ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-6129 of 2025
(Janib versus The Province of Sindh & others)

Constitutional Petition No. D-4898 of 2022
(Hafeez Ullah versus The Chief Secretary & others)

Constitutional Petition No. D-1422 of 2023
(Asad Hussain versus The Province of Sindh & others)

Date	Order with signature of Judge

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Zulfiqar Ali Sangi

Date of hearing: **21.04.2026**
Date of announcement of judgment: **07.05.2026**

Nemo for the petitioner in CP No. D-4898 of 2022

Mr. Zulfiqar Ali Domki advocate for the petitioner in CP No. D-6129/2025

M/s Malik Altaf Hussain, Moin Khan Sandilo and Rafiullah advocates for the petitioner in CP No. D-1422/2023

Mr. Abdul Jalil Zubedi, Assistant AG alongwith Mr. Ghulam Ali Brahmani, Secretary (Services) Services General Administration & Coordination Department (SGA&CD), Government of Sindh

Ms. Wajiha Mehdi, Assistant Attorney General

Mr. M.M. Aqil Awan advocate and Ms. Laraib Awan advocate for respondents No.3, 4 and 5 in CP No. D-6129/2025 and for respondent No.3 in CP No. D-4898/2022

Mr. Danish Rashid Khan advocate for respondent No.6 in CP No. D-6129/2025 and respondent No.4 in CP No. D-1422/2023

Syed Manzoor Ali, Special Prosecutor NAB

JUDGMENT

Zulfiqar Ali Sangi, J. By this consolidated judgment, we propose to dispose of the instant petitions together with the accompanying applications, as they raise analogous questions of law and fact concerning the eligibility of public servants, who have entered into voluntary return arrangements under the NAB law, to continue holding public office. Accordingly, the adjudication of the issues involved herein is inextricably connected with, and contingent upon, the determination of the broader legal question presently under consideration before this Court.

2. The Petitioner, namely Janib, has instituted Constitutional Petition No. D-6129 of 2025 under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking the following relief: –

> *i. Direct the Respondent Nos.3 to 18 to appear before this Court and to explain under what authority of law they have assumed their offices and continue to hold the same thereafter their holding the offices may very kindly be declared as illegal and ordered to be set aside;*
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> *ii. Declare promotions of the Respondent Nos.3 to 18 illegal, unconstitutional and of no legal effect from the date on which they entered into VR with NAB and all emoluments, salaries and other benefits be recovered from them;*
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> *iii. Restrain the Respondent Nos.3 to 18 from holding public office till final adjudication of the captioned petition.*
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> *iv. Any other relief this Honorable Court may deem appropriate and proper in the circumstances of the case.*

3. The above Constitutional Petition has been instituted to impugn the continued retention in public office of Respondent Nos. 3 to 18, who, it is an admitted position, availed themselves of the benefit of the Voluntary Return (VR) mechanism under Section 25(a) of the National Accountability Ordinance, 1999 (NAO, 1999). The record, including the list furnished by the Services, General Administration & Coordination Department (SGA&CD), unequivocally establishes that the said respondents entered into voluntary return arrangements with the National Accountability Bureau (NAB) in connection with allegations of corruption. Notwithstanding such settlements, the respondents were neither dismissed from service nor subjected to major penalties; rather, several of them continued in service, and some were even accorded promotions prior to their eventual superannuation. It is the specific grievance of the Petitioner that Respondent Nos. 1 and 2, being the competent authorities, have acted in flagrant disregard of the law by allowing such officers who are deemed to have been convicted under the NAB law to remain in public service and to

derive all attendant benefits of their respective offices. The matter assumes heightened significance in view of the constitutional scrutiny undertaken by the Supreme Court in Suo Motu Case No. 17 of 2016, wherein the vires of Section 25(a) of the NAO, 1999 were examined. In particular, the order dated 08.03.2023 passed by the apex Court is of pivotal relevance, whereby it was observed that the amendments introduced to the NAO in June 2022 extended the applicability of the proviso to Section 15(a) to the entire ambit of Section 25, encompassing both clauses (a) and (b). The legal consequence thereof is that a person availing the benefit of voluntary return under Section 25(a) incurs the same disqualification from holding public office as one entering into a plea bargain under Section 25(b). The Petitioner has further placed reliance upon proceedings in Constitutional Petition No. D-6027/2020, wherein, vide order dated 05.10.2021, this Court had acknowledged the pendency of adjudication before the Supreme Court concerning the vires of Sections 25 and 15 of the NAO, 1999. In paragraph 8 of the said order, it was observed that the issue pertaining to officers who had entered into voluntary return arrangements would be governed by the eventual determination of the apex Court, and the matter was accordingly left open for adjudication in appropriate proceedings.

4. According to the Petitioner, the authoritative pronouncement of the Supreme Court dated 08.03.2023 has since settled the legal position beyond any ambiguity. The respondents who availed voluntary return now stand at par with those who entered into plea bargains and are, therefore, deemed to have been convicted for the purposes of disqualification under Section 15 of the NAO, 1999. Despite the crystallization of this legal position, no lawful or meaningful action has been initiated by the official respondents against Respondent Nos. 3 to 18. On the contrary, it is asserted that only minor penalties, if any, were imposed, which are grossly disproportionate to the legal consequences arising from their deemed conviction. The Petitioner asserted that the continued retention and promotion of such individuals in public service is in direct contravention of the statutory framework and undermines the foundational principles of transparency, merit, and accountability in governance. It is further alleged that the actions of Respondent Nos. 1 and 2 constitute a mala fide and colorable

exercise of authority, influenced by extraneous considerations, including political pressure and favoritism, thereby causing serious prejudice to public interest by fostering corruption and eroding institutional integrity. In the foregoing circumstances, the Petitioner seeks the intervention of this Court for the enforcement of the law as declared by the Supreme Court, and for the issuance of appropriate directions to ensure that individuals disqualified under the NAO, 1999 are not permitted to hold or continue in public office in any capacity whatsoever.

5. Upon notice the Respondent No. 6 has submitted a comprehensive counter affidavit on his own behalf and on behalf of Respondent Nos. 3 to 5, wherein both the maintainability of the instant petition and the Petitioner's entitlement to the relief claimed have been emphatically disputed. At the outset, it is contended that the present petition, though styled as one seeking a writ of quo warranto under Article 199(1)(b) of the Constitution of the Islamic Republic of Pakistan, 1973, is not maintainable in its current form. It is asserted in the counter-affidavit that Article 199(1)(b), which empowers the High Court to require a person holding or purporting to hold a public office to demonstrate the lawful authority under which such office is held, envisages proceedings against a single office-holder. Consequently, a composite petition directed against multiple individuals is asserted to be legally untenable and misconceived. It is further contended that a writ of quo warranto constitutes the narrowest and most limited form of constitutional jurisdiction, wherein the Petitioner merely assumes the role of a relator. Elaborating upon the scope of such jurisdiction, Respondent No. 6 submits that interference by this Court is warranted only where it is established that: (i) the incumbent lacks the prescribed qualifications for the office; (ii) the appointment has been made in contravention of the applicable statutory procedure; or (iii) the appointment has been made by an authority lacking lawful competence. It is contended that none of these conditions are attracted in the present case, as neither the appointments nor the service records of the Respondents have been impugned on any recognized legal ground.

