

Order Sheet

HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

CP No. D- 100 of 2018
[Asghar Ali v. Province of Sindh & others]

Before :

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Riazat Ali Sahar

Petitioner present in person
Mr. Arbab Ali, Law Officer University
Mr. Rafiq Ahmed Dahri, Asstt: A.G.

Date of Hearing
& Decision: 15.12.2025

O R D E R

ADNAN-UL-KARIM MEMON, J.- Through the captioned Constitutional Petition, the Petitioner has prayed as under:-

- i. Direct the respondents No. 2 to 5 to pass/approve the medical bills as provided to all employees of Quaid-e-Awam University and pass his medical bills regarding the treatment of his wife and baby.
- ii. Direct the respondent No.1 to constitute an enquiry committee in respect of the death of the child of the Petitioner due to the irresponsibility of respondents No.2 to 4, for not passing the medical bills previously.
- iii. Direct the respondents No. 2 to 5 not to create a hindrance in the future from passing medical bills as provided under the statute of the university
- iv. Cost of the Petition may be saddled upon the respondents.

2. The case of the petitioner is that he was appointed as Lecturer (BPS-18) in the Department of Mathematics and Statistics at Quaid-e-Awam University of Engineering, Science and Technology, Nawabshah, in the year 2009. Subsequently, the petitioner's wife fell seriously ill and received treatment at various hospitals, including undergoing surgery at South City Hospital, Karachi, where she also gave birth to a child; that in accordance with the University policy, he applied for reimbursement of medical expenses; however, respondent Nos. 2 to 5 deliberately avoided processing and passing his medical bills. Consequently, he filed Constitutional Petition No. D-1599 of 2014, which was disposed of with direction to the respondents to reimburse the petitioner's medical claim within thirty (30) days. Despite clear directions of this Court, the respondents failed to comply, compelling the petitioner to initiate contempt proceedings. Thereafter, the petitioner's wife again

fell ill and was admitted to National Medical Centre, Khairpur, where she gave birth to another child. The newborn child was also critically ill and, due to lack of adequate medical facilities, was shifted to Hira Medical Centre, Sukkur, where, unfortunately, the infant could not survive. The petitioner once again applied for reimbursement of maternity and treatment expenses; however, the respondents unlawfully failed to reimburse the said medical bills; that the respondents have been granting medical reimbursement to other employees of the University, while unjustly denying the same to the petitioner. Such discriminatory conduct on the part of respondents is violative of Articles 25 and 27 of the Constitution of the Islamic Republic of Pakistan. Petitioner prayed to allow this petition.

3. Upon issuance of notice, respondent Nos. 2 to 5 filed their comments, counsel representing them contended that the petitioner has approached this Court without first exhausting the statutory remedy available under the QUEST Act, 1996; therefore, the instant petition is not maintainable. It is stated that the petitioner submitted a request dated 07.05.2018 seeking a medical advance of Rs. 300,000/- for the treatment of his wife either at South City Hospital, Karachi, or Aga Khan University Hospital, Karachi. The said request was placed before the 70th Meeting of the Medical Committee held on 12.06.2018, which declined the request insofar as treatment at South City Hospital was concerned, because the said hospital was not included in the approved list of QUEST. However, the second option, namely Aga Khan University Hospital, was considered subject to submission of the estimated cost of surgery. He submitted that the petitioner opted for the second option and submitted expected cost amounting to Rs. 228,980/. Consequently, the Secretary Medical Committee processed his request in accordance with the applicable policy, and the competent authority approved a medical advance of Rs. 60,000/. Thereafter, the petitioner submitted medical reimbursement claims relating to his wife and infant, namely: (i) first claim of spouse admitted at South City Hospital amounting to Rs.45,497/-; (ii) second claim of spouse admitted at South City Hospital, Karachi, amounting to Rs.208,630/-; (iii) third claim of infant admitted at South City Hospital, Karachi, amounting to Rs.915,000/-; and (iv) subsequent bills from Hira Medical Centre, Sukkur, amounting to Rs.43,000/-, aggregating to a total amount of Rs.958,000/. It is further submitted that the Medical Committee recommended reimbursement of medical claim of the infant to the extent of Rs.103,750/- instead of Rs.958,000/-, in accordance with the formula prescribed under the Statutes and the decision of Syndicate, subject to submission of discharge card from Hira Medical Centre and a fresh affidavit regarding dependency of family members. The petitioner, however, failed to provide the requisite documents. The decision of the Medical Committee was duly communicated to the petitioner for compliance, along with seeking justification for violating his earlier undertaking to avail treatment at Aga Khan University Hospital instead of South City Hospital. The petitioner

submitted his reply dated 07.12.2018, which, along with his medical claims, was placed before the Medical Committee in its 73rd Meeting held on 27.02.2019. Upon further deliberation, the Committee resolved that the petitioner's case be referred to the Syndicate for final decision. Accordingly, the Syndicate constituted a committee to examine the matter. It is submitted that, in compliance with the order passed in CP No. D-1599 of 2014, the petitioner's case was also placed before the said committee, which, after due deliberation, recommended payment of half of the admissible amount to the petitioner. The said recommendation was approved by the Vice Chancellor and, a statement dated 16.09.2015, was submitted before this Court in compliance with its order dated 12.08.2015. A cheque amounting to Rs. 63,715/- was subsequently delivered to the petitioner. He further submitted that the petitioner had submitted three medical claims amounting to Rs. 113,483/-, which were placed before the Medical Committee in its 68th Meeting held on 01.03.2018. The Committee deferred the said claims pending clarification regarding dependency status of the petitioner's spouse and submission of a certificate from the concerned department regarding non-availability of medical facilities. Lastly, it is contended that the petitioner failed to comply with the directions of Medical Committee and did not fulfill the prescribed requirements. Instead, he directly approached this Court without exhausting the available remedies. Accordingly, counsel for the respondents has prayed for dismissal of the instant petition.

