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CASE LAW UPDATES

Pakistan Superior Courts — Verified Judgment Digest

Thursday, 17 September 2026

Upload Window: 12, 14, 15, 16 and 17 September 2026 — with three judgments recovered from earlier issues

SC: 5 judgments | LHC: 4 judgments | SHC: 4 judgments | FCC/IHC: no new entries

5	4	4	13
SC	LHC	SHC	TOTAL

Operative orders quoted verbatim. Legal principles extracted directly from judgment text.

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Supreme Court of Pakistan

Lahore High Court

Sindh High Court

Coverage and exclusions: this issue covers every working day since the briefing of 11 September 2026 (Sunday 13 September excluded). Thirty-eight candidates were identified across the five courts (four Supreme Court, nil Federal Constitutional Court, fifteen Lahore High Court, sixteen Sindh High Court approved for reporting, nil Islamabad High Court), together with three judgments carried forward; thirteen were curated for reporting. (a) RECOVERED ITEMS — three judgments excluded from earlier issues are digested here. C.A. Nos. 1443 to 1447 of 2018 (Commissioner of Income Tax, Lahore v. Sui Northern Gas Pipelines Ltd.) had been served as an image-only scan on every check since early August and was excluded five times; the Court has since re-uploaded it with a text layer and it is reported below in the ordinary way. C.P.L.A. No. 50-P of 2022 and C.P.L.A. No. 260-P of 2022, both uploaded on 8 September and both served as image-only scans with no extractable text, have been transcribed page by page from the rendered images; each is marked 'transcribed from scan' in its status line. Readers relying on the exact words of those two judgments in a filing should obtain certified copies, because the ordinary verbatim check — which greps every quotation against the PDF's own text layer — cannot be run on a document that has none. A caution also attaches to the Sui Northern text layer itself, which is OCR-derived rather than native and carries visible character errors; quotations have been taken only from *passages that are clean. (b) The Federal Constitutional Court has uploaded nothing since 8 September, which was reported in the last issue. (c) Lahore High Court items not carried forward are principally civil revisions and bail matters turning on their own facts — R.F.A. 504-23 (POP v. Muhammad Arjamand Khan), C.R. 460-26 (Ghulam Mustafa v. Rasheeda), C.R. 1031-16 (Khadim Hussain v. Rahim Bakhsh), C.R. 414-23 (Ch. Hafeez ul Rehman v. Mst. Uzma Sattar), Criminal Proceedings 1185/26 (Mst. Razia Bibi v. ASJ Sheikhupura), F.A.O. (Banking) 29-19 (MCB Bank Ltd v. M/s Azam Traders), W.P. (Family) 6627-23 (Mst. Shagufta Bibi v. ADJ), I.C.A. 272-24 (POP v. Syeda Kaneez Fatima), Crl. Misc. 3275-B-26, Crl. Misc. 2888-B-26 and Crl. Misc. 47124/26 (Aon Abbas v. The State). The I.C.A. on the counting of continuous temporary service and the banking F.A.O. are both substantial and can be digested separately on request. (d) Sindh High Court items approved for reporting but not carried into this issue include Const. P. 2724/2026's companions and the cluster of Hyderabad revisions on summary suits (2026 SHC HYD 1736, 1738 and 1740), of which one representative decision is reported below; also Criminal Appeal 468/2025 (2026 SHC KHI 1751), Const. P. 887/2025 (2026 SHC KHI 1742), Spl. Cus. Ref. A. 230/2026 (2026 SHC KHI 1747), II.A. 43/2017 (2026 SHC KHI 1721), Criminal Miscellaneous 300/2026 (2026 SHC HYD 1735), Criminal Miscellaneous 452/2026 (2026 SHC HYD 1739), Const. P. 3938/2026 (2026 SHC KHI 1720), Const. P. 5312/2026 (2026 SHC KHI 1745) and Const. P. 157/2026 (2026 SHC HYD 1722). Each is available on request. (e) No Islamabad High Court judgment met the reporting threshold; that court's public listing still shows no reported upload after 18 March 2026, now a gap of six months. (f) One portal defect remains outstanding: Const. P. 875 of 2025 (National Bank of Pakistan v. Mirza Hamayun, 2026 SHC KHI 1583) is still served under a hash that returns an unrelated order sheet.*

Supreme Court of Pakistan

5 judgments

INCOME TAX ORDINANCE, 2001 SS. 120, 122(5A), 133, 221; WORKERS' WELFARE FUND ORDINANCE, 1971 SS. 2(F), 4 — RECTIFICATION UNDER SECTION 221 IS CONFINED TO MISTAKES GLARING AND OBVIOUS ON THE FACE OF THE RECORD; IT CANNOT BE USED TO CREATE A FRESH FISCAL LIABILITY REQUIRING A DETERMINATION OF STATUS

Commissioner of Income Tax, Lahore v. M/s. Sui Northern Gas Pipelines Ltd., Lahore

CIVIL APPEALS DISMISSED; QUESTIONS (II) AND (III) ANSWERED IN THE NEGATIVE, AGAINST THE DEPARTMENT AND IN FAVOUR OF THE TAXPAYER; APPROVED FOR REPORTING

Civil Appeals No. 1443 to 1447 of 2018, Supreme Court of Pakistan (against the order dated 21.09.2016 of the Lahore High Court, Lahore in P.T.Rs. No. 242 to 246 of 2009) · Bench: Muhammad Ali Mazhar, Irfan Saadat Khan and Aqeel Ahmed Abbasi, JJ (judgment by Irfan Saadat Khan, J) · Decided: 23.06.2026 · Uploaded: originally uploaded early August 2026; re-uploaded with a text layer and recovered on 17.09.2026

FACTS

The respondent, a public limited company engaged in the compression, blending and distribution of natural gas and the construction of pipelines, had its assessment for Tax Year 2003 completed under the deeming provision of section 120 of the Income Tax Ordinance, 2001 and thereafter amended under section 122(5A), the total income being assessed at Rs. 2,197,058,389. The Additional Commissioner Inland Revenue subsequently observed that Workers' Welfare Fund at 2 per cent had not been charged under section 4 of the Workers' Welfare Fund Ordinance, 1971, treated that omission as a mistake apparent from the record, and issued a notice under section 221. The proceedings culminated in a rectification order dated 23.09.2008 creating a fresh demand of Rs. 43,941,168. The taxpayer resisted on two grounds: that it was not an 'industrial establishment' within section 2(f) of the Ordinance of 1971, and that in any event the levy could not be imposed through rectification proceedings. The Commissioner (Appeals) maintained the order; the Appellate Tribunal accepted the taxpayer's appeal and vacated the rectification; and the Lahore High Court dismissed the department's references. Tax Years 2004 to 2007 received similar treatment. When leave was granted on 08.11.2018 the Court framed three questions, the third arising from its own observation that the levy under the Ordinance of 1971, though then treated as a tax on income, was separate and distinct from the general income tax legislation and carried its own recovery mechanism in section 4.

LEGAL ISSUE

Whether the omission to levy Workers' Welfare Fund in a deemed assessment under section 120, subsequently amended under section 122(5A), could be treated as a 'mistake apparent from the record' so as to justify rectification under section 221 of the Income Tax Ordinance, 2001; and whether the department could recover the levy by rectifying an income tax assessment rather than by invoking section 4 of the Ordinance of 1971.

HOLDING

The appeals were dismissed. Section 221 is strictly rectificatory and not an independent charging, assessment or review provision; tracing its lineage through section 156 of the Ordinance of 1979, section 35 of the Act of 1922 and section 154 of the Indian Act of 1961, the Court held the legislative intent has been uniform for over a century. Before any liability under the Ordinance of 1971 could be created, the authority would first have to determine whether the taxpayer falls within the definition of 'industrial establishment', scrutinise its shareholding, examine its nature of working and identify the taxable income base — each a debatable question requiring adjudication, and so outside rectification. The Court distinguished between an error in computation and the creation of liability: an arithmetical or clerical error may be rectified, but the creation of a fresh fiscal liability stands on an entirely different footing. It clarified that an assessment falling under sections 122A, 122B, 122(5), 122(5A) or 122(5AA) may still be reopened subject to the parameters of those provisions.

LEGAL SIGNIFICANCE

This is the definitive recent statement on the limits of rectification in Pakistani revenue practice, and it closes a dispute that ran for eighteen years. Three features make it valuable beyond its own facts. First, the Court collects a full comparative apparatus — thirteen Indian and Pakistani decisions on debatable points, together with Islam ud Din (2000 PTD 306) and the Sindh High Court's decision in 2013 PTD 508 — so it can be cited as a single source for the proposition that a decision on a debatable point of law is outside section 221. Secondly, the distinction it draws between correcting a computation and creating a liability gives a workable test for resisting rectification notices that seek to introduce a levy for the first time. Thirdly, the express carve-out for sections 122A, 122B, 122(5), 122(5A) and 122(5AA) tells the department what it should have done instead, which is as useful to advisers as the prohibition itself. Note that the file served by the Court carries an OCR-derived text layer with visible character errors; the quotations below are taken from clean passages.

LEGAL PROPOSITIONS (VERBATIM)

— Section 221 of the Ordinance, is strictly a rectificatory provision; it is not an independent charging assessment or review provision.

— While an arithmetical or clerical error may legitimately fall within the scope of rectification, the creation of a fresh fiscal liability stands on an entirely different footing.

— the moment an issue requires investigation and admits more than one legally sustainable view, it automatically falls outside the narrow scope of rectification.

— trying to resolve such multi-layered, debatable legal issues through the mechanism of Section 221 of the Ordinance is a patent misuse of rectification jurisdiction.

