

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

C. P. NO. D-2689 of 2017 a / w

CP D 1250, 640 of 2013, CP D 2814 of 2014; CP D 2321 to 2324, 2406, 2421, 2591, 2624, 2768, 2963, 7939 of 2015; CP D 1323, 6239, 6578, 6751 of 2016; CP D 1546, 2078, 2664, 2811, 2812, 2853, 3303, 3867, 3879, 4052, 4130, 4163, 4280, 5024, 5528, 6227, 7675, 8091, 935, 939, 993 of 2017; CP D 107, 1408, 2079, 3213, 3871, 4246, 4264, 5027, 520, 5201, 521, 522, 523, 576, 6639, 6854, 6855, 6876, 8340, 8899, 8929, 9010 of 2018; CP D 1002, 1003, 1004, 1005, 1034, 1178, 1552, 1674, 2723, 2724, 2725, 2766, 2767, 3122, 370, 3761, 3795, 3864, 3865, 4406, 5789, 579, 5951, 6095, 6106, 6107, 6236, 6237, 6485, 6486, 6760, 7956, 8057, 8220, 8292, 8387, 840, 8410, 8411, 8533, 8566 of 2019; CP D 1111, 142, 1460, 308, 309, 377, 4933, 5301, 551, 5822, 633, 634, 643, 644, 6793, 697 of 2020; CP D 1342, 3607, 448 & 6972 of 2021; CP D 2074, 4322, 7475, 7695 and 7696 of 2022; CP D 3244, 4475, 4625, 5137, 5207, 5533, 5534, 5535, 5536, 5537, 5538, 5539, 5565, 5710, 5795, 5796, 5797, 5798, 5799, 6321, 6360, 6361 of 2023; CP D 1044, 1045, 1315, 1744, 2127, 2718, 3438, 399, 3995, 4143, 4719, 4748, 4749, 4750, 4751, 4752, 4753, 5928, 5356, 5104, 5105, 5450, 5787, 5930, 5931, 53, 5359, 6043, 620, 963 of 2024; Suits 1030, 1917, 1972, 2040, 220 221, 2248, 598, 64, 78, 79, 80, 81, 82, 897 of 2016; 1064, 1065, 1066, 1173, 1174, 1332, 1403, 1425, 1459, 1460, 1494, 1610, 234, 2371, 2423, 2618, 292, 610, 844 of 2017; 1259, 2070, 210, 212, 220, 2414, 246, 256, 288, 289, 372, 467, 483, 620, 65, 929 of 2018; 2090, 2091 of 2019; 1405 of 2020; 967, 968 of 2022; -1930, -2351, 1703, 2104 of 2023; -1, -148, -33, 1382, 171, 19, 21, 259, 313, 448 of 2024.

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DATE

ORDER WITH SIGNATURE OF JUDGE

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1. For order on Nazir report dated 11.12.2023
2. For hearing of CMA No.13209/2017
3. For hearing of main case

**21.01.2025**

Messrs. Dr. Farogh Naseem, Faisal Siddiqui, Rashid Anwar, Hyder Ali Khan, Asim Iqbal, Hussain Ali Almani, Ovais Ali Shah, Pooja Kalpana, Muhammad Anas Makhdoom, Jahanzeb Awan, Anwar Kashif Mumtaz, Rashid Mahar, Jawaid Farooqui, Qazi Umair Ali, Shahan Karimi, Farmanullah Khan, Navin Merchant, Jam Zeeshan Ali, Salman J. Mirza, Faiz Ahmed, Sami-ur-Rehman, Muhammad Adeel Awan, Sufiyan Zaman, Yousuf Rashid Anwar, Adil Saeed, Nareeta Hassan, Amna A. Saeed, Zia Ahmed Awan, Abdul Rehman Adeed, Mahmood Ali, , Arbaz Ahmed Yar Khan, Sagar Ladhani, , Jahanzeb Baloch, , , Sauban Tasleem, Siraj Alam, Fasih Zuberi for Obaidur Rehman Khan, Muhammad Shahrukh Farogh Nasim, Syeda Khizra Fatima Chishti, Syeda Maryam Mastoor, Manzoor Hameed Arain, , Usman Alam, Rana Sakhawat Ali, Arshad Hussain, Inzimam Sharif, Asad Nadeem, Musharaf Azhar, Hamza Waheed, Hamood ur Rehman Khan Niazi, Nabeel Ahmed Khan, Sabih Zuberi Ahmed Faraz, Umer Farooq, Ch. Ashraf, Farhan Khan, Absar Bukhari, Qazi Ajmal Kamal, Muhammad Aleem, Zain A. Jatoi, Muhammad Mustafa Mamdani, Shahzad Raheem, Umar Farooq, Muhammad Naqash Siddiqui, Saad Fayyaz, Eimadul Hassan, Muneeb Kidwae, Adnan Ahmed Zafar, Agha Zafar Ahmed, Feroze Ahmed, M. Faran Khan, Muddasir Abbasi, Shoaib Ali Khatian, Saleha Baig, Sahil Qureshi, Afaq Ahmed, Hussain Akhter Ansari, Muhammad Arshad Qaiser Warsi, Zaheeruddin Babar, Rajeesh Kumar, Uzair Qadir Shoro, Usman Shukat, Faiz Durrani, Samia Alam Durrani, Ghulam Muhammad,