6. A preliminary objection has also been raised with respect to the bona fides of the Petitioner. It is contended that in proceedings of quo warranto, the Petitioner must establish that he is acting

bona fide, in good faith, and in the public interest. The Court, it is submitted, must be vigilant in distinguishing genuine public interest litigation from proceedings instituted for ulterior motives, including harassment or coercion. In this regard, the Respondent questions the Petitioner's motive and asserts that no explanation has been furnished as to the circumstances prompting the institution of the present petition. The Respondent has further invoked the doctrine of delay and laches, submitting that the Voluntary Return (VR) arrangements under the National Accountability Bureau (NAB) law were entered into by Respondent Nos. 3 to 6 well before the filing of the instant petition on 20.11.2025. It is contended that the Petitioner has failed to provide any cogent explanation for approaching this Court after such an inordinate delay, which, in itself, is indicative of mala fide intent. It has also been brought on record that multiple petitions on identical grounds have previously been instituted by various individuals against the Respondents and other officials of the Government of Sindh, some of which, it is alleged, were motivated and resulted in undue harassment of public functionaries. Reference has been made to prior disciplinary proceedings conducted in accordance with law, culminating in minor penalties imposed upon the Respondents, namely: Respondent No. 3 (Order dated 27.04.2018), Respondent No. 4 (Order dated 07.05.2018), Respondent No. 5 (Order dated 07.05.2018), and Respondent No. 6 (Order dated 17.07.2019), all of which have attained finality.

7. Reliance has further been placed upon a series of constitutional petitions previously filed on the same subject, including CPD Nos. 6027/2020, 5391/2020, 1058/2020, 3859/2020, and 4375/2020, all of which were, according to the Respondent, dismissed by this Court through various judgments and orders. It is thus contended that the present petition is barred by the principle of res judicata under Section 11 of the Code of Civil Procedure, 1908, and is not maintainable. It is also contended that certain issues raised in the petition pertain to matters of transfer and posting, which fall within the domain of the terms and conditions of service of civil servants and are exclusively triable by the Service Tribunal under Article 212 of the Constitution. Accordingly, it is submitted that the jurisdiction of this Court is barred in respect of such matters.

8. On merits, it is contended that the Petitioner's case is predicated upon the assertion that the Respondents, having availed the benefit of the Voluntary Return (VR) scheme under Section 25(a) of the National Accountability Ordinance, 1999, stand disqualified from holding public office. In rebuttal, it is submitted that Section 25(a), as it stood at the relevant time, provided for a complete discharge from liability upon acceptance of the voluntary return by the Chairman NAB and payment of the determined amount. It is emphasized that, at the material time, such voluntary return neither constituted a criminal conviction nor attracted disqualification under Section 15 of the NAO, 1999. It is further submitted that it was only through the National Accountability (Amendment) Act, 2022 that voluntary return under Section 25(a) was equated with plea bargain under Section 25(b), thereby attracting disqualification consequences. Prior to such amendment, only plea bargain entailed penal consequences. Reliance is placed upon Article 12(1)(a) of the Constitution, which prohibits retrospective penal action, to contend that the amended provisions cannot be applied retrospectively to acts completed prior to the amendment. In support of the aforesaid contentions, reliance has been placed upon authoritative precedents, including ***Tariq Cotton Mills Limited v. Joint Registrar (NLR 1989 Cr. 715), Air Marshal (R) Waqar Azeem v. The State (NLR 2003 Cr. 361), Mansoor Ahmed Qureshi v. The State (PLD 2005 Karachi 443), and Muhammad Afzal v. SSP (PLD 2005 Lahore 377)***. In view of the foregoing submissions, Respondent No. 6 has prayed that the present petition, being not maintainable, barred by law, lacking bona fides, hit by delay and laches, and devoid of merit, be dismissed with costs.

9. That the Petitioner, namely Hafeez Ullah, has instituted Constitutional Petition No. D-4898 of 2022 under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking the following reliefs: –

i. *Direct Respondent No.1 to immediately suspend the Respondent No.3, and take disciplinary action against him under the Sindh Servants (Efficiency and Discipline Rules), 1973;*

ii. *Direct Respondent No.1 to ensure that Respondent No.2 shall not be appointed to any government position or public office in the future;*

iii. *Direct the Respondent No.1 to immediately rectify the notifications supra in light of the laws of the land;*

iv. *To award costs of the Petition;*

v. *To grant any other relief this Hon'ble Court may deem appropriate in the circumstances of the case.*

10. The above Constitutional Petition has been instituted by the Petitioner, seeking the issuance of a writ in the nature of *quo warranto*. The Petitioner has called upon Respondent No. 3 to justify the lawful authority under which he continues to hold the office of Chief Engineer (BS-20), Guddu Barrage, Sukkur, despite allegedly incurring disqualification on account of entering into a voluntary return arrangement with the National Accountability Bureau (NAB). The Petitioner contends that the continued occupation of public office by Respondent No. 3 is contrary to law and in violation of binding judicial pronouncements rendered by the superior courts. It is asserted that the Supreme Court of Pakistan, as well as this Court, have consistently held through various judgments and orders that a civil servant who enters into a voluntary return (VR) or plea bargain with NAB is disentitled from holding public office, as such an act constitutes an admission of guilt involving corruption and misconduct. It is further the case of the Petitioner that, notwithstanding these settled legal principles, Respondent No. 1, being the Chief Secretary, Government of Sindh, and the administrative head of the Province, has failed to discharge his constitutional and statutory obligations by not initiating appropriate action against Respondent No. 3. The Petitioner submits that Respondent No. 1 is duty-bound to ensure enforcement of the law and to prevent individuals disqualified under the legal framework from continuing in public service. Likewise, Respondent No. 2, being the authority mandated to prevent corruption, promote public awareness, and enforce anti-corruption laws, has also allegedly failed to perform its functions by permitting Respondent No. 3 to remain in office despite his involvement in a corruption-related matter resolved through voluntary return.

11. The factual background indicates that Respondent No. 3, an officer of the Irrigation Department, was appointed as Chief Engineer (BS-20), Guddu Barrage Region, Sukkur, vide notification dated 09.04.2021, and was subsequently entrusted with additional charge of Chief Engineer (Irrigation), Sukkur Barrage Right Bank Region, Larkana, through notification dated 11.11.2021. According to the Petitioner, these appointments were made despite the fact that Respondent No. 3 had earlier been implicated in corruption during his tenure as Project Director, Right Bank Outfall Drain, Hyderabad Circle, and had entered into a voluntary return arrangement with NAB in respect of such allegations. Reliance has been placed upon the order dated 15.12.2021 passed by this Court in C.P. No. 1564/2021, wherein it was categorically observed that a civil servant opting for voluntary return or plea bargain must be subjected to departmental proceedings and, upon admission of acquiring assets through corrupt means, cannot be permitted to continue in public office within the Federal or Provincial Government or any state-owned entity. Further reliance has been placed upon the judgment of the Supreme Court of Pakistan in Hanif Hyder v. Federation of Pakistan, wherein the apex Court examined Section 25(a) of the National Accountability Ordinance, 1999, and held that the provision of voluntary return had been misused, undermining the objectives of the accountability regime. The Supreme Court further held that an admission of corruption through voluntary return constitutes misconduct warranting departmental action, and such an individual cannot be allowed to continue in public office. The Petitioner submits that entering into voluntary return under Section 25(a) of the NAO, 1999 amounts to an unequivocal admission of guilt, which falls squarely within the ambit of “misconduct” as defined under the Sindh Civil Servants (Efficiency & Discipline) Rules, 1973, as well as the Sindh Civil Servants (Conduct) Rules, 2008. Consequently, Respondent No. 3 was liable to be proceeded against departmentally and could not lawfully continue in service, much less be appointed to a senior position. It is further alleged that Respondent No. 3 has not only been retained in service but has also been posted to positions analogous to those where the alleged acts of corruption were committed, thereby exposing the public exchequer to further risk. According to the Petitioner, such conduct on the part of the official respondents is not only illegal and arbitrary but also amounts to

disregard and violation of binding judgments of the superior courts. In view of the foregoing, the Petitioner has invoked the constitutional jurisdiction of this Court for enforcement of the rule of law and has prayed that Respondent No. 3 be restrained from holding public office on account of his disqualification arising from his prior conduct involving voluntary return.