LEGAL PRINCIPLES EXPOUNDED

The power of rectification is confined to mistakes that are glaring, patent and obvious on the face of the record; it cannot extend to matters requiring elaborate discussion or a process of discovery.

Source: *the power of rectification is strictly confined to the correction of mistakes that are glaring, patent, and obvious on the face of the tax record.*

Authority: *Section 221, Income Tax Ordinance, 2001; Commissioner of Income Tax v. Messrs National Food Laboratories (1992 SCMR 687)*

Rectification corrects an existing error; it is never a mechanism for creating a fresh tax liability where none was recorded.

Source: *rectification is intended to correct an existing error, it is never intended to serve as a mechanism to create a fresh tax liability where none was initially recorded.*

Authority: *Commissioner of Income Tax v. Mysore Breweries Ltd. [(2013) 356 ITR 346]; section 221, Income Tax Ordinance, 2001*

Whether an establishment falls within the definition of 'industrial establishment' requires detailed scrutiny of status, shareholding and operations, and can be determined only through proper assessment proceedings.

Source: *Such determination can be made only through proper assessment proceedings under the relevant law*

Authority: *Section 2(f), Workers' Welfare Fund Ordinance, 1971; section 221, Income Tax Ordinance, 2001*

A mistake apparent on the record must be obvious and patent, not something established by a long process of reasoning on points admitting of two opinions; a decision on a debatable point of law is outside rectification.

Source: *A mistake apparent on the record must be an obvious and patent mistake and not something which can be established by a long drawn process of reasoning on points on which there may conceivably be two opinions...*

Authority: *T.S. Balaram, Income Tax Officer v. Volkart Brothers [(1971) 82 ITR 50 (SC)]; Commissioner of Income Tax v. Calcutta Steel Co. Ltd. [(1988) 174 ITR 521]*

OPERATIVE ORDER

> *In view of the facts and circumstances of these cases hereinabove and the legal position which has emerged in these appeals, we are of the considered view that the impugned judgment passed by the High Court does not suffer from any error or illegality which may require any interference by this Court under Article 185(3) of the Constitution of*

the Islamic Republic of Pakistan, 1973, which, otherwise, is based on proper appreciation of the facts and the law attracted thereon. While upholding the decision of the High Court, we answer Questions No. (ii) and (iii) proposed through the instant civil appeals in the negative, against the petitioner-department and in favour of the respondent. Since the learned counsel for the parties have only argued on the scope and application of rectification under Section 221 of the Ordinance, 2001 in these cases, therefore, we need not dilate upon question No. 1. Consequently, the above civil appeals are dismissed.

View Full Judgment

OCCUPATIONAL GROUPS AND SERVICES (PROBATION, TRAINING AND SENIORITY) RULES, 1990 RR. 2, 3, 4, 6, 7, 10; CIVIL SERVANTS ACT, 1973 SS. 6, 8, 25 — SENIORITY OF A PROBATIONER IS DETERMINED BY THE BATCH IN WHICH HE PASSES THE FINAL PASSING OUT EXAMINATION; A CIVIL SERVANT WHO FAILS TO QUALIFY CANNOT CLAIM SENIORITY WITH HIS ORIGINAL BATCH

Federation of Pakistan through Secretary, Establishment Division v. Kamran Khan

CIVIL PETITION CONVERTED INTO APPEAL AND ALLOWED; JUDGMENT OF THE FEDERAL SERVICE TRIBUNAL SET ASIDE AND THE RESPONDENT'S SERVICE APPEAL DISMISSED; APPROVED FOR REPORTING

Civil Petition for Leave to Appeal No. 670 of 2024 (converted into appeal), Supreme Court of Pakistan (against the judgment dated 11.12.2023 of the Federal Service Tribunal in Appeal No. 328(P)CS/2021) · Bench: Muhammad Ali Mazhar, Musarrat Hilali and Irfan Saadat Khan, JJ (judgment by Muhammad Ali Mazhar, J) · Decided: 02.06.2026 · Uploaded: 16.09.2026

FACTS

The respondent joined the Police Service of Pakistan as a probationer on 30.09.2016 with the 44th Common Training Programme but could not clear the examination. The Civil Services Academy informed the Establishment Division by letter of 13.04.2017 that his conduct had been unbecoming of an officer — wilful defiance, threatening of lower staff and general misconduct — that he had not completed the 44th CTP satisfactorily and could not be issued a completion certificate, that he had rendered himself liable to a major penalty under Rule 10, and recommended that he repeat the CTP with the 45th batch. He did so, passed out, and his seniority was fixed with the 45th CTP batch. He challenged Office Memorandum dated 22.10.2015, which recorded the competent authority's decision that a probationer required to repeat his CTP for unsatisfactory performance would have his seniority fixed with the batch in which he successfully completes it, while his length of service for pay-fixation purposes would run from the date of joining the original CTP. The Federal Service Tribunal declared that Office Memorandum ultra vires and, while holding the order to repeat the CTP valid, directed that his seniority be fixed on the marks obtained in the 44th CTP.

LEGAL ISSUE

Whether a probationer who failed to qualify in the Final Passing Out Examination with his original batch, and passed out only with the succeeding batch, may claim seniority with the original batch; and whether the Office Memorandum recording that seniority follows the batch in which the CTP is successfully completed was liable to be declared ultra vires.

HOLDING

The appeal was allowed and the Tribunal's judgment set aside. Seniority is determined according to the CTP in which the probationer is declared successful; if he fails the mandatory course his seniority is relegated to the batch in which he passes, and he is relocated to the bottom of that new batch. Rule 7 lays down an express criterion whose core prerequisite is passing the final examination, and the Tribunal failed to consider it before declaring the Office Memorandum ultra vires. On that question, the Court held it was obligatory for the Tribunal first to ask whether the Office Memorandum was issued without competence or transgressed the relevant rules, or was merely an explanation within their bounds; read alongside Rules 6 and 7, there was no justification for striking it down, and the pay-fixation concession in it confers no cause of action to claim seniority with the original batch. As to Rule 10, the respondent had been given a fair opportunity to complete the course with the next batch rather than face removal from service — a grace the Court declined to treat as a grievance.

LEGAL SIGNIFICANCE

A clean and citable statement of a recurring service-law point across all occupational groups, not merely the Police Service. Three propositions emerge with unusual clarity: seniority is not an inherent or fundamental right but a creature of the applicable rules; time consumed in repeating a training programme confers no dispensation, the length of finalised service running from the batch in which the course is cleared; and a departmental instruction that merely explains the operation of a rule is not for that reason ultra vires. The judgment is also a useful corrective on the discipline a tribunal must observe before declaring an executive instrument ultra vires — the question is competence and transgression, not disagreement. Practitioners should note the Court's treatment of the Rule 10 argument: the absence of penal action against a probationer is not a reason to give him the benefit of seniority he did not earn.

LEGAL PROPOSITIONS (VERBATIM)

— *The seniority is always governed and regulated strictly in accordance with the applicable statutory rules and regulations of the department.*

— *The seniority is not an inherent or fundamental right but it is reckoned according to relevant laws and rules.*

— *A civil servant cannot claim seniority with an earlier batch if he failed to fulfil the statutory prerequisite.*

— *The expression ultra vires means "beyond the powers". If an act is carried out shorn of authority, it is "ultra vires".*

LEGAL PRINCIPLES EXPOUNDED

Where a probationer fails the mandatory course, his seniority is relegated to the batch with which he successfully passes out, and he is placed at the bottom of that batch.

Source: *If he fails to qualify the mandatory course, his seniority is relegated and determined with the batchmates of CTP wherein he successfully completed and passed out the course and in such scenario, the seniority moves on to the new-fangled CTP batch.*

Authority: *Rules 6 and 7, Occupational Groups and Services (Probation, Training and Seniority) Rules, 1990*

Time consumed in repeating a training programme confers no privilege in the determination of seniority; the length of finalised service runs from the batch in which the course is cleared.

Source: *The stretch of time consumed in repeating CTP due to failure and subsequently qualifying it successfully in next training program does not bestow any privilege or dispensation for determination of seniority with the original batchmates, rather, the length of finalized service is counted from the batch in which the CTP is cleared.*

Authority: *Rule 7, Occupational Groups and Services (Probation, Training and Seniority) Rules, 1990*

Before declaring an executive instrument ultra vires, a tribunal must ask whether it was issued without competence or transgresses the governing rules, or is merely an explanation within their bounds.

Source: *If this O.M is considered in juxtaposition to Rule 6 and 7 of the Rules of 1990, there was no plausible reason or justification to declare the O.M ultra vires or void.*

Authority: *Section 25, Civil Servants Act, 1973; Rules 6 and 7, Occupational Groups and Services (Probation, Training and Seniority) Rules, 1990*

OPERATIVE ORDER

As a result of above discussion, this Civil Petition is converted into an appeal and allowed. As a consequence thereof, the impugned judgment of the Tribunal is set aside and Service Appeal of the respondent filed before the learned Tribunal is dismissed.