4. From the pleadings and arguments, the following key questions arise:

- i. Whether the constitutional petition is maintainable in view of the alleged availability of an alternative statutory remedy under the QUEST Act, 1996?
- ii. Whether the respondents acted unlawfully or discriminatorily in denying or limiting medical reimbursement to the petitioner?
- iii. Whether non-compliance with university medical policy and committee requirements disentitles the petitioner from relief?
- iv. What relief, if any, can be granted in the interest of justice, considering humanitarian circumstances and past litigation history?

5. The petitioner is a regular employee (BPS-18 Lecturer) at a public-sector university. Medical reimbursement is not charity but a service benefit governed by statutory rules and policies. Once a policy exists and is applied uniformly, an employee gains a legitimate expectation of equal treatment. The petitioner has shown that he previously approached this Court in CP No. D-1599 of 2014; and this Court issued clear directives for reimbursement, which were not promptly followed; he was compelled to initiate contempt proceedings. Subsequent medical emergencies involved maternity complications and neonatal treatment, culminating in the tragic death of his child. Such circumstances invoke not only legal rights but also

humanitarian considerations, especially in service jurisprudence. The petitioner also claims that other QUEST employees received reimbursement; his claims were repeatedly deferred, partially approved or rejected. Article 25 of the Constitution guarantees equality before the law, while Article 27 prohibits discriminatory treatment in public service. It is well established that if a benefit is extended to one group of employees governed by the same rules, denying it to another similarly situated employee constitutes discrimination. The respondents did not specifically deny granting reimbursement to other employees but relied on technical and procedural objections, which, in the absence of proper justification, breach constitutional guarantees.

6. The availability of an alternate remedy does not preclude constitutional jurisdiction where the action complained of is mala fide, arbitrary, discriminatory or violative of fundamental rights. In the present case, the petitioner had previously litigated on the same issue and this Court had issued specific directions which were only partially complied with. Despite these delays, repeated deferments, and partial reimbursements continued over several years. In these circumstances, the objection regarding the alternate remedy is without merit.

7. Medical emergencies do not always allow for strict adherence to hospital selection, particularly in cases involving maternity and neonatal care. Notably, the Medical Committee itself recommended partial reimbursement, thereby acknowledging the admissibility of the claims. The matter was repeatedly referred to higher forums, including the Medical Committee, Syndicate, and a special committee, which reflects lack of clarity and consistency in the decision-making process. It is well settled that procedural requirements should not be applied so rigidly as to defeat substantive rights, particularly in matters concerning welfare and service benefits.

8. The record demonstrates a prolonged delay in the processing of claims, multiple deferments based on technical grounds, partial compliance with prior court orders, and the absence of a final, reasoned decision despite years of correspondence. Such conduct clearly constitutes arbitrariness, which is impermissible in public administration. It is well established that state functionaries are required to act fairly, transparently, and reasonably, and any failure to do so invites constitutional scrutiny.

9. While it is true that the petitioner availed treatment at non-panel hospitals and failed to submit certain documents within the prescribed time, the respondents neglected to provide timely relief, failed to apply the policy uniformly, and did not conclusively decide the matter despite repeated opportunities. In service jurisprudence, equity supplements the law, particularly where denial of benefits affects an employee's health, dignity, and family life. Accordingly, the petition is

maintainable notwithstanding the availability of an alternate remedy, in view of the petitioner's prior litigation history, partial non-compliance by the respondents with earlier court orders, and the alleged infringement of fundamental rights. The respondents' repeated deferral and partial denial of reimbursement amounts to arbitrary and discriminatory action, in violation of Articles 25 and 27 of the Constitution. While the petitioner's procedural shortcomings cannot be ignored, they do not completely disentitle him to relief, especially in circumstances involving medical emergency and maternity care.

10. In view of the above facts and circumstances of the case and in the interest of justice, we deem it appropriate to direct the competent authority of respondents to reassess the petitioner's medical claims afresh through the Medical Committee/Syndicate, without resorting to hyper-technical objections, and by duly considering the emergency nature of the treatment and attendant humanitarian circumstances. The respondents are further directed to reimburse the admissible amount strictly in accordance with the applicable policy within a stipulated period of thirty (30) to forty-five (45) days from the date of receipt of this order. The respondents shall also ensure that the petitioner is treated at par with other similarly placed employees, so that no element of discrimination remains. It is made clear that any further delay or non-compliance with the directions of this Court shall expose the respondents to contempt proceedings in accordance with the law.

11. Before parting with this order, we may observe that this matter is not merely confined to financial reimbursement; rather, it involves fair treatment, dignity of service, and humane governance. Public institutions must remain mindful that policies are framed to facilitate and serve individuals, not to frustrate or defeat their legitimate rights.

12. This petition stands disposed of in the above terms.

JUDGE

JUDGE

Karar_Hussain//PS*