12. Upon notice the Respondent No. 1, namely the Secretary (Services), Services, General Administration & Coordination Department (SGA&CD), Government of Sindh, has submitted para-wise comments refuting the allegations contained in the petition and elucidating the official stance with reference to the service record of Respondent No. 3. At the very outset, it is submitted that the allegations advanced by the Petitioner are misconceived and devoid of substance, inasmuch as the case of Respondent No. 3 ***(Syed Sardar Ali Shah)*** has already been dealt with strictly in accordance with the Sindh Civil Servants (Efficiency & Discipline) Rules, 1973. It is contended that during his tenure as Superintending Engineer (BS-19), Rohri Canal Circle, Hyderabad, Respondent No. 3 was subjected to departmental proceedings on the allegation that he had opted for Voluntary Return (VR) of an amount of Rs. 400,000/- before the National Accountability Bureau (NAB), Sindh, thereby allegedly admitting involvement in misappropriation of Government funds. Consequently, a Show Cause Notice bearing No. SOIII(SGA&CD)3-158/2016 dated 13.12.2017 was issued to him under the relevant provisions of the aforesaid Rules, clearly delineating the charge of misconduct arising from the said voluntary return. It is further submitted that Respondent No. 3 duly furnished his reply dated 22.01.2018 to the said Show Cause Notice, wherein he provided his explanation to the allegations levelled against him. Thereafter, upon due consideration of the reply and the material available on record, a Final Show Cause Notice dated 13.04.2018 was issued, affording him a further opportunity of personal hearing in consonance with the principles of natural justice. In response thereto, Respondent No. 3 submitted his detailed reply/report on 16.04.2018.

13. It is emphatically submitted that the entire disciplinary proceedings were conducted strictly in accordance with law, ensuring observance of due process, fair hearing, and adherence to the governing statutory framework. Upon culmination of the

proceedings, the Competent Authority, i.e., the Chief Minister, Sindh, in exercise of powers conferred under Rule 5(4)(b) of the Sindh Civil Servants (Efficiency & Discipline) Rules, 1973, imposed a minor penalty of "withholding of annual increment for a period of one year" upon Respondent No. 3 vide order dated 27.04.2018. Respondent No. 1 submits that once a penalty has been imposed by the Competent Authority after due inquiry and consideration in accordance with law, the matter attains finality at the departmental level, and no further proceedings remain pending against Respondent No. 3 in respect of the said allegations. It is further submitted that subsequent transfers and postings of Respondent No. 3 have been affected purely on administrative grounds and in accordance with the recommendations of the concerned department. In this regard, it is stated that with the approval of the Competent Authority (Chief Minister, Sindh), Respondent No. 3, while serving as Chief Engineer (BS-20), Guddu Barrage Region, Irrigation Department, Sukkur, was transferred and posted as Chief Engineer (Irrigation) (BS-20), Sukkur Barrage Left Bank Region, Irrigation Department, Sukkur, vide Notification dated 09.04.2021. Such transfer and posting orders fall squarely within the executive domain and are regulated by service laws; they do not amount to an appointment to a public office so as to attract writ jurisdiction in the nature of quo warranto. Respondent No. 1 further clarifies that Respondent No. 3 is presently not holding any additional charge of the post of Chief Engineer (Irrigation), Sukkur Barrage Right Bank Region, Larkana; consequently, any grievance raised by the Petitioner in this regard has become infructuous. It is thus submitted that the Petitioner has failed to establish any illegality with regard to the appointment, qualification, or competence of Respondent No. 3 to hold the post in question. The case of the Petitioner is primarily predicated upon the factum of voluntary return, which has already been duly addressed through departmental proceedings culminating in the imposition of a penalty. Respondent No. 1 maintains that the Petitioner is, in effect, seeking to reopen a matter that has attained finality under the applicable service rules, which is impermissible in law, particularly in proceedings of quo warranto where the scope of inquiry is circumscribed. In view of the foregoing, it is respectfully prayed that the instant petition,

being devoid of merit, misconceived in law, and not maintainable, be dismissed.

14. Private Respondent No. 3 has submitted a detailed counter affidavit opposing the instant petition, inter alia, on the grounds of non-maintainability, lack of jurisdiction, and misapplication of the constitutional remedy of quo warranto. At the very outset, it is contended that this Court, vide its earlier order dated 28.09.2022, had already expressed serious reservations regarding the maintainability of the petition. It is further averred that such reservations remained unaddressed by the learned counsel for the Petitioner in subsequent proceedings, which, according to the Respondent, itself underscores the inherent defects in the petition. On this ground alone, it is urged that the petition is liable to be dismissed in limine. With respect to maintainability, the Respondent No. 3 submits that the issue must be examined in light of the reliefs claimed in the prayer clause. It is pointed out that the Petitioner has impugned: (i) Notification dated 09.04.2021, whereby Respondent No. 3 was transferred and posted as Chief Engineer (Irrigation), BS-20, Sukkur Barrage Left Bank Region; and (ii) Notification dated 11.11.2021, whereby he was assigned additional charge of Chief Engineer, Sukkur Barrage Right Bank Region, Larkana. It is emphatically contended that both notifications pertain exclusively to matters of transfer and posting within the same cadre and pay scale, and do not relate to initial appointment or promotion to a public office. Consequently, such matters fall outside the ambit of a writ of quo warranto, which is confined to examining the legality of a person's entitlement to hold a public office. Elaborating further, Respondent No. 3 submits that the relief sought is, in substance, a composite of writs of certiorari (seeking declaration of illegality of the notifications) and mandamus (seeking directions to authorities), which cannot be cloaked under the guise of quo warranto. It is contended that the jurisdiction of this Court under Article 199(1)(b)(ii) of the Constitution is limited to requiring a person to show the lawful authority under which he holds a public office, and cannot be extended to adjudicate service disputes concerning transfers and postings. It is further contended that a writ of quo warranto is not a matter of right but a discretionary relief grounded in considerations of public interest. Although strict locus standi may

not be required, the petition must nevertheless be instituted bona fide. According to Respondent No. 3, the present petition lacks bona fides and is motivated by extraneous considerations, as evidenced by suppression of material facts and the Petitioner's prior litigation history. It is also contended that the Petitioner has deliberately concealed the fact that similar petitions on identical grounds have previously been filed and dismissed. Reference is made to a petition instituted by an MPA, Mr. Kanwar Naveed Jameel, wherein analogous reliefs were sought. However, upon objections as to maintainability being raised through an application under Order VII Rule 11 CPC, the petitioner therein abandoned the proceedings, resulting in dismissal for non-prosecution. Respondent No. 3 further submits that the present petition is primarily premised upon observations made in the case of State through Chairman NAB v. Haneef Haider. However, it is contended that the said case does not constitute a binding precedent, as the appeal therein was dismissed as withdrawn. The observations recorded in the said matter merely led to a recommendation for initiation of suo motu proceedings by the Supreme Court. Respondent No. 3 has also referred to certain proceedings before the High Court wherein, according to him, suo motu actions were initiated under a misconceived understanding of law, resulting in undue harassment of civil servants. It is contended that upon proper assistance, such proceedings were either withdrawn or confined to their original scope, thereby reaffirming the settled principle that the High Court does not possess suo motu jurisdiction under Article 199 of the Constitution. It is further submitted that similar issues arose in other petitions, including CP No. 5391/2020, where proceedings were eventually dropped or rendered infructuous. These instances, according to Respondent No. 3, reflect a pattern of misuse of the judicial process by individuals pursuing personal or vested interests. On the legal plane, it is contended that the Petitioner has failed to bring the case within the recognized parameters governing quo warranto jurisdiction. Reliance is placed on settled principles that such jurisdiction is confined to examining: (i) whether the incumbent possesses the prescribed qualifications; (ii) whether the appointment has been made by a competent authority; and (iii) whether the procedure prescribed by law has been duly followed. It is asserted that none of these elements have been pleaded or