■ **View Full Judgment**

DEFAMATION ORDINANCE, 2002 SS. 8, 12 — A GRIEVANCE FOUNDED ON THE REGISTRATION OF A CRIMINAL CASE THAT WAS CANCELLED LIES IN MALICIOUS PROSECUTION, NOT DEFAMATION; A CLAIM CANNOT BE CONVERTED FROM ONE TORT TO THE OTHER BY THE LABEL ATTACHED TO IT

Altaf Hussain and others v. M/s Bayer Crops Science Pakistan through its Chief Executive Officer and another

PETITION DISMISSED AND LEAVE REFUSED; CONCURRENT FINDINGS OF THE COURTS BELOW UPHELD; APPROVED FOR REPORTING

Civil Petition No. 701-K of 2025, Supreme Court of Pakistan (against the order dated 13.02.2025 of the High Court of Sindh, Circuit Court, Hyderabad in 1st Appeal No. 15 of 2015) · Bench: Irfan Saadat Khan and Aqeel Ahmed Abbasi, JJ (judgment by Aqeel Ahmed Abbasi, J) · Decided: 29.07.2026 (announced 07.08.2026) · Uploaded: 16.09.2026

FACTS

The petitioners are dealers in seeds, fertilisers and pesticides in District Badin and had been authorised dealers of Bayer Crops Science Pakistan since 2004. On 16.07.2008 the second respondent, a security consultancy, raided the first petitioner's shop with a police party, seized 119 bottles of 'Confidor' pesticide, lodged FIR No. 87 of 2008 and detained him overnight. A further raid by the Deputy District Officer (Agriculture Extension) the next day seized additional samples. The Pesticide Quality Control and Testing Laboratory, Hyderabad reported the pesticides genuine and conforming to specification, the police recommended disposal in 'C Class', and the Judicial Magistrate cancelled the FIR on 15.04.2009. The petitioners sued for Rs. 25.6 million — Rs. 5 million for mental torture, Rs. 15.6 million for loss of business and Rs. 5 million for injury to reputation — framing the suit under the Defamation Ordinance, 2002 and relying on reports published in two newspapers. The Additional District Judge, Badin dismissed the suit and the Sindh High Court dismissed the appeal. It emerged that samples from the same raid had been sent to the Karachi Chemical Laboratory, which reported on 20.10.2008 that they were fake; that report was never challenged, and the FIR was cancelled on the strength of the Hyderabad report alone.

LEGAL ISSUE

Whether a claim for damages arising from the registration and subsequent cancellation of a criminal case may be pursued as an action for defamation under the Defamation Ordinance, 2002, where the plaintiffs did not implead the newspapers or connect the defendants with the publication complained of.

HOLDING

The petition was dismissed. Following Ayesha Bibi v. Additional District Judge, Lahore (2018 SCMR 791), an action for defamation founded on the initiation of criminal proceedings is hit by the rule of immunity devised for the proper administration of justice, and that immunity cannot be bypassed by dressing a grievance about police reporting as a civil defamation claim. The cause of action is determined from the material facts pleaded and the nature of the injury alleged, not from the label; the entire emphasis of the petitioners' case rested on the FIR, the investigation and the alleged wrongful prosecution, so their grievance was substantially one of malicious prosecution. That tort carries its own heavier burden — on Muhammad Akram v. Mst. Farman Bi (PLD 1990 SC 28) and Muhammad Yousaf v. Abdul Qayuum (PLD 2016 SC 478), the plaintiff must establish prosecution by the defendant, termination in his favour, absence of reasonable and probable cause, malice, interference with liberty and reputation, and damage. Here the conflicting Karachi and Hyderabad laboratory reports themselves negated the absence of reasonable and probable cause. The defamation claim failed independently: no evidence connected the respondents with the publication, no editor, publisher or correspondent was impleaded or examined, and the legal notice was fifteen months late and the suit over twenty months late against the limits in sections 8 and 12 of the Ordinance.

LEGAL SIGNIFICANCE

A clear allocation of two torts that are routinely confused in pleadings, and a warning about the pleading consequences of getting it wrong. The judgment establishes that immunity protecting communications made in invoking the criminal justice process cannot be circumvented by re-labelling the claim, and that a court will look through the label to the material facts. For anyone advising a client whose business has suffered from a cancelled FIR, the practical guidance is precise: the remedy is malicious prosecution before the competent court, its ingredients must each be pleaded and proved, and a 'C Class' cancellation by itself proves none of them. The judgment also sets out what a defamation plaintiff must do where the complaint concerns press reports — plead and prove that the defendant authored, procured, authorised or was otherwise responsible for the publication, and implead those who published it.

LEGAL PROPOSITIONS (VERBATIM)

— It is settled legal position that when a grievance arises purely from the filing of a criminal case that gets cancelled in "C Class", the proper legal remedy under the law of torts is a suit for Malicious Prosecution, not Defamation.

— Mere termination of criminal proceedings in favour of the accused is, by itself, insufficient to establish liability for Malicious prosecution.

— It is pertinent to note that every distinct tort possesses its own constituent elements, burden of proof and statutory requirements.

— Where the pleaded facts disclose one cause of action but the suit is instituted under another, the claim must necessarily fail unless the legal requirements of the chosen remedy are independently established.

LEGAL PRINCIPLES EXPOUNDED

The immunity attaching to the initiation of criminal proceedings cannot be bypassed by pleading the grievance as civil defamation.

Source: *Consequently, attempting to bypass this immunity by dressing a grievance of police reporting as a civil defamation claim is legally impermissible.*

Authority: *Ayesha Bibi v. Additional District Judge, Lahore (2018 SCMR 791); Defamation Ordinance, 2002*

The court ascertains the true nature of the grievance from the pleadings and evidence, not from the label attached to the claim.

Source: *It is the duty of the Court to ascertain the true nature of the grievance from the pleadings and evidence, rather, than the label attached to the claim.*

Authority: *Defamation Ordinance, 2002; Muhammad Akram v. Mst. Farman Bi (PLD 1990 SC 28)*

Defamation and malicious prosecution address different wrongs and carry different burdens: the one reputational damage by unprivileged publication, the other abuse of the judicial or investigative process requiring proof of malice and want of reasonable and probable cause.

Source: *Defamation is concerned on reputational damage caused by unprivileged public publication or circulation to third parties, whereas, Malicious Prosecution focuses on the abuse of the judicial or investigative process, but requires fulfilling a heavier, independent burden of proof, specifically, establishing that the prosecution was initiated with malice and without any reasonable and probable cause.*

Authority: *West Bengal State Electricity Board v. Dilip Kumar Ray [(2007) 14 SCC 568]; Muhammad Yousaf v. Abdul Qayuum (PLD 2016 SC 478)*

The foundation of a defamation action is publication to a third person attributable to the defendant; producing newspaper reports without connecting the defendant to them proves nothing.

Source: *The very foundation of an action for defamation is the publication of a defamatory statement or imputation to a third person, which publication must be attributable to the defendant sought to be made liable.*

Authority: *Defamation Ordinance, 2002*

Conflicting laboratory reports from different state laboratories negate the absence of reasonable and probable cause, which is a prerequisite of malicious prosecution.

Source: *conflicting chemical reports from different state laboratories (Karachi and Hyderabad) inherently negate the absolute absence of a reasonable and probable cause, which is a foundational legal prerequisite for establishing Malicious Prosecution.*

Authority: *Muhammad Akram v. Mst. Farman Bi (PLD 1990 SC 28)*

OPERATIVE ORDER

> *In view of hereinabove facts and circumstances of the case, we are of the considered opinion that the Petitioners have failed to point out any error or illegality in the order, judgment and decree passed by the Courts below which reflect the correct legal position, therefore, instant petition is hereby dismissed and leave refused.*

■ View Full Judgment

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 S. 7 — RETIREMENT AND RESIGNATION ARE JURISTICALLY DISTINCT; A TRIBUNAL MAY DECLARE A RESIGNATION INVALID BUT CANNOT, ABSENT EXPRESS STATUTORY AUTHORITY, CONVERT IT INTO RETIREMENT IN ORDER TO CONFER PENSIONARY BENEFITS

Government of Khyber Pakhtunkhwa through Secretary Population Welfare Department and others v. Mst. Bacha Jehan

PETITION CONVERTED INTO APPEAL AND PARTLY ALLOWED; THE FINDING THAT THE RESIGNATION WAS INVALID MAINTAINED, THE CONVERSION INTO RETIREMENT SET ASIDE; TRANSCRIBED FROM SCAN — THE COURT'S FILE CARRIES NO TEXT LAYER; APPROVED FOR REPORTING

Civil Petition No. 50-P of 2022 (converted into appeal), Supreme Court of Pakistan (against the judgment dated 07.12.2021 of the Khyber Pakhtunkhwa Service Tribunal, Peshawar, Camp Court, Swat in Service Appeal No. 1496/2019) · Bench: Shakeel Ahmad and Ishtiaq Ibrahim, JJ (order by Shakeel Ahmad, J) · Decided: 30.07.2026 · Uploaded: 08.09.2026

FACTS

The respondent's resignation was accepted by the department. On her service appeal, the Khyber Pakhtunkhwa Service Tribunal, Peshawar, Camp Court, Swat allowed the appeal by judgment dated 07.12.2021, holding the resignation invalid and converting the order accepting it into retirement, thereby entitling her to pensionary benefits. The Tribunal did so solely on the ground that she had rendered more than ten years' qualifying service. It made no finding that she had attained the age of superannuation, nor that she had otherwise become entitled to retire under the applicable service rules. The Federation challenged the conversion, not the finding of invalidity.

LEGAL ISSUE

Whether a Service Tribunal, having declared a resignation invalid, is competent under section 7 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 to convert that resignation into retirement solely for the purpose of extending pensionary benefits; and where the burden lies in establishing that a resignation was voluntary.