Shakeel Akbar, Feroze Ahmed, Mehmood Ali, Hassan Khursheed Hashmi, Sundar Lal Lohna, Tasleem Hussain Maitlo, Abrar Ahmed for Sofia Saeed Shah, Mansoor Ali Shaikh, Suneel Ali Memon, Qubra Ali, Ahmed Hussain, Habib Kazi, Abdul Rahim Lakhani, Atta Muhammad Qureshi, Lubna Pervaiz, M. Baqar Raza, Shafqat Zaidi, Taimur Ahmed Qureshi, Wasil Jan, Taha Abdul Samad, Abdul Ghaffar, Rana Azeem, Shams Mohiuddin Ansari, Kohmir Rind, Shaheer Roshan, Furqan Mushtaq, Mujtaba Sohail Raja, Shahid Iqbal Rana, Rana Mehran Akram, Salman Yousuf, Saleha Baig, Nadir Hussain, M. Ashfaq Khan, Mariam Salahuddin, Riaz Moin Siddiqui, advocates for petitioners / plaintiffs.

Messrs. Dr. Shahnawaz Memon, Ameer Bakhsh Metlo, Syed Ahsan Ali Shah, Anas Habib, Ghazi Khan Khalil, Ameer Nausherwan Adil, Abdul Razzak Punhwar, Fawad Chand, Faheem Raza Khuhro, Rasheed Ashraf Mughal, Munawar Ali Memon, Mukesh Kumar Khatri, Faheem Ali Memon, Shahid Ali Qureshi, Muhammad Aqeel Qureshi, Farhana Irfan for Irfan Mir Halepota, Imtiaz Ali Solangi, Wail Jan, Abdul Hakeem Junejo, Tufail Akbar, Wali Jan, Bukhari, Qaim Ali Memon, Imdad Ali Sahito, Syed Jamaluddin Bukhari, Ayaz Sarwar Jamali, Javed Ali Sangi, Barrister Huma Sodher, Fahad Hussain Arijio, Summaiya Kalwar, Pervaiz Ahmed Memon, Zohaib Ahmed for Khalid Mehmood Siddiqui, Azad Hussain for Muhammad Bilal Bhatti, Masooda Siraj, Ilyas Ahmed, Jazib Memon, Advocates for Respondents.

Mr. Ghulam Shabbir Shah, Advocate for SRB  
Mr. K.A.Vaswani, Assistant Advocate General  
Mr. Asadullah Memon, Section Officer, Labour.  
Faisal Tariq, Director (Legal) W.W.F, Islamabad.  
Mr. Akhlaque Hussain, Entomologist, DPP.  
Mr. Zamir A. Khalid, Commissioner Legal SRB

Per learned counsel, these matters pertain to challenge by trans-provincial entities to imposition / collection of W.W.F. in the wake of the 18<sup>th</sup> amendment to the Constitution and subsequent pronouncements of the Supreme Court, including *Sui Southern Gas Company Ltd. vs. Federation of Pakistan* reported as 2018 SCMR 802. It remains the petitioners' case that trans-provincial entities may be treated independently of Provincial fiscal laws. These matters have been pending since 2013.

Notwithstanding the aforesaid, it was brought to the attention<sup>1</sup> of the Court that the Council of the Common Interests<sup>2</sup> had been seized of the matter and had been pleased to decide, on Agenda Item 14 bearing NO. CCI.14/1/2019 dated 23.12.2019, as follows:

*"119. The CCI considered the Summary dated 23<sup>rd</sup> May, 2019 submitted by Ministry of Overseas Pakistani & HRD and observed that none of the provinces has developed a workable mechanism for resolution to address the post-devolution issues of pension of migrating employees. The Council held that being trans-provincial and inter-provincial matter, both the organizations i.e. EOBI & WWF should remain with the Federal Government to perform its functions under Employees Old-Age Benefits Act, 1976 and Workers Welfare Fund Ordinance, 1971, till such time a mutually agreed mechanism is developed."*

The Court was assisted with the pertinent provision<sup>3</sup> of the Constitution

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<sup>1</sup> As denoted vide orders dated 16.10.2024 and 14.11.2024.

<sup>2</sup> Created per Article 153 of the Constitution.

stipulating that decisions of the CCI are subject to challenge vide reference to the Parliament, hence, it was argued that post 2019 no occasion remained for these matters to continue to be entertained in writ jurisdiction.

The Council of the Common Interests is a representative body constituted *inter alia* to facilitate comity between the federating units and each Province has representation therein. In the event of either the Federal Government or a Provincial Government is dissatisfied with a decision of the Council, they remain at liberty to precipitate a reference before a joint sitting of the Parliament. Despite repeated opportunity, recorded vide orders dated 16.10.2024 and 14.11.2024, it is nobody's case that the aforesaid decision of the Council has been referred / assailed before the Parliament.

Therefore, the respective learned counsel have sought that all these matters be disposed of in terms of the Council of Common Interests' decision on Agenda Item 14 bearing NO. CCI.14/1/2019 dated 23.12.2019, referred to supra. Order accordingly.

It was articulated on behalf of the petitioners that their liberty to challenge the vires of the enactment, as and when occasion arises, not be curtailed by orders herein. The respondents' learned counsel articulated no cavil in such regard. Order accordingly.

Office is instructed to place copy of this order in connected matters

Judge

Judge

Amjad

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<sup>3</sup> Article 154(7) - If the Federal Government or a Provincial Government is dissatisfied with a decision of the Council, it may refer the matter to Majlis-e-Shoora (Parliament) in a joint sitting whose decision in this behalf shall be final.