

IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No.D-262 of 2024

[Shabir Aslam versus Federation of Pakistan and others]

Before:

Justice Muhammad Karim Khan Agha

Justice Adnan-ul-Karim Memon

Date of hearing & Order: 24.09.2025

Petitioner Shabbir Aslam is present in Person.
Ms. Wajiha Mehdi, Assistant Attorney General.

ORDER

The petitioner is asking this court to:

- i) *Demand records of appointments, retirements, and promotions for all high-ranking officials in the Army, Navy, Air Force, ISI, and MI to investigate the alleged misuse of government funds.*
- ii) *Order the government to provide a summary regarding the appointment of CGS Muhammad Avais Tastagir and the retirement of former DG ISI Nadeem Anjum*
- iii) *.Request a list of all Chairmen of the Joint Chiefs of Staff Committee from 1973 to 2023.*
- iv) *Seek the rules and regulations governing the position of Lieutenant General*

2. The petitioner, a former Pakistan Army employee, claims that the military leadership in Pakistan has been illegally violating rules and regulations, leading to a misuse of power and a financial burden on the government. The petitioner, who is present in person, submits that the military has been consistently violating rules since October 1999 by not providing fair opportunities to the Chief of Naval Staff and the Air Chief Marshal. The petitioner alleges that high-ranking officials have been illegally appointed or retained beyond their service period, specifically mentioning former DG ISI Nadeem Anjum and the current Chief of General Staff, Muhammad Avais Dastagir. The petitioner claims that a more senior and deserving officer was overlooked for this position. He further states that Pakistan has an excessive number of Generals compared to other countries like India, Bangladesh, the USA, and the UK. The petitioner claims this is a "financial loss to the Govt. Treasury" and that there is "no check and balance" on their appointments, retirements, and promotions.

3. The Learned Assistant Attorney General (AAG) present in court in some other cases waves notice and opposed the petition, arguing that Article 199 (3) of the Constitution stipulates a bar to jurisdiction insofar as the matters about the service of any member of the Armed Forces of Pakistan are concerned. She prayed for dismissal of the petition.

4. We have heard the petitioner who is present in person as well as learned AAG and considered the record.

5. Primarily, the Constitution has fixed the parameters of powers of this Court under sub-Article (2) of Article 175, explicitly envisaging the exercise of only that jurisdiction which is conferred by the Constitution or by or under any law. Indeed, Article 8 of the Constitution stipulates that the State shall not enact any law that takes away or abridges the fundamental rights conferred on citizens by its Chapter I, and any law made in contravention of this Article shall, to the extent of such contravention, be void. However, sub-Article (3) of Article 8 of the Constitution denotes that this prohibition shall not be attracted in case of any law relating to Members of Armed Forces, or of the police or such other forces as are charged with the maintenance of Public Order, to ensure the proper discharge of their duties or the maintenance of discipline among them.

6. The Supreme Court of Pakistan, in the case of "*Force Commander ASF v. Muhammad Rashid*" (1996 SCMR 1614), extensively examined the liabilities of its officers and members. The Supreme Court case, Ex. Lt. Col. Anwar Aziz v. Federation of Pakistan (PLD 2001 SC 549), clarifies the limits of judicial review for military matters under Article 199(3) of Pakistan's Constitution. The ruling states that the court can only intervene in "extraordinary cases" where a military decision is found to be: Malicious (mala fide). Without proper jurisdiction. Not a valid legal proceeding (coram non iudice). Otherwise, this court is barred from interfering in the terms and conditions of service or actions taken against members of the armed forces. The decision of a military court of appeal is considered final and cannot be challenged in other courts.

7. The petitioner's claims that Pakistan's military leaders are violating rules, wasting money, and making illegal appointments, cannot be resolved under Article 199 of the constitution. This is because the factual issues raised are outside the scope of what this court can address under Article 199 of the constitution. As apparently, no mal fide has been proved on the part of the respondents to attract the exceptions as discussed supra, and in the absence of such, this court has no jurisdiction under Article 199(3) of the Constitution to entertain the service issues of Pakistan Armed Forces.

8. For the reasons aforesaid, this Constitutional Petition fails and, accordingly, the same is dismissed in limine. Consequently, connected miscellaneous applications are also dismissed. However, there shall be no order as to costs.

HEAD OF CONST. BENCHES

JUDGE

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