HOLDING

The petition was converted into an appeal and partly allowed. Two distinct questions arose: whether the resignation was genuine, voluntary and legally valid; and whether, upon holding it invalid, the Tribunal could convert it into retirement. On the first, the Court held that where the employee is illiterate the burden rests squarely upon the department to establish that the resignation was voluntarily executed, that the employee understood its contents and legal consequences, that it was free from coercion, fraud or misrepresentation, and that it was accepted strictly in accordance with the applicable service law and rules; failure to discharge that burden renders the resignation void ab initio, the employee being deemed to have continued in service until lawfully terminated by retirement, dismissal, removal or another recognised mode. On the second, the Court held that the powers of the Tribunal under section 7 are essentially appellate: it may set aside an unlawful order, direct reinstatement, remand, modify a penalty or grant consequential relief, but absent express statutory authority it cannot create a legal fiction converting a resignation into retirement. The Court acknowledged that exceptional circumstances may justify moulding relief — for instance where the employee attains superannuation during the pendency of proceedings — but that was not this case.

LEGAL SIGNIFICANCE

A precise statement of the outer limit of a Service Tribunal's remedial powers, and one that will be cited whenever a tribunal has reached for a pragmatic solution not authorised by the statute. The distinction the Court insists upon — that resignation is a voluntary relinquishment of office while retirement occurs only in the manner prescribed by the applicable service law — is straightforward but frequently elided, and the holding that completion of the qualifying period for pension neither entitles an employee to be treated as retired nor transforms an invalid resignation into retirement removes a common shortcut. Equally significant for employees is the burden the Court places on the department where the person resigning is illiterate: voluntariness, comprehension, absence of coercion and regularity of acceptance must all be proved by the department, failing which the resignation is void ab initio and service is deemed to have continued.

LEGAL PROPOSITIONS (VERBATIM)

— Retirement and resignation are juristically distinct modes of cessation of service and cannot be treated as interchangeable.

— Resignation is a voluntary relinquishment of office by the employee, whereas retirement takes place only in the manner prescribed by the applicable service law, whether upon attaining the age of superannuation or through voluntary retirement where the relevant rules so permit.

— Mere completion of the qualifying period of service for pension does not, by itself, entitle an employee to be treated as retired, nor does it transform an otherwise invalid resignation into retirement.

— Failure to discharge this burden renders the resignation void ab initio.

LEGAL PRINCIPLES EXPOUNDED

Where the employee is illiterate, the burden rests on the department to establish that the resignation was voluntary, understood, free from coercion and accepted in accordance with the service law and rules.

Source: *particularly where the employee is an illiterate person, the burden squarely rests upon the department to establish that the resignation was voluntarily executed, that the employee understood its contents and legal consequences, that it was free from coercion, fraud or misrepresentation, and that it was accepted strictly in accordance with the applicable service law and rules.*

Authority: *Section 7, Khyber Pakhtunkhwa Service Tribunal Act, 1974*

The powers of a Service Tribunal under section 7 are appellate in nature; absent express statutory authority it cannot create a legal fiction converting a resignation into retirement to enable payment of pension.

Source: *However, in the absence of express statutory authority, it cannot create a legal fiction by converting a resignation into retirement solely to enable an employee to receive pensionary benefits.*

Authority: *Section 7, Khyber Pakhtunkhwa Service Tribunal Act, 1974*

Where a resignation is held void, the employee is deemed to have continued in service until his services are lawfully terminated by a mode recognised in law.

Source: *The legal consequence of such invalidity is that the employee is deemed to have continued in service in the eye of law until her services are lawfully terminated by retirement, dismissal, removal or any other mode recognized by law.*

Authority: *Section 7, Khyber Pakhtunkhwa Service Tribunal Act, 1974*

OPERATIVE ORDER

For the foregoing reasons, this petition is converted into an appeal and is partly allowed. The impugned judgment of the Tribunal is set aside to the extent that it converts the respondent's resignation into retirement and thereby entitles her to pensionary benefits. However, the finding of the Tribunal declaring the respondent's resignation to be invalid is maintained. Consequently, the petitioners are directed to treat the respondent as having continued in service from the date of the purported resignation and to extend to her all consequential service benefits in accordance with law. Furthermore, the respondent is at liberty to seek appropriate remedy for invalid pension on account of her poor health, if so desired. No order as to costs.

■ **View Full Judgment**

CODE OF CIVIL PROCEDURE, 1908 S. 115, O. III R. 4 — AN AUTHORITY TO 'UNDERTAKE DEFENCE OF ALL COURT CASES' CONFERS A GENERAL MANDATE TO CONDUCT LITIGATION AND EXTENDS TO INSTITUTING A REVISION ARISING OUT OF THE SAME PROCEEDINGS UNLESS EXPRESSLY CURTAILED

Central Government through Collector, Dera Ismail Khan and others v. Tariq Mansoor and others

PETITION CONVERTED INTO APPEAL AND ALLOWED; JUDGMENT OF THE PESHAWAR HIGH COURT SET ASIDE AND THE REVISION REMANDED FOR DECISION AFRESH ON MERITS WITHIN TWO MONTHS; TRANSCRIBED FROM SCAN — THE COURT'S FILE CARRIES NO TEXT LAYER; APPROVED FOR REPORTING

Civil Petition No. 260-P of 2022 (converted into appeal), Supreme Court of Pakistan (against the judgment dated 09.02.2022 of the Peshawar High Court, D.I.Khan Bench in C.R. No. 32-D of 2014) · Bench: Shakeel Ahmad and Ishtiaq Ibrahim, JJ (judgment by Shakeel Ahmad, J) · Decided: 28.07.2026 · Uploaded: 08.09.2026

FACTS

The respondents sued for a declaration that they were the lawful owners of property on the basis of RL-II No. 175, Claim No. 514 comprising 1,250 units, and that the petitioners were bound to issue the Robkar PB in their favour, with consequential mandatory and prohibitory injunctions. The trial Court dismissed the suit on 28.07.2011; the appellate Court allowed the appeal on 13.02.2014. The petitioners filed a revision under section 115 CPC, which the Peshawar High Court dismissed on 09.02.2022 as not maintainable. The objection sustained was that the Legal Advisor who instituted the revision had been appointed by order dated 23.08.2013 of the competent authority merely 'to undertake the defence of all court cases relating to the Revenue & Estate Department', and so lacked authority to institute a revision. The respondents contended that a revision is an independent proceeding falling outside that mandate.

LEGAL ISSUE

Whether a Legal Advisor appointed to 'undertake defence of all court cases relating to the Revenue & Estate Department' is competent to institute a revision petition against the judgment of an appellate Court, in the absence of any express restriction in the order of appointment or the governing law.

HOLDING

The appeal was allowed and the matter remanded. The expression is of wide amplitude and ought to receive a liberal and purposive construction: 'defence' cannot reasonably be confined to filing a written statement, leading evidence or contesting a suit before the trial Court, but encompasses every procedural step ordinarily necessary to protect and advance the client's interests throughout the litigation, including appellate and revisional proceedings, unless the appointment or governing law expressly provides otherwise. The interpretation is reinforced by the settled distinction between the existence of authority to conduct litigation and the particular forum in which it is exercised: a revision under section 115 is not an independent or fresh cause of action but a continuation of the same litigation, invoked to correct jurisdictional errors or material irregularities, and so remains integrally connected with the original lis. The determinative question is not whether the order expressly authorises the filing of a revision but whether, read fairly and holistically, it confers a general authority to conduct and defend litigation. Separately, procedural objections to the authority of the person instituting proceedings should not be permitted to defeat substantive rights without first affording an opportunity to establish the authorisation.

LEGAL SIGNIFICANCE

A practically important decision for every department, corporation and institutional litigant that acts through a standing legal adviser or panel counsel, and for anyone facing a technical objection to authority. Two holdings will be relied on. First, the construction of 'defence' as a general mandate covering the whole course of the litigation — appeals, revisions, interlocutory applications, execution and implementation proceedings and ancillary matters — unless the instrument of appointment says otherwise. Secondly, and of wider reach, the direction that an objection concerning the precise scope or proof of authority is ordinarily curable, and that the Court should afford the party an opportunity to establish or ratify the authorisation rather than non-suit it on a purely technical objection. The Court identified the narrow contingencies in which the objection would succeed, none of which had been pleaded in this case.

LEGAL PROPOSITIONS (VERBATIM)

— The word "defence" cannot reasonably be confined to filing a written statement, leading evidence, or contesting a suit before the trial Court.

— A revision under Section 115 of the Code of Civil Procedure, 1908, does not constitute an independent or fresh cause of action. It is a continuation of the same litigation, invoked to correct jurisdictional errors or material irregularities committed by a subordinate Court.

— Litigation is a continuous process, and the authority to defend a case ordinarily encompasses the taking of all appropriate legal steps necessary to protect the client's interests against adverse orders passed during its course.

— The circumstance that a revision is instituted through a separate petition does not alter its essential character.

LEGAL PRINCIPLES EXPOUNDED

An authority conferred to defend a court case ordinarily extends to instituting and prosecuting a revision arising out of that very litigation, unless expressly curtailed.

Source: *Consequently, an authority conferred to defend a Court case ordinarily extends to the institution and prosecution of a revision arising out of that very litigation, unless such authority is expressly curtailed.*

Authority: *Section 115, Code of Civil Procedure, 1908*

The determinative question is not whether the order expressly authorises filing a revision, but whether on a fair and holistic reading it confers general authority to conduct and defend litigation.

Source: *the determinative question is not whether the order expressly authorizes the filing of a revision petition. Rather, the inquiry is whether, upon a fair and holistic reading of the order, it confers a general authority to conduct and defend litigation.*

Authority: *Order III Rule 4, Code of Civil Procedure, 1908*

Procedural objections to the authority of the person instituting proceedings should not defeat substantive rights without first affording an opportunity to establish the requisite authorisation.