established in the present petition. The Petitioner has neither challenged the qualifications of Respondent No. 3 nor identified any procedural illegality in his appointment or promotion to the post of Chief Engineer. Furthermore, it is contended that the petition, in essence, seeks adjudication of service matters relating to transfer and posting, which fall within the exclusive jurisdiction of the Service Tribunal under Article 212 of the Constitution, thereby ousting the jurisdiction of this Court. Respondent No. 3 also invokes the doctrine of res judicata, submitting that similar issues having already been adjudicated upon in earlier proceedings, the present petition is barred and not maintainable. It is argued that permitting repeated litigation on the same subject would constitute an abuse of the process of the Court. It is additionally submitted that Respondent No. 3, along with other officers, has already undergone departmental proceedings pursuant to earlier directions, culminating in the imposition of penalties, and thus the matter stands concluded at the departmental level. In view of the foregoing, it is respectfully submitted that the present petition is not maintainable on multiple grounds, including lack of jurisdiction, absence of bona fides, bar of res judicata, and misapplication of the remedy of quo warranto. It is, therefore, prayed that the petition be dismissed with costs.

15. The Petitioner, Mr. Asad Hussain, has instituted Constitutional Petition No. D-1422/2023 under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking the following relief:

> *i. To direct the Respondent No.4 to demonstrate under what authority of law he is holding the post in BPS-20 and upon his failure to issue a writ in the nature of Quo-Warranto.*
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> *ii. To order for the recovery of all salaries paid to the Respondent No.4 and cost of the perks and privileges enjoyed by the Respondent No.4.*
>
> *iii. To direct the Respondent No.2 to place on record the list of officers who entered in Voluntary Return with the NAB and once the list is filed, appropriate orders in accordance with the law may be passed.*
>
> *iv. Pending adjudication of the captioned petition, the Respondent No.4 be restrained from performing*

any duties, till the final disposal of captioned petition.

v. Grant cost of this Petition.

16. The above Constitutional Petition has been instituted by the Petitioner, who purports to represent the interests of the younger generation, invoking the constitutional jurisdiction of this Court, inter alia, on allegations of maladministration, nepotism, and unlawful exercise of authority in matters pertaining to public appointments. It is the Petitioner's case that such illegal practices have detrimentally affected governance and continue to erode the principles of merit and transparency in public service, thereby warranting judicial intervention. The Petitioner alleges that Respondent No. 4 is a "blue-eyed officer" who was appointed in flagrant violation of the applicable legal framework governing appointments in Basic Pay Scale (BPS)-17. It is contended that notwithstanding the illegality of his initial appointment, Respondent No. 4 has been allowed to continue in service and has been granted subsequent promotions, reflecting favoritism and abuse of authority on the part of the official respondents. By way of background, the Petitioner has outlined the statutory regime governing civil service appointments, submitting that following the promulgation of the Constitution of the Islamic Republic of Pakistan, 1973, matters relating to appointment, promotion, and terms and conditions of service of civil servants are regulated through statutory enactments and subordinate legislation framed thereunder. Reliance is placed on the Sindh Civil Servants Act, 1973, enacted pursuant to Articles 240 and 242 of the Constitution, along with the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 ("Rules, 1974"), which govern appointments to posts in BPS-16 to BPS-22. Particular emphasis has been placed on Rule 10 of the Rules, 1974, which mandates that initial appointments to such posts shall be made strictly on the recommendation of the Public Service Commission. Reference is also made to the Sindh Public Service Commission (Functions) Rules, 1990, particularly Rule 5 as it then stood, which purportedly empowered the Chief Minister, in exceptional circumstances and in the public interest, to exclude a post from the purview of the Commission a power that was later withdrawn

to prevent misuse. In this legal context, the Petitioner challenges the initial appointment of Respondent No. 4, asserting that he was appointed on an ad hoc basis vide notification dated 04.10.1992, without advertisement and in violation of the mandatory requirements of the Rules, 1974. It is further alleged that the said appointment was made by Respondent No. 3 (Secretary, Irrigation Department), who lacked lawful authority to exclude the post from the jurisdiction of the Public Service Commission. It is further contended that, on the same date, i.e., 04.10.1992, the services of Respondent No. 4 were purportedly regularized, allegedly through the exercise of powers vested exclusively in the Chief Minister. However, such powers were exercised by Respondent No. 3, amounting, according to the Petitioner, to a patent usurpation of authority, rendering the entire process void ab initio. The Petitioner further pleads that although Respondent No. 1 initially took cognizance of the irregularity and sought an explanation from Respondent No. 3 through Office Memorandum dated 25.11.1992, no remedial action was taken, and Respondent No. 4 was permitted to continue in service despite the manifest illegality of his appointment. Reliance is placed upon consistent judicial pronouncements of the superior courts holding that appointments to posts in BPS-16 to BPS-22 must be made strictly through the Public Service Commission in accordance with Rule 10 of the Rules, 1974, and that the use of the term “shall” denotes a mandatory obligation, rendering any deviation therefrom unlawful. In addition to assailing the initial appointment, the Petitioner has raised the issue of Respondent No. 4 having entered into a Voluntary Return (VR) arrangement with the National Accountability Bureau (NAB), as allegedly reflected in prior proceedings before this Court. It is contended that such voluntary return constitutes an admission of involvement in corrupt practices, thereby disentitling Respondent No. 4 from holding public office. The Petitioner further submits that despite a notification dated 10.11.2021 directing such officers to report to the SGA&CD, no action was taken against Respondent No. 4. The Petitioner has also relied upon precedents wherein this Court has struck down regularizations under the Sindh Regularization of Adhoc and Contract Employees Act, 2013, where such regularizations were found to contravene the mandatory provisions of the Rules, 1974. Further reliance is placed on the Judgment of

the Supreme Court in the case of Ali Azhar Khan Baloch vs. Province of Sindh and others 2015 SCMR 456, wherein it was held that appointments to BPS-17 posts must be made through the Public Service Commission after due advertisement and cannot be affected through parallel or ad hoc mechanisms. It is further contended that under Rule 4 of the Rules, 1974, the authority to make appointments to BPS-17 posts does not vest in Respondent No. 3, who is only competent to make appointments to BPS-16 posts. Accordingly, the appointment of Respondent No. 4 by Respondent No. 3 is alleged to be without lawful authority and liable to be declared void. Emphasizing the scope of constitutional jurisdiction, the Petitioner submits that in proceedings in the nature of quo warranto, the requirement of locus standi is relaxed, as such proceedings are intended to prevent the unlawful occupation of public office, which is a matter of public importance. It is argued that an illegal appointment constitutes a continuing wrong affecting the public at large and may, therefore, be challenged by any public-spirited individual. The Petitioner further underscores the broader ramifications of such illegal appointments, asserting that they undermine meritocracy, discourage fair competition, and impose an unwarranted financial burden on the public exchequer in the form of salaries and other benefits extended to unlawfully appointed individuals. In view of the foregoing, it is prayed that the appointment of Respondent No. 4 be declared illegal, unlawful, and unconstitutional; that he be restrained from holding any public office; and that he be directed to refund all pecuniary and other benefits derived from such appointment.

