

**HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

C.P. No. D-2210 of 2022

[Muhammad Hanif vs. Federation of Pakistan and Others]

BEFORE:

**JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE RIAZAT ALI SAHAR**

Petitioner:	Through Mr. Muhammad Arshad Pathan, Advocate
Respondent No.1	Mr. Shamsuddin Rajpar, D.A.G
Respondents:	By Mr. Ayaz Hussain Chandio advocate
Date of hearing & Decision:	22.12.2025

ORDER

ADNAN-UL-KARIM MEMON, J . - Through captioned petition, the petitioner seeks following relief(s):-

- a) Declare that the letter dated 10.07.2019 issued by the Manager (HR/Admn), JPCL GENCO-I Jamshoro, is illegal, unlawful, void ab initio, and of no legal effect, along with all subsequent letters and orders based thereon, including office order dated 20.12.2019.
- b) Declare that the orders passed in Grievance Applications No.66 of 2019 and 61 of 2021 by Labour Court No.6 Hyderabad, and the judgment dated 18.05.2022 passed in Labour Appeals No.275 and 276 of 2021 by the Sindh Labour Appellate Tribunal, are illegal, without lawful authority, beyond the scope of the grievances, and liable to be set aside.
- c) Declare that the unlawful change of the petitioner's seniority from the Matriculation quota to the Diploma Holders quota was made with mala fide intent to deprive him of promotion from BPS-16 to BPS-17 and to illegally promote private respondents, and direct rectification of the seniority list along with setting aside such promotions.
- d) Declare that all letters and orders depriving the petitioner of his promotion and pensionary benefits, including letter No. CIA/JPCL/GENCO-I/NAPC-58/2659 dated 10.11.2021, are illegal, void ab initio, and liable to be quashed.
- e) Direct the respondents to grant promotion to the petitioner in accordance with his seniority from the due date, pay all consequential arrears up to the date of retirement, release all retirement benefits including E.P. Fund, and recover excess salaries paid to respondents No. 8 and 9 as a result of illegal promotions.
- f) Suspend the operation of the impugned orders passed in Grievance Applications No.66 of 2019 and 61 of 2021 dated 10.11.2021, the consolidated judgment dated 18.05.2022 passed by the Sindh Labour

Appellate Tribunal, the letter dated 10.07.2019, and all subsequent actions taken thereunder, and restrain the respondents from taking any further illegal or unlawful action against the petitioner.

g) Grant any other relief deemed just and proper in the circumstances of the case.

h) Award costs of the petition.

2. The case of the petitioner is that he was appointed as a work-charged Helper in WAPDA in 1976 under 18 years of age and was regularized on 20.10.1977 on the basis of his duly verified Matriculation Certificate reflecting his correct date of birth as 10.03.1961. Following the bifurcation of WAPDA in 2001, his services were transferred to Jamshoro Power Company (GENCO-I), where he served diligently until retirement on 09.03.2021. Prior to retirement, the petitioner applied only for exclusion of service rendered before attaining the age of 18 years for pensionary calculation purposes, as permitted under WAPDA Pension Rules and clarified vide letter dated 30.06.2000. However, the respondents malafidely misconstrued this request as one for correction of date of birth and illegally applied the Pakistan WAPDA Employees (Date of Birth) Rules, 1994, despite the petitioner never seeking any such correction. A false and fabricated medical certificate was relied upon to wrongly alter his service record, resulting in denial of promotion from BPS-16 to BPS-17, manipulation of seniority lists, and withholding of pensionary benefits, all to facilitate illegal promotion of private respondents. The petitioner challenged these actions before the Labour Court and Labour Appellate Tribunal, but both forums failed to appreciate the real controversy, travelled beyond the scope of grievance, and dismissed his applications through illegal and perverse orders. As a consequence, the petitioner was deprived of promotion, pension, commutation, E.P. Fund, and other lawful benefits, and was further subjected to unlawful recovery proceedings. The petitioner now seeks declaration that the impugned letter dated 10.07.2019 and all subsequent actions are illegal and void, setting aside the decisions of Labour Court and Appellate Tribunal, restoration of correct seniority, grant of due promotion with arrears, release of all retirement benefits, and appropriate relief against the respondents' unlawful and discriminatory acts.

3. Learned counsel for the petitioner submits that the impugned orders passed in Grievance Applications No.66/2019 and 61/2021 by Labour Court No.6 Hyderabad, as well as the judgment dated 18.05.2022 passed by the Sindh Labour Appellate Tribunal, are illegal, perverse, and against the settled principles of justice, equity, and good conscience. Both forums below failed to appreciate the real controversy and completely misunderstood the petitioner's grievance. It is contended that the petitioner never sought correction of his date of birth, which