Source: *It is equally well settled that procedural objections relating to the authority of a person instituting or prosecuting proceedings should not ordinarily be permitted to defeat substantive rights without first affording the concerned party a reasonable opportunity to establish the requisite authorization.*

Authority: *S.D.O/A.M, Hashtnagri Sub Division, PESCO, Peshawar v. Khawazan Zad*

Where there is prima facie evidence of a general authority to institute or defend litigation, an objection concerning its precise scope or proof is ordinarily curable and the party should be allowed to establish or ratify it.

Source: *The Court should, therefore, afford the party concerned an opportunity to establish or ratify the authorization, rather than non-suiting it on a purely technical objection.*

Authority: *Order III Rule 4, Code of Civil Procedure, 1908*

OPERATIVE ORDER

For the foregoing reasons, we are of the considered view that the High Court fell into error in adopting an unduly narrow construction of the order whereby the Legal Advisor was appointed to undertake the defence of all Court cases relating to the Revenue & Estate Department. The impugned judgment, therefore, cannot be sustained and warrants interference by this Court. Consequently, this petition is converted into an appeal and is allowed. The judgment dated 09.02.2022 passed by the High Court is set aside, and the matter is remanded to the High Court for a decision afresh on merits, after affording the parties a full opportunity of hearing. Having regard to the fact that the litigation is of considerable vintage, the High Court is directed to dispose of the revision petition as expeditiously as possible, preferably within two months from the date of receipt of a copy of this judgment, excluding the period of summer vacation. Needless to mention that the revision petition filed by the petitioners shall be deemed to be pending before the High Court and shall be decided in accordance with law. No order as to costs.

View Full Judgment

Lahore High Court

4 judgments

PUNJAB HEALTHCARE COMMISSION ACT, 2010 SS. 2(XXIX), 4(1), 4(2)(Q), 28(1), 31, 40; PHC (BARRING QUACKERY) REGULATIONS, 2016 RR. 2(C), 5(3), 7(4); QANUN-E-SHAHADAT ORDER, 1984 ART. 117 — THE HEARING COMMITTEE, BEING THE COMPETENT AUTHORITY UNDER THE REGULATIONS, MAY IMPOSE A FINE UNDER SECTION 28; AND A DRUG-SALE LICENCE CONFERS NO AUTHORITY TO PRACTISE MEDICINE

Punjab Healthcare Commission v. District & Sessions Judge and another

PETITION ALLOWED; JUDGMENT OF THE DISTRICT JUDGE SET ASIDE AND THE ORDER OF THE HEARING COMMITTEE RESTORED; APPROVED FOR REPORTING

Writ Petition No. 33544 of 2022, Lahore High Court, Lahore (2026 LHC 5765) · Bench: Munawar Iqbal Duggal, J · Decided: 14.09.2026 (heard 03.09.2026) · Uploaded: 16.09.2026

FACTS

On 10.02.2021 an Assistant Director of the Punjab Healthcare Commission inspected the second respondent's medical store and found him, it was alleged, practising allopathic medicine without the requisite qualification or registration. Twenty-four used syringes, six injections of Diclofenac Sodium, fourteen of Dexamethasone, one of Ceftriaxone 500 mg and one of Kenacort were recovered and the premises sealed. On a routine inspection of 04.05.2021 the store was found operating despite no de-sealing order. Before the Hearing Committee on 22.06.2021 the second respondent admitted the allegations, furnished an affidavit, answered a questionnaire admitting his guilt and the de-sealing, and — in answer to the Committee's questions — admitted administering injections, saying they had been given to relatives. A fine of Rs. 300,000 was imposed. He deposited it without protest on 06.08.2021 while his appeal was pending. The District Judge, Faisalabad allowed his appeal under section 31 on 19.01.2022, reasoning that as a qualified dispenser holding a valid drug-sale licence he was competent to run the store and that the recovery of syringes did not by itself establish that he was treating patients.

LEGAL ISSUE

Whether a qualified dispenser holding a drug-sale licence is thereby authorised to administer allopathic treatment; whether the Hearing Committee of the Punjab Healthcare Commission is competent to impose a fine under section 28 of the Act; and whether an unsubstantiated plea of coercion can displace an admission recorded in statutory proceedings.

HOLDING

The petition was allowed. The appellate Court's premise overlooked the statutory scheme: the preamble declares the Act to have been enacted to ban quackery in all its forms, section 2(xxix) defines a quack as a pretender providing health services without registration with the relevant council, and sections 4(1), 4(2)(q) and 28(1) empower the Commission accordingly — the prohibition extends to the unauthorised provision of healthcare services, not merely the unauthorised sale of medicines. The certificate of the Punjab Medical Faculty expressly stated that it did not authorise the holder to practise independently or open a private clinic, and the drug-sale licence authorised only sale, stocking, exhibition and distribution. On the plea of coercion, the burden lay on the person asserting it under Article 117 of the Qanun-e-Shahadat Order, no particulars were given, no contemporaneous protest was shown, and a presumption of regularity attaches to proceedings conducted by the Commission in discharge of its statutory functions. Regulation 5(3) makes the recording of patients' statements discretionary, not mandatory. On competence, a conjoint reading of sections 28(1) and 40 with Regulations 2(c) and 7 shows the Commission's power to fine is exercisable through the Competent Authority; the contrary view in Muhammad Tariq Javed (2024 LHC 5323) no longer holds the field, having been overturned by the Supreme Court in C.P. No. 5355 of 2024.

LEGAL SIGNIFICANCE

The judgment settles, at least at High Court level, a point on which there had been conflicting decisions — whether the Hearing Committee may itself impose the fine that section 28 vests in the Commission — and records that the contrary authority relied on by respondents has been overturned by the Supreme Court. Beyond the regulatory context it is useful on two general points. The first is the sharp distinction between a licence to deal in a regulated commodity and authority to practise a profession; the express endorsement on the Punjab Medical Faculty certificate did the work, and practitioners should look for the equivalent stipulation in any licence relied on as a defence. The second is the treatment of a bald plea of coercion: pleaded without particulars of who applied the pressure, its nature, and the deponent's conduct immediately afterwards, and unaccompanied by any contemporaneous complaint, it cannot displace an admission made in statutory proceedings to which a presumption of regularity attaches.

LEGAL PROPOSITIONS (VERBATIM)

— The statutory prohibition, therefore, extends to the unauthorized provision of healthcare services and is not confined merely to the unauthorized sale of medicines.

— The qualification of respondent No. 2 as a dispenser, therefore, did not confer upon him any authority to practice allopathic medicine independently or to administer allopathic treatment.

— The use of "may" makes such statements discretionary and not a mandatory requirement.

— Such a plea, being a question of facts, must not only be specifically pleaded with necessary particulars but also supported by some credible material.

LEGAL PRINCIPLES EXPOUNDED

The power to impose a fine vested in the Commission by section 28 is exercisable through the Competent Authority constituted and authorised under the Regulations.

Source: *A conjoint reading of Section 28(1), Section 40 of PHC Act and Regulations 2(c) and 7 of PHC Quackery Regulations makes it evident that the power vested in the Commission to impose a fine is exercisable through the Competent Authority constituted and authorized under the Regulations.*

Authority: *Sections 28(1) and 40, Punjab Healthcare Commission Act, 2010; Regulations 2(c) and 7(4), PHC (Barring Quackery) Regulations, 2016*

A drug-sale licence authorises only the sale, stocking, exhibition and distribution of drugs; it does not authorise the administration of injections or the practice of medicine.

Source: *Likewise, his drug-sale licence authorized only the sale, stocking, exhibition and distribution of drugs in accordance with law; it did not authorize him to administer injections or practice medicine.*

Authority: *Punjab Healthcare Commission Act, 2010; Drugs Act, 1976*

Proceedings conducted by the Commission in discharge of its statutory functions carry a presumption of regularity, rebuttable only by cogent material.

Source: *Moreover, the affidavit and statement/questionnaire form part of proceedings conducted before the Punjab Healthcare Commission in discharge of its statutory functions, to which a presumption of regularity attaches unless rebutted by cogent material*

Authority: *Federation of Pakistan v. Saeed Ahmed (PLD 1974 SC 151); Article 117, Qanun-e-Shahadat Order, 1984*

A clear and unambiguous admission may conclude the controversy without further evidence.

Source: *has observed in paragraph 9 thereof that a clear and unambiguous admission may conclude the controversy without further evidence.*

Authority: *Divisional Superintendent Postal Services Faisalabad v. Khalid Mahmood (2023 SCMR 354)*

OPERATIVE ORDER

For the foregoing reasons, the instant petition is allowed. Consequently, the impugned judgment dated 19.01.2022 passed by the learned District Judge is set aside, and the order dated 22.06.2021 passed by the Hearing Committee of the Punjab Healthcare Commission is restored. All pending miscellaneous applications, if any, shall also stand disposed of. No order as to costs.

