

IN THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Salahuddin Panhwar

Mr. Justice Adnan-ul-Karim Memon

C.P. No. D- 3623 of 2021

Javed Iqbal

Petitioner : In person.

Respondents No.1 & 3 : Mr. Asghar Malik, advocate.
Through

Respondent No.2 : Mr. Muhammad Nishat Warsi, DAG.
Through

Date of hearing : **12.10.2021**

Date of Order : **12.10.2021**

ORDER

ADNAN-UL-KARIM MEMON, J. Through this petition, the Petitioner seeks direction to the management of Pakistan International Airlines (PIA), to provide medicine to him and his family, either from PIA's Medical Store as per prescription prescribed by the specialist Doctors without any interruption.

2. Petitioner who is present in person has submitted that he is a retired law officer of PIA and barely surviving on the pittance paid by the PIA in the name of pension; that he is a senior citizen, he and his family need medicines to survive, which he cannot afford and the specialist Doctors on PIA's panel prescribe medicine, however, the PIA refused to accept the prescribed medicines, stating that they would provide better medicine than that prescribed by the specialist Doctors. He seeks enforcement of medical and passage facilities for himself and his family as per rules. He has emphasized that the health and welfare of retired employees of PIA have always remained a matter of utmost importance and significance. PIA's medical facilities also cover the Retired employees and their spouses for medical care at PIA's Medical Centers. Petitioner has raised his voice of concern that due to the lethargic attitude of the management of PIA, who have belatedly refused to provide medicine to his wife, who is seriously suffering from various

ailments including hypertension, as per prescription prescribed by the specialist Doctors.

3. Mr. Asghar Malik learned counsel for the respondent-PIA has agreed in principle to allow petitioner and his wife, the prescribed medicine suggested by specialist Doctors, however subject to availability of the prescribed medicine at their pharmacy, in the alternative, they are ready and willing to provide the medicine of almost every group/salt.

4. Petitioner has refuted the stance of the respondent-PIA on the premise that the medicine prescribed by the specialist Doctors cannot be changed by any group/salt, per petitioner this is the dangerous trend they are setting up, rather they are playing with the lives of people at large which is criminal negligence on their part. He prayed for drastic action against them if they continued to pursue their pursuit.

5. We have heard the petitioner who is present in person and learned counsel for the respondent-PIA and perused the record.

6. The profile of the Respondent/PIAC reveals that it is a Statutory Body established under the Pakistan International Airlines Corporation Act 1956, now converted into a Company vide Pakistan International Airline Corporation (Conversion) Act, 2016. It is a State Enterprise. The Government owns the majority of shares and the Managing Director of the Company is a nominee of the Government of Pakistan and has been delegated with the powers by the Board of Directors as are necessary to effectively conduct the business of the Company. In view of the above background and status of the Respondent-PIAC, the same can be regarded as a "Person" performing functions in connection with the affairs of the Federation under Article 199 (1) (a) (ii) read with Article 199 (5) of the Constitution, thus, this Court has the judicial powers in the subject affairs of the Respondent-PIAC under the Constitution. We are fortified by the decisions rendered by the Honorable Supreme Court in the case of Ramna Pipe and General Mills (Pvt.) Ltd Vs. Sui Northern Gas Pipe 6 Lines (Pvt.) Ltd. (2004 SCMR 1274) and the case of Pakistan

Defence Housing Authority & others Vs. Lt. Col. Syed Jawaid Ahmed (2013 SCMR 1707).

7. Before proceeding to consider the merits of the dispute, there is no dispute about the basic facts in respect of the provision of medicine as prescribed by the specialist Doctors. The parties however join the issue on the question as to whether the medicine prescribed by the specialist Doctor is necessary to be provided to the patient or of the same nature medicine could be provided to the patient. The petitioner insisted upon the same medicine as prescribed by the specialist Doctors, which is a lifesaving drug.

8. We are of the view that the petition filed by the petitioner deserves to be allowed in the terms that medicine, as prescribed by the specialist Doctors to the patient, is of paramount consideration for the health of the patient, which cannot be compromised at the cost of alternative medicine as proposed by the learned counsel for the respondent-PIA.

9. The competent authority of PIA is directed to ensure the provision of actual medicine as prescribed by the specialist/General cadre Doctors to the retired employees of PIA including the petitioner and his family as per rules.

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Shahzad Soomro