throughout his service remained 10.03.1961 as per his duly verified Matriculation Certificate. The sole grievance of the petitioner was exclusion of “boy service,” i.e., service rendered before attaining the age of 18 years, which was wrongly diverted by the respondents into an issue of change of date of birth. The respondents, through letter dated 10.07.2019, illegally applied Pakistan WAPDA Employees (Date of Birth) Rules, 1994, on the basis of a false and fabricated fitness certificate, and arbitrarily foisted an incorrect date of birth upon the petitioner. Learned counsel further submits that this illegal act was deliberately done to deprive the petitioner of his rightful promotion from BPS-16 to BPS-17 by manipulating seniority lists first shifting him from Matriculation quota to Diploma quota so as to accommodate private respondents through collusive and *mala fide* actions of the management. Despite documentary evidence, including seniority lists, service record, and promotion eligibility, both forums below failed to consider these aspects and merely endorsed the respondents’ illegal actions. It is also argued that although the petitioner was lawfully retired on attaining the age of superannuation on 09.03.2021, the respondents illegally withdrew retirement benefits, withheld pensionary dues, prepared an unlawful audit para, and initiated recovery proceedings without any lawful authority, all based on the impugned letter dated 10.07.2019. Learned counsel submits that the courts below travelled beyond the scope of grievance applications, ignored material evidence, and passed orders without application of mind, thereby causing grave miscarriage of justice. On these grounds, learned counsel prays for declaration that the impugned letter dated 10.07.2019 and all subsequent actions are illegal and void; that the decisions of Labour Court and Labour Appellate Tribunal be set aside; that the petitioner’s seniority and promotion be restored with all consequential benefits including arrears and retirement dues; and that any illegal recovery proceedings be quashed.

4. The respondents’ counsel contended that the petition is not maintainable, as Jamshoro Power Company has no statutory rules, and, therefore, a writ cannot lie against it, relying on various judgments of Apex Court and this Court reported as 2002 SCMR 992, 2014 PLC (C.S) 729. He lastly submitted that the dispute over date of birth of Petitioner cannot be decided at the belated stage in terms of Decision made by the respondent WAPDA as the Petitioner has approached this court on 21.6.2022; therefore, the case of petitioner falls within the ambit of laches. He also supported the Decision of learned Sindh Labour Court and Sindh Labour Appellate Tribunal and prayed for dismissal of this Petition.

5. Learned DAG adopted the arguments advanced by the counsel for respondents.

6. We have heard learned counsel for the parties at length and have carefully perused the record.

7. The controversy essentially revolves around whether the petitioner ever sought correction of his date of birth and whether the respondents were justified in diverting his request for exclusion of pre-majority service into a change of date of birth, resulting in adverse civil consequences.

8. From the record, it is manifest that the petitioner's date of birth has throughout remained 10.03.1961, duly supported by his Matriculation Certificate, now verified by the BISE Hyderabad by the order of this Court, which is a recognized and primary document for determination of age. It is not disputed that the petitioner never applied for correction or alteration of his date of birth at any stage of his service. Rather, his application was confined to exclusion of service rendered before attaining the age of 18 years for pensionary calculation purposes, which is permissible under the relevant WAPDA Pension Rules and clarified vide letter dated 30.06.2000.

9. The respondents, however, misconstrued the petitioner's request and illegally invoked the Pakistan WAPDA Employees (Date of Birth) Rules, 1994, on the basis of an alleged medical/fitness certificate, which neither emanated from competent authority nor was ever submitted by the petitioner. Such action, prima facie, appears arbitrary, unlawful, and lacking legal foundation. The respondents were not legally justified in altering or foisting a different date of birth upon the petitioner, particularly when no dispute existed regarding his age and when he was ultimately allowed to retire on the basis of his original date of birth.

10. So far as the impugned actions as portrayed were followed by manipulation of seniority lists, shifting the petitioner from Matriculation quota to Diploma quota, thereby depriving him of promotion from BPS-16 to BPS-17, while facilitating promotions of private respondents. On the subject points if the petitioner cause still subsists after his retirement he may approach the competent forum for redressal of his grievances in accordance with law as this court is only confining with regard to the superannuation age which prima facie starts with effect from the date of his regular service when he reached the age of 18 years and culminate to its logical conclusion when he reached the age of 60 years.

11. The Labour Court as well as Labour Appellate Tribunal failed to address the real controversy and travelled beyond the scope of grievance applications by treating the matter as one involving correction of date of birth, which was never the petitioner's case. Both forums ignored material documentary evidence and

passed orders without proper application of mind, rendering their findings unsustainable in law which decisions are hereby set-aside.

12. As regards the objection raised by the respondents regarding maintainability of the petition, it is well settled that where actions of a statutory or public functionary are alleged to be arbitrary, discriminatory, or in violation of fundamental rights, constitutional jurisdiction in terms of writ of certiorari can be invoked notwithstanding the absence of statutory service rules as he has impugned such orders of Labor and Labour Appellate Courts. Moreover, the petitioner has already exhausted the available departmental and labour remedies, and the impugned actions have resulted in serious civil consequences, including deprivation of pensionary benefits which shall be counted from the date of attaining the age of 18 years when his service was regularized as such the letter dated 30.6.2000 issued by the respondent WAPDA is helpful to the case of Petitioner which shows the qualifying service for pension.

13. It is also an admitted position that the petitioner served the department continuously for more than four decades, his service was regularized, and he was allowed to retire on attaining the age of superannuation. Once an employee has rendered such long and uninterrupted service and has been retired in the normal course, the respondents cannot, at belated stage, raise objections touching upon alleged irregularities in service to deny pensionary and retirement benefits.

14. In view of the foregoing discussion, this Court is of the considered opinion that the petitioner has been subjected to unlawful, arbitrary, and mala fide treatment by the respondents. The impugned letter dated 10.07.2019 and all subsequent actions taken thereunder are without lawful authority and cannot be sustained. The judgments passed by the Labour Court and Labour Appellate Tribunal, having failed to address the real issue and having been passed without proper application of mind, are also not tenable in law.

15. Accordingly this petition stands disposed of with direction to the respondents to count the service of the petitioner from the date when he reached the age of 18 years i.e. 10.3.1979. Such notification of his retirement needs to be issued forthwith with all retirement benefits.

16. The petition is disposed of to the extent indicated above.

JUDGE

JUDGE