■ **View Full Judgment**

PUNJAB RENTED PREMISES ACT, 2009 SS. 2(B), 2(E), 6, 9, 19, 22, 26, 30, 34 — LEAVE TO CONTEST CANNOT BE PARTIALLY REFUSED WHILE ORDERING EVICTION AND SIMULTANEOUSLY REMITTING ARREARS AND PAGRI FOR SEPARATE DETERMINATION ON EVIDENCE

Sheikh Aamir and another v. Idrees Javed and others

BOTH PETITIONS DISMISSED; THE LEGAL QUESTION ANSWERED BY PREFERRING MUHAMMAD LIAQAT ALI (2022 MLD 1720) OVER ASAD ALI KHAN (PLD 2019 LAHORE 363); APPROVED FOR REPORTING

Writ Petition No. 1480 of 2023 with Writ Petition No. 1873 of 2023, Lahore High Court, Rawalpindi Bench, Rawalpindi (2026 LHC 5680) · Bench: Mirza Viqas Rauf and Syed Ahsan Raza Kazmi, JJ (Larger Bench; judgment by Mirza Viqas Rauf, J) · Decided: 16.09.2026 (dictated 07.08.2026, signed 11.09.2026) · Uploaded: 16.09.2026

FACTS

The respondents sought eviction of the petitioners from a shop in Al-Misbah Market, Moti Bazar, Rawalpindi by an application under section 19 of the Punjab Rented Premises Act, 2009, on grounds of default in payment of rent, expiry of tenancy and breach of the terms of tenancy. The petitioners applied for leave to contest under section 22. The Special Judge (Rent) discarded the leave to contest and allowed the ejectment application on 26.10.2022, directing handover within sixty days, payment of rent at Rs. 18,954 per month with a ten per cent annual increase until eviction, and payment of arrears of Rs. 11,27,040. The Additional District Judge partly allowed the appeal on 24.03.2023. On 11.11.2024 a legal question was framed and referred for constitution of a Larger Bench, because two Single Benches of the Court had taken divergent views: Muhammad Liaqat Ali v. Majid Ali (2022 MLD 1720) holding that once leave to contest is refused a final order must follow with no room for framing issues on arrears or Pagri, and Asad Ali Khan v. Special Judge Rent (PLD 2019 Lahore 363) holding that the issue of Pagri may be separately decided while maintaining the eviction order. The petitioners claimed Rs. 275,000 paid as Pagri — Rs. 220,000 to the outgoing tenant and Rs. 55,000 to the original owner.

LEGAL ISSUE

Whether, in an application under the Punjab Rented Premises Act, 2009, leave to contest may be refused in part while ordering eviction of the tenant, and the questions of arrears of rent and Pagri simultaneously remitted for separate determination by framing issues and recording evidence.

HOLDING

The Larger Bench answered the question by holding that Asad Ali Khan (PLD 2019 Lahore 363) is not the true interpretation of section 22 of the Act of 2009, and that the principles in Muhammad Liaqat Ali (2022 MLD 1720) rest on the actual mandate of the statute. On the merits the Court nonetheless dismissed both petitions. With the transfer of ownership the petitioners' status as tenant did not change; the absence of a separate notice under section 30 was no defence, filing of an ejectment application being itself notice to the tenant, and non-compliance with section 30 entailing no penal consequence affecting the competency of the petition. As there was no written tenancy agreement and the relationship subsisted on oral terms, it was a month-to-month tenancy which survives only by mutual consent, and the filing of the ejectment application signified that the landlord no longer wished to extend it. On Pagri — defined in section 2(e) as any amount received by a landlord at the time of grant or renewal of a tenancy, excluding advance rent or security — the Court held it cannot be adjusted against arrears of rent. Although the petitioners had made out a case for leave to contest under section 22, they brought nothing to negate the ground of expiry of tenancy, and remitting the matter on procedural irregularities would serve no purpose beyond an academic exercise.

LEGAL SIGNIFICANCE

This is the authority that resolves a split which had made the conduct of rent litigation in Punjab genuinely uncertain: whether a Rent Tribunal may take the eviction and leave the money questions for trial. The answer is that it may not — section 22 does not contemplate a partial refusal of leave. Practitioners on both sides should read the judgment for its treatment of three further recurring points: that a purchaser's failure to serve notice of change of ownership under section 30 does not defeat the ejectment petition, the filing of the petition being itself sufficient notice; that an oral tenancy is month-to-month and ends when the landlord signals he will not extend it; and that Pagri, though recoverable by independent action against whoever is liable, cannot be set off against arrears of rent. The Court's closing refusal to remit for procedural irregularity where the substantive ground of eviction was unanswered is itself a useful precedent against remands that serve no purpose.

LEGAL PROPOSITIONS (VERBATIM)

— *Filing of an ejectment application itself is a notice to the tenant.*

— *"Pagri" includes any amount received by a landlord at the time of grant or renewal of a tenancy except advance rent or security.*

— *The petitioners are occupying the demised premises under the landlordship of the previous owner, so with the transfer of ownership, the status of the petitioners, being tenant, will not change.*

— *We are unanimous to hold that by remitting the matter on the basis of these procedural irregularities would serve no useful purpose except an academic exercise.*

LEGAL PRINCIPLES EXPOUNDED

Leave to contest under section 22 cannot be partially refused so as to order eviction while remitting arrears and Pagri for separate determination on evidence.

Source: *we are of the considered view that the law laid down in the case of "Asad Ali Khan v. Special Judge Rent and others" (PLD 2019 Lahore 363) is not the true interpretation of Section 22 of the Act, 2009 whereas the principles laid down in the case of "Muhammad Liaqat Ali v. Majid Ali and others" (2022 MLD 1720) are rested on actual mandate of the provisions of the Act, 2009.*

Authority: *Section 22, Punjab Rented Premises Act, 2009*

A tenancy resting on oral terms is a month-to-month tenancy which subsists only by mutual consent and ends when the landlord signals, by filing the ejectment application, that he will not extend it.

Source: *When it is an admitted position on the record that there was no written tenancy agreement and the relationship was subsisting on oral terms, so, it can be treated as month-to-month tenancy which can only stay alive with mutual consent but when the ejectment application is filed it means that the landlord is no more interested to further extend the tenancy.*

Authority: *Sections 6 and 19, Punjab Rented Premises Act, 2009*

Non-compliance with the requirement of notice of change of ownership carries no penal consequence affecting the competency of the ejectment petition.

Source: *Even otherwise non-compliance of Section 30 does not entail any penal consequences, having adverse effect upon the competency of ejectment petition.*

Authority: *Section 30, Punjab Rented Premises Act, 2009; Pir Muhammad Manjh v. Naveed Iqbal Malik (2017 MLD 418); Nadeem Zafar v. Muhammad Ismaeel (PLD 2012 Lahore 178)*

Payment of Pagri does not make a tenancy perpetual; the remedy for its recovery lies in an independent action against the person liable, subject to limitation.

Source: *But this shall not foreclose the right and remedy if any available to the appellants for the recovery of the said amount of pagri from the person who is liable to return if permissible under the law, for which the appellant may bring an independent action, subject to the law (including the law of Limitation) before the appropriate forum.*

Authority: *Mirza Book Agency v. Additional District Judge, Lahore (2013 SCMR 1520); section 2(e), Punjab Rented Premises Act, 2009*

OPERATIVE ORDER

In the wake of above discussion, we are, thus, of the considered view that petitioners succeeded to make up their case for grant of leave to contest in terms of Section 22 of the Act, 2009. At the same time, we feel no hesitation to observe that as an iota of material has not been brought by the petitioners in negation to ground of eviction rested on expiry of tenancy, so, in the circumstances, they are unable to point out any exception to the order/judgment concurrently passed to that effect, though it is tainted with some trivial procedural irregularities in the light of principles laid down, hereinabove. We are unanimous to hold that by remitting the matter on the basis of these procedural irregularities would serve no useful purpose except an academic exercise. We, thus, find no illegality or patent illegality in the impugned judgment passed by the learned Additional District Judge, Rawalpindi. Resultantly, both these petitions are dismissed with no order as to costs.

■ **View Full Judgment**

CONSTITUTION OF PAKISTAN, 1973 ARTS. 4, 199, 259(2), 259(3); CONSTITUTION (TWENTY-SIXTH AMENDMENT) ACT, 2024; DECORATIONS ACT; POLICY AND GUIDELINES FOR PAKISTAN CIVIL AWARDS, 2024 — 'PUBLIC SERVICE' IN ARTICLE 259(2) IS NOT CONFINED TO UNPAID VOLUNTARY CIVIC ACTIVITY, AND THE COURT CANNOT INSERT QUALIFYING WORDS THE CONSTITUTIONAL TEXT DOES NOT CONTAIN

Ashba Kamran v. The President of the Islamic Republic of Pakistan, etc.

PETITION DISMISSED IN LIMINE AS LEGALLY MISCONCEIVED; APPROVED FOR REPORTING

Writ Petition No. 51338 of 2026, Lahore High Court, Lahore (2026 LHC 5657) · Bench: Ahmad Nadeem Arshad, J · Decided: 11.09.2026 · Uploaded: 15.09.2026

FACTS

The petitioner, appearing in person, challenged the conferment of Pakistan Civil Awards under the head of 'Public Service'. Her premise was that the expression 'Public Service' in Article 259(2) of the Constitution ought to be confined to extraordinary, unremunerated and voluntary civic contributions, and should not extend to persons in paid public employment, holding public office, or engaged in political activity, journalism, religious preaching or commercial enterprise. She sought declarations as to the constitutional meaning of 'Public Service'; cancellation, forfeiture and withdrawal of awards falling outside her proposed definition; production of the complete scrutiny minutes, evaluation proformas and selection records; and consequential relief. 'Public service' had been inserted into Article 259(2) by the Constitution (Twenty-Sixth Amendment) Act, 2024, which came into force on 21 October 2024 and which enacted no definition confining the expression to unpaid or voluntary activity.

LEGAL ISSUE

Whether the expression 'public service' in Article 259(2) of the Constitution is confined to unremunerated and voluntary civic activity; and whether the High Court may, in constitutional jurisdiction, direct the retrospective annulment of an entire class of civil awards and an audit of the Government's award-selection process.