17. Upon notice the private Respondent No. 4, namely Syed Sardar Ali Shah, has filed a counter affidavit contesting both the maintainability and merits of the instant petition. At the very outset, it is contended that the petition, in its present form, is not maintainable in law, being inherently inconsistent and misconceived. It is submitted that while the substantive portion of the petition assails the initial appointment of Respondent No. 4 in BPS-17 in the year 1992 primarily on the grounds that the post was allegedly removed from the purview of the Sindh Public Service Commission under Rule 5 of the Sindh Public Service Commission (Functions) Rules, 1990, and that such appointment was made in

violation of law the Petitioner has, at the same time, sought to rely upon the issue of voluntary return (VR) under the National Accountability Bureau laws as a ground of disqualification. However, the relief sought in the prayer clause is entirely divergent from these assertions, as it seeks to challenge the present position of Respondent No. 4 in BPS-20 as Chief Engineer. This material inconsistency, it is argued, renders the petition defective and liable to dismissal. It is further submitted that the Petitioner has fundamentally misconceived the scope and ambit of the constitutional jurisdiction of this Court in proceedings for issuance of a writ of quo warranto. It is contended that even if, arguendo, the initial appointment in BPS-17 were assumed to be defective, such alleged defect would not ipso facto vitiate subsequent promotions or appointments made strictly in accordance with the applicable service rules over an extended period of time. According to the Respondent, the jurisdiction of quo warranto is confined to examining the legality of the incumbent's present holding of office and does not extend to reopening past and concluded transactions dating back several decades. In elaboration, Respondent No. 4 has delineated the settled principles governing the issuance of a writ of quo warranto. It is submitted that such jurisdiction is attracted only where a person is presently holding a public office and is required to justify the authority under which such office is held; conversely, if the office is no longer held, the petition becomes infructuous. Reliance is placed upon the judgment of this Court in Arbab Imtiaz Khan v. Asim Jamil Zubedi, wherein it has been authoritatively held that interference in quo warranto jurisdiction is warranted only where it is established that: (a) the incumbent lacks the prescribed qualifications; (b) the appointment has been made by an authority lacking lawful competence; or (c) the appointment has been made in violation of the mandatory statutory procedure. It is asserted that beyond these limited contingencies, the jurisdiction cannot be invoked. Applying the aforesaid principles to the facts of the present case, it is submitted that none of the recognized grounds for issuance of a writ of quo warranto have either been pleaded or substantiated by the Petitioner. The petition, it is pointed out, is conspicuously silent with regard to the prescribed qualifications for the post of Chief Engineer, and no averment has been made that Respondent No. 4 is deficient in any such qualification. Likewise, there is no

assertion that the competent authority acted without jurisdiction or that any mandatory statutory procedure was violated in the appointment or promotion process. It is further submitted that the petition lacks essential particulars, including the date and mode of appointment or promotion of Respondent No. 4 to the post of Chief Engineer, the relevant service rules governing such appointment, and the nature of the alleged procedural irregularities. In the absence of these foundational facts, the petition is stated to be vague, speculative, and liable to dismissal.

18. A further preliminary objection has been raised on the ground of delay and laches. It is submitted that the initial appointment sought to be impugned dates back to the year 1992, whereas the present petition has been instituted in the year 2023, after an inordinate and unexplained delay of over three decades. It is contended that such belated invocation of jurisdiction is indicative of mala fide intent and disentitles the Petitioner from any discretionary relief. The bona fides of the Petitioner have also been seriously questioned, it being alleged that the petition has been filed at the behest of vested interests with the ulterior motive of dislodging Respondent No. 4 from his present office. In support of this contention, reference has been made to a series of earlier constitutional petitions filed on substantially identical grounds against Respondent No. 4, namely: C.P. No. D-6027/2020, C.P. No. D-5391/2020, C.P. No. D-1058/2020 and C.P. No. D-3859/2020. All of which, it is submitted, were dismissed by this Court through various orders and judgments. It is accordingly contended that the present petition is barred by the doctrine of res judicata in terms of Section 11 of the Code of Civil Procedure, 1908. It is further argued that although strict locus standi may not be a precondition in quo warranto proceedings, the Court must nonetheless be satisfied that the petition has been instituted in good faith. In the present case, no material has been placed on record to establish the bona fide of the Petitioner, and the petition appears to be actuated by extraneous considerations.

19. On merits, Respondent No. 4 has addressed the allegation pertaining to voluntary return (VR) under Section 25(a) of the National Accountability Ordinance, 1999. It is contended that voluntary return, upon acceptance by the competent authority and deposit of the determined amount, results in the discharge of the

person from all liabilities and confers immunity. It is further asserted that such discharge does not amount to a conviction nor does it entail any disqualification from holding public office. The Respondent has also submitted that certain interim observations made by this Court in earlier proceedings did not attain finality and were subsequently not acted upon, particularly in light of assistance rendered to the Court on the question of jurisdiction and the constitutional bar contained in Article 212. It is contended that matters relating to terms and conditions of service fall within the exclusive domain of the Service Tribunal, and, therefore, the present petition is not maintainable before this Court. In conclusion, it is prayed that the instant petition, being not maintainable, barred by delay and laches, lacking in bona fides, hit by the doctrine of res judicata, and otherwise devoid of merit, be dismissed with costs. It is emphatically asserted that no case has been made out warranting the issuance of a writ of quo warranto against Respondent No. 4.

20. Learned counsel for the petitioners, namely Mr. Zulfiqar Ali Domki, M/s Malik Altaf Hussain, Moin Khan Sandilo, and Rafiullah, inter alia, submitted that Respondent Nos. 3 to 18 have admittedly entered into Voluntary Return arrangements in terms of Section 25(a) of the National Accountability Ordinance, 1999 (hereinafter referred to as “NAO, 1999”). It was contended that such voluntary return constitutes a clear and unequivocal admission of involvement in corruption and corrupt practices, and, as a necessary legal corollary, renders the said respondents disqualified from holding any public office. In support of this proposition, learned counsel placed strong reliance upon the judgment of the Supreme Court of Pakistan rendered in Suo Motu Case No. 17 of 2016, particularly the order dated 08.03.2023, wherein it has been authoritatively held that, after the amendments introduced in the year 2022, a voluntary return under Section 25(a) of NAO, 1999 entails the same legal consequences as a plea bargain under Section 25(b) thereof. It was thus argued that persons who have availed the facility of voluntary return are to be deemed, for all intents and purposes, to have been convicted within the meaning of Section 15 of NAO, 1999, and consequently incur statutory disqualification from holding public office or employment in the service of Pakistan. Learned counsel

