

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA  
C. P. No.D-480 of 2021  
(Ali Nawaz v. SSP Larkana and others)

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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**BEFORE:**

*Mr. Justice Muhammad Saleem Jessar.*  
*Mr. Justice Adnan-ul-Karim Memon.*

**Date of hearing and Order : 13.03.2025**

Mr. Ghulam Ali Abbasi, advocate a/w petitioner.

Mr. Liaquat Ali Shar, Addl. A. G assisted by Mr. Aftab Ahmed  
Bhutto, Asstt. A. G.

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**ORDER**

**Adnan-ul-Karim Memon, J:-** The petitioner requests that this Court direct Respondents 1-4 to comply with order No. 6515-18/E-III/15, dated June 1, 2015, issued by Respondent 5, and further direct Respondents 1-4 and 6-7 to calculate and prepare back pay arrears for the period October 17, 1997, to April 29, 2013, and increment arrears for the period July 1, 2015, to July 1, 2020.

2. Learned counsel for the petitioner argued that the petitioner's period was approved as "leave of kind due" by IGP Sindh in 2015, entitling him to back pay. He claims Respondents 1-4 have failed to implement this order and calculate his arrears, despite multiple applications.

3. Respondent 3, however, maintains they acted following the IGP's order. They state that, given the petitioner's 240 days of accrued leave, they converted 120 days of absence to earned leave and another 120 to medical leave. The remaining 5420 days were classified as extraordinary leave, as the petitioner had exhausted his leave credit.

4. We have heard the learned counsel for the parties and perused the record with their assistance.

5. Petitioner was appointed as a Police Constable in Sindh Reserve Police (SRP) on July 4, 1992, in BPS-5. He was absent from duty from July 17, 1997, to October 16, 1997 (186 days), and from October 17, 1997, to April 29, 2013 (5594 days), totaling 5780 days. He was dismissed from service by the SSP/SRP Hyderabad on October 17, 1997. He applied for reinstatement to the DIGP SRP Karachi on August 10, 2000. After no action, he filed a constitutional petition (CP No. D 196 of 2012), and this court directed him to file an appeal. He appealed to Respondent 4, who reinstated him on March 28, 2013. The period of absence was determined to be without pay. He applied to Respondent 5 for service book rectification and

back benefits. Respondent 5 approved his application on June 1, 2015, granting "leave of kind due" for his absence period. Respondent 3 issued a pay fixation order on August 13, 2015, classifying the initial 186-day absence as medical leave and the remaining period as extraordinary leave. He applied to Respondent 1 for annual increments, resulting in a pay fixation order effective August 4, 2020. He repeatedly sought back pay arrears from July 1, 2015, to July 1, 2020, without success. He alleges that Respondent 1-4 violated his fundamental rights and disobeyed Respondent 5's order.

6. The respondent No. 3 submits that he adhered to IGP Sindh's order No. 6515-18/E-III/2015, dated June 1, 2015 (Flag-A), which permitted the petitioner's absence as "leave due." To implement this, respondent No. 3 issued pay fixation orders (Flag-B and Flag-C). Considering the petitioner's 240 days of accumulated leave (from July 14, 1992, to October 17, 1997), the respondent No. 3 categorized the absence as follows:

120 days (August 16, 1997, to December 14, 1997) were converted to earned leave.

120 days (December 15, 1997, to March 15, 1998) were classified as medical leave.

The remaining 5420 days (March 16, 1998, to April 29, 2013) were designated as extraordinary leave, as the petitioner had exhausted all available leave.

7. The Supreme Court in the recent judgment has held that when a civil servant is absent without authorization, the departmental authority has two options: either accept a justified explanation or grant retroactive leave. This prevents subsequent disciplinary action for that absence. If the explanation is unsatisfactory or absent, initiate disciplinary proceedings. Penalties range from dismissal to minor sanctions, depending on factors like service nature, position, absence duration, and cause. Dismissal may not require additional orders regarding the absence period unless recovery of pay or benefits is needed. Other penalties necessitate an order specifying how the absence period will be recorded. Unaccounted absence leads to service interruption, affecting seniority and pension. The order to account for the time is an administrative action and does not supersede the penalty. The idea that classifying penalized absence as unpaid leave cancels the penalty is incorrect and overruled by the Supreme Court. Treating penalized absence as unpaid leave does not remove the penalty. On the aforesaid proposition, we are guided by the decision of the Supreme Court in the case of *Federation of Pakistan v. Mamoon Malik* 2020 SCMR 1154 and *NBP v. Zahoor Mengal* 2021 SCMR 903.

8. Based on the established legal principles, the petitioner's submissions lack merit and are discarded, consequently this petition is dismissed.

JUDGE  
13/3/22