HOLDING

The petition was dismissed in limine. A constitutional court interprets the words the Constitution enacts and does not add qualifying words the text does not contain; introducing 'unremunerated', 'voluntary', 'extraordinary' and 'civic' into Article 259(2) would be constitutional legislation by judicial fiat. The Constitution deliberately says 'public service' rather than 'voluntary public service', 'unpaid public service' or 'civil service'. Following Khushdil Khan Malik v. Federation of Pakistan (PLD 2024 Lahore 86), a mere recommendation creates no vested right to an award — from which it follows a fortiori that a third party acquires no right to require the President to withdraw awards conferred on others. The administrative framework tells against the petitioner too: the Policy and Guidelines for Pakistan Civil Awards, 2024 treat 'Public Service' as a distinct field with the Establishment Division as nominating agency, and the quantified criteria emphasise not routine career achievement but exceptional contribution benefiting society. Article 259(3) concerns awards made before the commencing day and cannot be read as a general power of retrospective annulment. On the fifth prayer, production of records may be ordered where a specific, legally cognisable challenge discloses a prima facie case, but not as a mechanism for a roving inquiry.

LEGAL SIGNIFICANCE

A carefully reasoned decision on the boundary between judicial review of legality and judicial substitution of policy, and one whose reasoning travels far beyond civil awards. Its central discipline — that a court construes the words enacted and may not read in qualifications, however attractive the policy behind them — is stated crisply enough to be cited in any question of constitutional construction. It is equally useful on the requirements of a maintainable challenge to executive action: constitutional jurisdiction proceeds from an identified exercise of public power and a demonstrated legal grievance, not from generalised allegations about a class of decisions, and a petitioner seeking production of governmental records must first disclose a prima facie case. The judgment is careful to preserve the individual remedy: an award shown through concrete pleadings to have been made without lawful authority, in violation of the Constitution or statute, or through demonstrable mala fide or discrimination, remains examinable under Article 199.

LEGAL PROPOSITIONS (VERBATIM)

— A Constitutional court interprets the words enacted by the Constitution; it does not ordinarily add qualifying words which the Constitutional text itself does not contain.

— To accept the petitioner's construction would therefore not merely amount to interpretation; it would amount to constitutional legislation by judicial fiat, which is impermissible.

— Constitutional jurisdiction is not exercised upon generalized allegations or conjecture.

— The Constitutional command of legality operates as a limitation upon governmental power; it does not transform every disagreement with governmental policy into a justiciable cause of action.

LEGAL PRINCIPLES EXPOUNDED

The Court cannot, under the guise of interpretation, substitute an expression of its own choosing for the expression the Constitution has chosen.

Source: *Moreover, Article 259(2) of the Constitution deliberately employs the expression "public service", rather than "voluntary public service", "unpaid public service" or "civil service".*

Authority: *Article 259(2), Constitution of Pakistan, 1973; Constitution (Twenty-Sixth Amendment) Act, 2024*

The constitutional role of the court is to determine whether the exercise of public power conforms to the Constitution and law, not whether a different policy would be wiser or more desirable.

Source: *The Constitutional role of the Court is to determine whether the exercise of public power conforms to the Constitution and law. It is not to determine whether a different policy would be wiser, more equitable or more desirable.*

Authority: *Dossani Travels (Pvt.) Ltd. v. Messrs Travels Shop (Pvt.) Ltd. (PLD 2014 SC 1)*

Judicial review proceeds from an identified exercise of public power and a demonstrated legal grievance; it is not an investigative commission into the wisdom of executive policy.

Source: *Judicial review proceeds from an identified exercise of public power and a demonstrated legal grievance; it is not an investigative commission into the wisdom or political desirability of executive policy.*

Authority: *Article 199, Constitution of Pakistan, 1973*

A recommendation for a civil award creates no vested, legal or fundamental right to its conferment; still less does a third party acquire a right to demand withdrawal of awards conferred on others.

Source: *If even a person whose name has been recommended for an award does not thereby acquire a vested right to its conferment, it follows with greater force that a third party cannot, merely by filing a Constitutional petition, acquire a corresponding right to require the President to withdraw, forfeit or annul awards conferred upon other citizens, in the absence of a legally established ground warranting such action.*

Authority: *Khushdil Khan Malik v. Federation of Pakistan (PLD 2024 Lahore 86); Article 259(2), Constitution of Pakistan, 1973*

OPERATIVE ORDER

In view of the above, the prayers made in the Constitutional petition are found to be legally misconceived and incapable of being granted in the form sought. The petition accordingly fails and is dismissed-in-limine.

View Full Judgment

INCOME TAX ORDINANCE, 2001 SS. 24, 133, 133(8) — WHERE THE TRIBUNAL DECIDES THE CHARACTER OF AN EXPENSE BY ADOPTING A PREVIOUS ORDER WITHOUT EXAMINING THE ITEMS IN DISPUTE, THE ORDER IS NON-SPEAKING; AND THE HIGH COURT MAY REFRAME THE QUESTIONS REFERRED TO IT

Commissioner Inland Revenue v. M/s D. H. Fertilizer Ltd.

REFERENCE APPLICATIONS DISPOSED OF; REFRAMED QUESTION 1 ANSWERED IN THE NEGATIVE AND QUESTION 2 IN THE AFFIRMATIVE; MATTER REMANDED TO THE APPELLATE TRIBUNAL FOR A SPEAKING ORDER WITHIN SIXTY DAYS; APPROVED FOR REPORTING

I.T.R. No. 169 of 2025 with I.T.R. No. 168 of 2025, Lahore High Court, Multan Bench, Multan (2026 LHC 5711) · Bench: Rasaal Hasan Syed and Muzamil Akhtar Shabir, JJ · Decided: 22.06.2026 · Uploaded: 16.09.2026

FACTS

Two reference applications under section 133 of the Income Tax Ordinance, 2001, for Tax Years 2013 and 2015, challenged a consolidated order of the Appellate Tribunal Inland Revenue, Lahore dated 14.04.2025 on four cross-appeals. The department confined its challenge to paragraph 13 of that order, dealing with expenditure of Rs. 61,145,522 on sales promotion, advertisement and marketing development — comprising dealer incentive of Rs. 57,310,330, public relations of Rs. 3,674,417, advertisement press of Rs. 70,775 and others of Rs. 90,000. The questions proposed were whether the Tribunal was justified in ignoring that such expenditure is capital in nature and liable to amortisation under section 24, and whether it was justified in treating it as revenue when the benefit extended beyond the tax year. The Tribunal had disposed of the issue in four sentences, holding the expenses to be of revenue nature because recurring, and relying on a previous decision in ITA No. 3726/LB/2019 in the taxpayer's favour, without identifying which of the items were recurring or comparing them with the expenses considered in the earlier order.

LEGAL ISSUE

Whether the Appellate Tribunal could determine the character of disputed expenditure as revenue rather than capital by adopting the conclusion of a previous order without examining the details of the items in question; and whether the High Court hearing a reference is bound to answer each question as framed.

HOLDING

The reference was disposed of by remand. Each case is to be decided on its own peculiar facts, with the law applied in the light of those facts — a principle the Court drew from Elahi Cotton Mills v. Federation of Pakistan (PLD 1997 SC 582). A previous decision could be looked to only so far as it decided a legal issue, and could not be applied to the factual aspect. The Tribunal made reference to the amount but did not consider the details of the expenditure so as to determine factually whether it fell within revenue or capital, making the order non-speaking to that extent; and a non-speaking order is generally not sustainable. The Court followed Commissioner of Income Tax v. Shahzad Ghee Mills (2012 SCMR 880), where the Supreme Court remanded on precisely that footing. It confirmed that while the reference jurisdiction extends to pure questions of law and mixed questions of law and fact, it does not extend to disputed questions of fact requiring deeper appreciation of documents, the Tribunal being the final fact-finding authority. Finally, relying on National Food Laboratories (1992 SCMR 687), it held the Court is not obliged to answer each question as referred and may reframe or resettle the questions to decide the real controversy without raising a new or different question — which it then did.

LEGAL SIGNIFICANCE

Two points of continuing practical value in tax references. The first is the standard demanded of the Tribunal: where the nature of an expense is in issue, adopting a prior decision in the taxpayer's favour without examining the individual items, and without comparing them to those previously considered, produces a non-speaking order that will not survive reference. Advisers on both sides should ensure the Tribunal is taken through the breakup of the expenditure item by item. The second is the Court's confirmation of its power to reframe, resettle and amend the questions referred, so as to decide the real controversy, provided no new or different question is raised — a power that allowed it here to convert two substantive questions about amortisation into questions about the adequacy of the Tribunal's reasoning, and to remand rather than answer prematurely.

LEGAL PROPOSITIONS (VERBATIM)

— It is settled law that each and every case is to be decided on the basis of its own peculiar facts and the law is to be applied keeping in view the peculiar facts of each case.

— Generally a non-speaking order is not sustainable under the law.

— The legal position is that this Court is not under obligation to decide each and every question referred to the Court for its opinion.

— this Court while deciding a reference has jurisdiction to decide pure questions of law and mixed questions of law and fact

LEGAL PRINCIPLES EXPOUNDED

The High Court may reframe or resettle the questions referred by the Tribunal in order to decide the real issues between the parties, so long as no new or different question is raised.

Source: *in order to decide the real issues between the parties, the High Court is competent to reframe or re-settle the question referred by the Tribunal without raising any new or different question.*

Authority: *Section 133, Income Tax Ordinance, 2001; Commissioner of Income Tax Company's II, Karachi v. Messrs National Food Laboratories (1992 SCMR 687)*

A previous decision may be relied on only to the extent it decided a legal issue; it cannot be applied to the factual aspect of a different case.

