioners, being similarly situated, are entitled to reinstatement with all back benefits. In such circumstances the case law relied

upon by the respondents cannot be helpful to him in terms of decision made in Sajid Mumtaz case.

11. In view of this binding legal position, the present petitioners are entitled to the same relief, as the principle laid down by the Supreme Court applies equally to all employees whose appointments were cancelled in a similar manner, irrespective of the fact that they have approached this Court subsequently. In such circumstances, denial of such relief would be contrary to the dictates of justice, equity, and good governance.

12. These petitions are allowed with consequential relief in terms of decision made in Sajid Mumtaz case.

HEAD OF CONST. BENCHES

JUDGE

Shahzad Soomro