further submitted that notwithstanding this settled and binding legal position, the official respondents failed to initiate appropriate disciplinary proceedings against Respondent Nos. 3 to 18. On the contrary, many of them were neither dismissed from service nor subjected to any major penalty as prescribed under the relevant service laws; rather, some were granted promotions and others were allowed to retire with full pensionary and ancillary benefits. Such conduct, it was argued, amounts to a patent and flagrant disregard of the law, as well as a failure to discharge statutory obligations on the part of Respondent Nos. 1 and 2, thereby rendering their actions liable to judicial scrutiny. It was further contended that the act of entering into a voluntary return squarely falls within the ambit of "misconduct" as defined under the Sindh Civil Servants (Efficiency & Discipline) Rules, 1973, read with the Government Servants (Conduct) Rules, 2008. Consequently, such officers were legally disentitled to continue in service, and their retention in public office is per se illegal, without lawful authority, and of no legal effect. On the question of maintainability, learned counsel submitted that in proceedings in the nature of quo warranto, the requirement of strict locus standi is considerably relaxed. Any public-spirited person, acting bona fide, is competent to question the legality of a person's appointment or continuation in a public office. It was further argued that the unlawful occupation of public office constitutes a continuing wrong; hence, the petitions are not barred by limitation or delay, and remain maintainable despite the lapse of time. Learned counsel emphasized that permitting such individuals to continue in public service would have far-reaching adverse consequences, inter alia, by undermining the principles of transparency, merit, and accountability; fostering a culture of impunity; encouraging corrupt practices; and eroding public confidence in the integrity of governmental institutions. Additionally, it was argued that Respondent No. 4 was initially appointed in gross violation of Rule 10 of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, inasmuch as the appointment was made without recourse to the Sindh Public Service Commission, which is a mandatory requirement under the law. Consequently, the very foundation of his appointment being illegal, the entire service career built thereupon stands vitiated and liable to be declared void ab initio. In view of the foregoing submissions, learned

counsel prayed that this Court may graciously be pleased to declare Respondent Nos. 3 to 18 as disqualified from holding public office; to set aside their appointments, promotions, and all consequential benefits obtained therefrom; to direct recovery of all pecuniary advantages unlawfully derived; and to restrain them, permanently, from holding any public office in the future. In support of their contentions they relied upon the judgments reported as 2000 SCMR 540, 2008 SCMR 1151, 2021 SCMR 1904, 2013 SCMR 1904, 1996 SCMR 315, 2008 PLC (CS) 250, 2008 PLC (C.S.) 229, 2007 PLC (CS) 46, 2007 PLC (CS) 125, 2022 PLC (CS) 48, 2025 PLC (CS) 1548 and 2020 PLC (CS) 948.

21. Learned counsel appearing on behalf of the respondents, namely Mr. M.M. Aqil Awan, Ms. Laraib Awan, and Mr. Danish Rashid Khan, along with the learned Assistant Advocate General, learned Assistant Attorney General and the Special Prosecutor, NAB, vehemently opposed and controverted the averments set forth in the instant petitions. At the very outset, it was contended that a writ in the nature of *quo warranto* is, by its very legal character and settled jurisprudence, maintainable only against a single office holder, and not against a multiplicity of respondents. Consequently, it was argued that a composite petition directed against several incumbents holding different offices is legally misconceived, incompetent, and liable to be dismissed in limine on the ground of non-maintainability. Elaborating further, learned counsel submitted that the jurisdiction of this Court, while exercising constitutional jurisdiction in matters pertaining to *quo warranto*, is circumscribed and limited in scope. It extends only to an examination of whether the incumbent fulfills the prescribed qualifications for the office in question, whether the appointing authority was competent under the relevant law, and whether the appointment was made in accordance with the procedure prescribed by statute. It was emphatically argued that such jurisdiction does not encompass or extend to service-related matters, including but not limited to transfers, postings, seniority disputes, or disciplinary proceedings. These matters, it was contended, fall squarely within the exclusive domain of the Service Tribunal established under the relevant service laws, and therefore, the constitutional jurisdiction of this Court stands expressly barred in such matters. Learned counsel further

contended that the issues raised in the present petitions are not res integra, inasmuch as similar constitutional petitions bearing CP Nos. 6027 of 2020, 5391 of 2020, and others of like nature have already been adjudicated upon and dismissed by competent courts. It was thus argued that the present petitions are hit by the principle of *res judicata* as enshrined under Section 11 of the Code of Civil Procedure, 1908, and are therefore liable to be dismissed on this ground alone. It was also submitted that the petitions suffer from gross and inordinate delay and laches. Learned counsel pointed out that the Voluntary Return (VR) proceedings and other departmental actions, which form the basis of the present challenge, were concluded several years ago. The petitioners, having remained indolent and acquiescent for a considerable period, are now precluded from invoking the constitutional jurisdiction of this Court. On this ground as well, it was argued that the petitions are liable to be dismissed. Questioning the bona fides of the petitioners, learned counsel for the respondents asserted that the present petitions are not filed in good faith but are motivated by extraneous considerations, including political vendetta and personal animosity. It was contended that the petitions have been instituted with the ulterior motive of harassing the respondents and tarnishing their reputation, rather than seeking any genuine enforcement of legal rights.

22. On merits, learned counsel submitted that at the relevant point in time, section 25(a) of the National Accountability Ordinance, 1999 provided for a complete discharge from liability upon acceptance of Voluntary Return by the competent authority. It was argued that such a voluntary return did not amount to a conviction, nor did it attract any statutory disqualification. Learned counsel emphasized that disqualification under Section 15 of the said Ordinance was specifically linked to plea bargain under Section 25(b), and not to voluntary return under Section 25(a). Therefore, the respondents, having been subjected to proceedings under Section 25(a), did not incur any disqualification under the law as it then stood. It was further contended that the amendment introduced in the year 2022, whereby voluntary return was equated with plea bargain for certain purposes, is prospective in nature and cannot be applied retrospectively. Learned counsel argued that any attempt to apply such amendment retrospectively

would be violative of Article 12 of the Constitution of the Islamic Republic of Pakistan, 1973, which expressly prohibits retrospective penal action. Additionally, it was submitted that the respondents were subjected to departmental proceedings in accordance with law, and minor penalties, where applicable, were imposed after due process. These proceedings, having attained finality, cannot now be reopened or re-agitated through the present constitutional petitions. Learned counsel further argued that the impugned notifications pertain merely to transfers and postings within the same cadre, which do not amount to fresh appointments to public office. As such, these actions fall outside the ambit of a writ of *quo warranto*, which is concerned only with the legality of holding a public office and not with internal administrative arrangements. It was also contended that the petitioners have failed to demonstrate any lack of qualification, ineligibility, or incompetence on the part of the respondents, nor have they been able to establish any violation of statutory provisions governing the appointments in question. In the absence of such foundational defects, the petitions are devoid of merit. Lastly, learned counsel submitted that the initial appointments of certain respondents date back as far as the year 1992, and cannot be challenged after the lapse of nearly three decades. It was argued that even if any alleged defect existed at the time of initial appointment, the same cannot be invoked at this belated stage to invalidate subsequent promotions and service progression, particularly when such matters have long since attained finality. In conclusion, learned counsel maintained that voluntary return is merely a mechanism of settlement and restitution, and does not carry the legal consequences of a conviction unless expressly provided by statute. Accordingly, it does not, in and of itself, render a civil servant disqualified from holding public office. For all these reasons, it was urged that the petitions are misconceived, barred by law, and liable to be dismissed with costs. Learned Assistant Advocate General, Assistant Attorney General, and Special Prosecutor, NAB, submitted that the departmental proceedings were conducted strictly in accordance with the law; that the penalties were imposed by the competent authority in exercise of its lawful jurisdiction; that all service-related matters were addressed administratively in accordance with the prescribed rules and procedures; and that any further course of action shall be subject

to and contingent upon the final interpretation and determination of the law by the superior courts.

23. We have heard the learned counsel appearing on behalf of the respective parties and, with their able assistance, have meticulously examined and considered the material available on record.

24. In Constitutional Petition No. D-6129 of 2025, the petitioner has impleaded multiple officers and seeks a sweeping declaration against Respondent Nos. 3 to 18; however, such omnibus relief, directed against distinct individuals occupying separate offices under varying factual matrices, is neither maintainable nor capable of lawful adjudication within a single proceeding in the nature of quo warranto, as each office, appointment, and incumbent must be examined on its own independent legal footing, and a generalized allegation premised upon Voluntary Return cannot, in itself, warrant the issuance of writs of quo warranto against multiple office-holders; similarly, in Constitutional Petition No. D-4898 of 2022, the challenge is primarily confined to the posting of Respondent No. 3 as Chief Engineer and the additional charge previously assigned to him, yet the record unequivocally demonstrates that departmental proceedings concerning the issue of Voluntary Return were duly initiated, show-cause notices issued, replies considered, and a minor penalty of withholding of annual increment for one year imposed by the competent authority, thereby precluding any indirect reopening of the matter through a petition styled as quo warranto; furthermore, in Constitutional Petition No. D-1422 of 2023, the petitioner seeks to impugn the initial appointment of Respondent No. 4 made in 1992, along with raising issues pertaining to Voluntary Return, but such challenge, instituted after an inordinate lapse of over three decades, is manifestly barred by delay and laches, as constitutional jurisdiction being discretionary and equitable does not permit annulment of a long-standing service career, particularly where subsequent promotions and service milestones have intervened and attained finality.

25. The petitioners have, in substance, sought declaratory reliefs to the effect that the private respondents, having entered into Voluntary Return arrangements with the National Accountability

Bureau (NAB), are disentitled from continuing to hold public office. In certain petitions, ancillary challenges have also been raised with respect to promotions, transfers, postings, pensionary entitlements, and, in one instance, the initial appointment dating back to the year 1992. Conversely, the respondents have raised preliminary objections inter alia on the grounds of maintainability, delay and laches, res judicata, absence of bona fides, the constitutional bar contained in Article 212, and the limited ambit of the writ of quo warranto.

26. The foremost issue requiring adjudication is whether the present petitions, in their present form and substance, are maintainable as petitions seeking issuance of a writ of quo warranto. It is a settled principle of constitutional jurisprudence that a writ of quo warranto constitutes a limited, exceptional, and discretionary remedy, circumscribed by well-defined parameters. The purpose of such a writ is not to adjudicate upon administrative or service-related disputes on merits, but rather to ensure that a person holding public office does so strictly in accordance with law and possesses lawful authority to occupy such office. In proceedings for quo warranto, the scope of inquiry is narrow and confined to specific considerations, namely: (i) whether the office in question is a public office of a substantive character created by law; (ii) whether the incumbent satisfies the qualifications prescribed under the relevant statutory or constitutional provisions; (iii) whether the appointing authority was competent and legally empowered; and (iv) whether the appointment was made in accordance with mandatory legal provisions. Where any of these essential conditions is absent, the Court may, in exercise of its constitutional jurisdiction, declare that the incumbent lacks lawful authority and may be ousted through a writ of quo warranto. However, it is equally well-settled that such jurisdiction cannot be expanded beyond its recognized contours. The writ is not intended to redress personal grievances nor to indirectly challenge administrative decisions falling within the domain of service law. While exercising quo warranto jurisdiction, the Court does not act as an appellate or supervisory authority over departmental actions, nor does it engage in adjudication of disputed questions of fact relating to service conditions or internal administrative matters. Matters such as

transfers, postings, promotions, seniority, disciplinary proceedings, and imposition of departmental penalties fall squarely within the field of service jurisprudence, governed by statutory frameworks and procedural mechanisms, including departmental inquiries, service rules, and statutory appeals. Where applicable, such matters lie within the exclusive jurisdiction of the Service Tribunal constituted under Article 212 of the Constitution, which expressly excludes the jurisdiction of other courts in relation to terms and conditions of service of civil servants. The constitutional scheme thus delineates a clear demarcation between quo warranto jurisdiction and forums designated for service matters. Permitting petitions styled as quo warranto to encroach upon this domain would defeat the intent of Article 212 and undermine the statutory framework for resolution of service disputes. It would enable litigants to circumvent prescribed remedies and invoke constitutional jurisdiction as a matter of convenience, which is impermissible. It is also trite that constitutional jurisdiction cannot be invoked as a substitute for departmental proceedings, service appeals, or other statutory remedies. The doctrine of exhaustion of remedies mandates that available legal mechanisms be first availed before resorting to extraordinary jurisdiction. A writ of quo warranto cannot be employed as a device to ventilate personal or service-related grievances under the guise of challenging the legality of an appointment.

27. Furthermore, the discretionary nature of the writ must be emphasized. Even where a technical defect in appointment is alleged, the Court retains discretion to decline relief where the petition is motivated, mala fide, or intended for collateral purposes. The writ of quo warranto is designed to uphold the rule of law and prevent unlawful occupation of public office, and not to serve as a tool for harassment or to settle personal or service-related disputes. Applying these settled principles to the present petitions, it is evident that unless the petitioners demonstrate, prima facie, that the respondents are holding public office without lawful authority due to a clear violation of statutory provisions relating to eligibility, competence, or mandatory procedure, the petitions cannot be sustained. Allegations pertaining to service irregularities, procedural lapses not affecting jurisdiction, or dissatisfaction with administrative decisions are insufficient to

invoke this extraordinary remedy. In conclusion, the maintainability of the petitions must be assessed strictly within the established legal framework governing quo warranto. Any attempt to broaden its scope to encompass matters falling within the exclusive domain of service law must be rejected. While the constitutional jurisdiction of this Court is extensive, it is not unbounded and must be exercised in conformity with constitutional limitations and statutory schemes. It is observed that the petitioners have failed to establish any foundational requirement for invoking quo warranto jurisdiction. They have neither demonstrated that the private respondents lack the requisite qualifications for holding public office nor identified any disqualification, legal bar, or statutory impediment rendering the appointments void. Mere allegations, conjectures, or dissatisfaction with administrative actions cannot substitute the strict legal requirements for issuance of such a writ. Moreover, the petitioners have failed to identify any violation of a mandatory statutory provision, rule, or binding legal instrument governing the posts in question at the time of appointment, posting, or continuation of the private respondents. In the absence of any such specific illegality, the petitions rest on generalized assertions and perceived irregularities, which fall short of the threshold for constitutional intervention. It is well-settled that a writ of quo warranto cannot be issued unless the appointment is shown to be contrary to statutory provisions or in clear violation of prescribed eligibility criteria. Matters relating to transfers, postings, and promotions are incidents of service within the exclusive administrative domain of competent authorities, and judicial interference therein is warranted only upon proof of mala fide, arbitrariness, or violation of law none of which has been established in the present case. Similarly, issues concerning disciplinary proceedings, recovery of emoluments, and pensionary benefits are governed by comprehensive service rules providing adequate remedies, including departmental appeals and recourse to service tribunals. The petitioners have neither exhausted such remedies nor justified invocation of extraordinary constitutional jurisdiction. In view of the foregoing, the petitions are misconceived, not maintainable in their present form, and constitute an abuse of the process of law. The attempt to convert service related disputes into proceedings for quo warranto is legally untenable and liable to be dismissed. The

petitioners have failed to satisfy the essential prerequisites for issuance of such a writ; consequently, the reliefs sought do not merit consideration by this Court.

28. The petitioners have placed considerable reliance upon the proceedings conducted before the Supreme Court of Pakistan in Suo Motu Case No. 17 of 2016, as well as the evolving jurisprudence pertaining to Sections 25(a) and 25(b) of the National Accountability Ordinance, 1999 (hereinafter referred to as the "NAO, 1999"). There can be no dispute, nor is any such dispute raised before this Court, regarding the well-established legal and moral principle that corruption in public office constitutes a serious offence against the State and society at large. Public office is a sacred trust, and all public functionaries are under a binding obligation both legal and ethical to uphold the highest standards of probity, transparency, and integrity in the discharge of their duties. The observations of the Supreme Court in the aforementioned suo motu proceedings, emphasizing accountability and good governance, are fully acknowledged and carry significant persuasive value. However, with utmost respect, it is clarified that the issue presently before this Court is not one of general condemnation of corrupt practices or moral scrutiny of the conduct of public servants in abstract terms. Rather, the controversy is narrowly confined to the determination of specific legal consequences arising from statutory provisions, and the applicability of such consequences to particular actions undertaken by the respondents within a defined temporal framework. It is a settled principle of law that adjudication must be grounded in the precise statutory scheme as it stood at the relevant time, and not influenced by subsequent legislative developments or evolving policy considerations, unless expressly provided for by law. At the time when the concerned respondents entered into Voluntary Return arrangements with the National Accountability Bureau, the legal regime governing such arrangements was materially distinct from that applicable to plea bargains under Section 25(b) of the NAO, 1999. A careful and contextual reading of the statute, as it then stood, reveals that Section 25(a), dealing with Voluntary Return, and Section 25(b), relating to plea bargain, operated in separate domains and were not intended to be treated as identical in terms of legal

consequences. Voluntary Return under Section 25(a) was primarily conceived as an administrative mechanism aimed at the recovery of ill-gotten gains at an early stage of inquiry, prior to the initiation or culmination of formal judicial proceedings. In contrast, plea bargain under Section 25(b) was embedded within a more formal adjudicatory framework, typically invoked after the commencement of proceedings before an Accountability Court, and carried with it more serious and explicit legal ramifications. Most significantly, the statutory disqualifications and disabilities contemplated under Section 15 of the NAO, 1999 were, at the relevant time, expressly linked to conviction by an Accountability Court or to the acceptance of a plea bargain under Section 25(b). The legislative intent, as discernible from the plain language of the statute, did not extend such disqualifying consequences in the same manner to cases of Voluntary Return under Section 25(a). This distinction was neither incidental nor ambiguous; rather, it formed a deliberate part of the statutory framework, recognizing the differing nature, stage, and legal implications of the two mechanisms.

29. It is a cardinal principle of statutory interpretation that where the legislature has drawn a clear distinction between two categories, the same must be given effect by the courts, and no artificial equivalence should be introduced by way of judicial interpretation. Any attempt to retrospectively equate Voluntary Return under Section 25(a) with plea bargain under Section 25(b), for the purpose of imposing identical disqualifications, would amount to rewriting the statute and extending its scope beyond what was originally enacted. Furthermore, the subsequent amendment introduced in the year 2022, whereby certain legal consequences, including potential disqualifications, were extended to cases of Voluntary Return, represents a substantive change in the law. Such an amendment cannot, in the absence of explicit legislative intent, be applied retrospectively so as to affect transactions and arrangements that had been validly concluded under the earlier legal regime. The principle against retrospective penalization is deeply entrenched in our constitutional and legal framework, and is also reflective of broader notions of fairness, legal certainty, and the rule of law. The respondents, at the time of entering into Voluntary Return arrangements, acted in accordance with the law as it stood, and their actions gave rise to legal

consequences that were complete and final within that framework. To subsequently impose additional burdens, penalties, or disqualifications by applying a later amendment retrospectively would not only be legally impermissible but would also undermine the doctrine of vested rights and legitimate expectation. It is well-settled that laws which impose new disabilities or impair existing rights are to be construed as prospective in operation unless the legislature has unequivocally expressed a contrary intention.

30. Article 12 of the Constitution safeguards individuals against retrospective penal consequences; accordingly, any statutory amendment imposing a disability or disqualification of a penal nature cannot, in the absence of express legislative intent and constitutional permissibility, be applied to acts completed prior to its enforcement, and no such justification has been demonstrated to warrant the retrospective disqualification of persons who availed Voluntary Return before the amendment. Furthermore, where the competent authority has already exercised jurisdiction by initiating disciplinary proceedings and imposing penalties under the relevant service rules, the adequacy of such penalties falls outside the scope of quo warranto jurisdiction, and this Court, particularly in proceedings under Article 199, cannot assume the role of an appellate forum when the statutory framework itself provides appropriate remedies. The plea of res judicata and abuse of process is also of significance insofar as the record reveals repeated litigation on substantially similar grounds against the same respondents; although quo warranto proceedings are not strictly constrained by technical rules of locus standi, the Court must be satisfied as to the bona fides of the petitioner and the presence of genuine public interest, which are undermined by repeated petitions, unexplained delay, suppression of prior proceedings, and attempts to reopen concluded service matters. The principle that unlawful occupation of public office constitutes a continuing wrong is likewise inapplicable in the present circumstances, as it pertains only to cases where an incumbent presently holds office in clear violation of an existing statutory qualification or mandatory appointment procedure, and does not extend to reopening past appointments, concluded disciplinary actions, transfers, postings, promotions, or settlements governed by the law as it stood at the relevant time. Finally, the contention

that Voluntary Return is invariably equivalent to conviction cannot be accepted in the sweeping manner advanced by the petitioners, particularly in relation to cases predating the 2022 amendment, since any legal fiction of deemed conviction or statutory disqualification must be expressly grounded in the statute, and cannot be implied by the Court where the legislature had not, at the relevant time, attached such consequences to Voluntary Return under Section 25(a).

31. Insofar as the contention that Respondent No. 4's initial appointment in 1992 was unlawful for lack of recommendation by the Sindh Public Service Commission is concerned, the same is manifestly barred by delay and laches, the petitioner having failed to furnish any plausible explanation for not assailing such appointment within a reasonable period; the respondent, having rendered service for several decades and undergone subsequent service-related developments, cannot now be unsettled in the absence of a timely challenge and complete foundational facts relating to the office presently held, and thus no writ of quo warranto is maintainable on this ground; furthermore, the petitioners have failed to place sufficient material on record to demonstrate that the private respondents are presently holding public offices without lawful authority, as mere allegations regarding entry into Voluntary Return arrangements are inadequate, particularly when the law applicable at the relevant time did not entail automatic disqualification and where, in certain instances, departmental proceedings were duly conducted; consequently, it is held that the petitions, insofar as they seek adjudication of transfers, postings, promotions, departmental penalties, service benefits and pensionary consequences, are not maintainable under the prevailing constitutional and statutory framework governing service matters, that a writ of quo warranto cannot be issued on generalized and omnibus allegations without establishing, in respect of each individual office holder, a present lack of lawful authority, that Voluntary Return under Section 25(a) of the National Accountability Ordinance, 1999 (as it stood prior to the 2022 amendment) did not amount to conviction or statutory disqualification under Section 15, that the 2022 amendment cannot be applied retrospectively to impose penal or disqualifying consequences upon concluded Voluntary Return arrangements,

that departmental proceedings already conducted and penalties imposed by competent authorities cannot be reopened in quo warranto jurisdiction, and that the petitions are further vitiated, where applicable, by delay, laches, lack of bona fides and repetitive litigation on substantially identical grounds; accordingly, for the foregoing reasons, all listed constitutional petitions along with pending applications stand dismissed, with no order as to costs.

JUDGE

JUDGE