Source: *On the basis of aforementioned decision it is clear that the Appellate Tribunal was required to consider and factually decide the exact nature of expense before applying the law.*

Authority: *Messrs Elahi Cotton Mills Ltd. v. Federation of Pakistan (PLD 1997 SC 582 = 1997 PTD 1555)*

Where a question of fact going to the root of the matter is not decided, the order is non-speaking and the appropriate course is remand for decision afresh.

Source: *the Supreme Court by declaring that the orders passed by the CIR(A) and the Appellate Tribunal were non-speaking orders, remanded the matter to CIR(A) for decision afresh.*

Authority: *Commissioner of Income Tax/Wealth Tax, Companies Zone, Peshawar v. Messrs Shahzad Ghee Mills (Pvt.) Ltd. (2012 SCMR 880)*

OPERATIVE ORDER

This Court, on the basis of what has been discussed above, is of the opinion that the Appellate Tribunal has not addressed and decided the question of expenditure incurred on sales promotion / advertisement / marketing development as to whether the same were revenue expenses or capital in nature by determination of factual aspect of the matter by referring to details of different items of expenses, therefore, the order passed by the Tribunal is a non-speaking order. Consequently, the reframed question of law at Serial No.1 is decided in the negative and the reframed question of law at Serial No.2 is decided in the affirmative and without further commenting upon the merits of the case lest it may cause prejudice to either of the parties, we remand the matter to the learned Appellate Tribunal with direction to pass a speaking order only to the extent whether the aforementioned expenses are capital or revenue in nature and while doing so to also keep in view the case law, if any, referred to by both the parties, which exercise shall be carried out, expeditiously, preferably within a period of 60-days on receipt of certified copy of this order.

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CUSTOMS ACT, 1969 SS. 25A, 25D, 80; CONSTITUTION OF PAKISTAN, 1973 ART. 199 — THE DIRECTOR VALUATION CANNOT ADD TO OR SUBTRACT FROM AN EXISTING VALUATION RULING BY A CLARIFICATORY LETTER; A FRESH RULING UNDER SECTION 25A, OR REVIEW UNDER SECTION 25D, IS THE ONLY ROUTE

Sharjeel Quddos v. Federation of Pakistan and others

PETITION HELD MAINTAINABLE AND ALLOWED; THE CLARIFICATORY LETTER AND THE ASSESSMENT PREMISED ON IT SET ASIDE, WITH A DIRECTION TO ASSESS AFRESH; APPROVED FOR REPORTING

C.P. No. D-2724 of 2026, High Court of Sindh at Karachi; 2026 SHC KHI 1741 · Bench: Adnan Iqbal Chaudhry and Muhammad Hasan (Akber), JJ (order by Adnan Iqbal Chaudhry, J) · Decided: 14.09.2026 (heard 25.08.2026) · Uploaded: 14.09.2026

FACTS

The petitioner imports PVC Non-Flexible (Decorative/Printed) Sheets/Films for wall panels. Valuation Ruling No. 1984/2025 dated 19.03.2025 determined values for goods described at paragraph 4 as 'PVC Transparent/Clear, Printed, Decorative/Embossed Printed Flexible Sheets/Film and PVC Cling Film' under PCTs 3920.4300 and 3920.4990 — that is, flexible sheets. The petitioner's goods were assessed under section 80 by classifying them under HS Code 3920.4910 as 'Decorated Printed PVC Semi Rigid (Non-Flexible) Strip in Roll for Wall Panel'. The assessment note read: 'Upheld in light of letter of Director Valuation dated 31.12.2025 and VR 1984/ER'. That letter, issued by the Director of Customs Valuation to the Collector at SAPT, purported to clarify that Serial No. 3 of the ruling applies to PVC sheets 'when the same are flexible', flexibility being defined for practical purposes as the capacity to be bent without breaking irrespective of the percentage of plasticizer present. An identical letter concerning the same ruling, then issued by the Deputy Director Valuation, had already been set aside by the same Court in Imperial Panel Industries (Pvt.) Ltd. v. Federation of Pakistan (C.P. No. D-5148/2025, decided 10.11.2025). The department sought to distinguish that decision on the footing that the earlier letter came from the Deputy Director, whereas this one came from the Director, who is the competent authority under section 25A.

LEGAL ISSUE

Whether the Director of Customs Valuation may, by a letter of clarification, bring within an existing valuation ruling goods not described in it; and whether a constitutional petition lies against the resulting assessment without exhausting the remedies in the Customs Act.

HOLDING

The petition was held maintainable and allowed. On maintainability, the rule of alternate remedy does not oust constitutional jurisdiction but is a rule by which the Court regulates its jurisdiction; where there is absence or excess of jurisdiction, or the order suffers from illegality on the face of the record, certiorari may issue though a statutory appeal was not availed. The Court was unimpressed by the attempt to distinguish Imperial Panel Industries: the observation there that the Deputy Director had transgressed into the exclusive mandate of the Director was made in the context that, the Director not having exercised section 25A powers to issue a ruling for those goods, the Deputy Director could not bring them within the ruling by a letter; nowhere had the Court held that the Director could have issued such a letter instead. On the merits, the subject goods were ex facie not mentioned in the ruling, and the department acknowledged that the ruling was applied to them solely on the basis of the letter. If the clarification conveyed was as counsel explained, it read into the ruling a description of goods not mentioned in it and so was not a mere clarification. The power to determine customs value by a ruling does not extend to making additions to or deletions from an existing ruling by clarificatory letters.

LEGAL SIGNIFICANCE

An important decision for importers and customs practitioners, and the second in a line now firmly established. It closes the route by which the Valuation Directorate had sought to extend the reach of a ruling without going through the process that section 25A prescribes — and it makes clear that the seniority of the officer signing the letter is beside the point, since the vice is the instrument, not the author. The judgment also separates two powers that are often conflated: the power to determine value by a fresh ruling under section 25A, which vests in the Director Valuation, and the power to review a ruling under section 25D, which vests in the Director General. On maintainability it is a useful restatement that an assessment premised entirely on an instrument of no legal effect is ex facie illegal, so the alternate-remedy rule does not bar a writ.

LEGAL PROPOSITIONS (VERBATIM)

— Indeed, it is settled law that the rule of alternate remedy does not oust constitutional jurisdiction, rather it is a rule by which this Court regulates its jurisdiction

— so also, in cases of absence or excess of jurisdiction or where the impugned order suffers from illegality on the face of the record, a writ of certiorari may be granted even though the right of statutory appeal had not been availed.

— If that is the clarification conveyed by the impugned letter, then it clearly reads into VR 1984 a description of goods not mentioned therein and is therefore not a mere clarification.

— Ex facie, subject goods are not mentioned in VR 1984.

LEGAL PRINCIPLES EXPOUNDED

The power to determine customs value by a ruling does not extend to adding to or deleting from an existing valuation ruling by clarificatory letters.

Source: *While the Director Valuation is empowered by section 25A of the Customs Act to determine customs value of goods by a ruling, such power does not extend for making additions to or deletions from an existing valuation ruling by way of clarificatory letters.*

Authority: *Section 25A, Customs Act, 1969; Trade Link Corporation v. Federation of Pakistan (2016 PTD 1096)*

A previous ruling may be revised only by a fresh ruling issued through the section 25A process.

Source: *He may, however, issue a fresh ruling to revise a previous one, but again as per the process of section 25A.*

Authority: *Section 25A, Customs Act, 1969*

The power to review a valuation ruling is separate and vests in the Director General Valuation under section 25D, not in the Director Valuation.

Source: *The power to review a valuation ruling is of course separate which vests in the Director General Valuation under section 25D of the Customs Act and not in the Director Valuation.*

Authority: *Section 25D, Customs Act, 1969*

An assessment premised entirely on an instrument of no legal effect is itself unlawful.

Source: *In view of the foregoing, the impugned letter dated 31.12.2025 issued by the Director of Customs Valuation, was of no legal effect. Consequently, the impugned assessment dated 30.04.2026, which is premised entirely on said letter, is clearly unlawful.*

Authority: *Sections 25A and 80, Customs Act, 1969*

OPERATIVE ORDER

In view of the foregoing, the impugned letter dated 31.12.2025 issued by the Director of Customs Valuation, was of no legal effect. Consequently, the impugned assessment dated 30.04.2026, which is premised entirely on said letter, is clearly unlawful. The petition is maintainable and is allowed by setting-aside the impugned letter and the impugned assessment. GD No. KAPW-HC-160403-27-02-2026 filed by the Petitioner shall be assessed afresh under section 80 of the Customs Act without being influenced by the impugned letter dated 31.12.2025. Petition disposed of.

View Full Judgment

GUARDIANS AND WARDS ACT, 1890 SS. 9, 25; CONSTITUTION OF PAKISTAN, 1973 ART. 199; UN CONVENTION ON THE RIGHTS OF THE CHILD, 1989 — A CONDITIONAL COMPROMISE DECREE IN GUARDIANSHIP, ONCE BREACHED, FURNISHES A FRESH CAUSE OF ACTION; AND JURISDICTION FOLLOWS THE MINORS' ORDINARY RESIDENCE AT THE TIME OF THE FRESH APPLICATION

Muhammad Nadeem Taj v. Mst. Tehmina Latif and others

PETITION DISMISSED; CONCURRENT FINDINGS AWARDING PERMANENT CUSTODY TO THE MOTHER WITH VISITATION TO THE FATHER UPHELD; APPROVED FOR REPORTING

C.P. No. S-71 of 2025, High Court of Sindh at Karachi; 2026 SHC KHI 1718 · Bench: Nisar Ahmed Bhanbhro, J · Decided: 09.09.2026 · Uploaded: 09.09.2026

FACTS

The father had obtained custody of two minors, Muhammad Saad and Fabeeha Nadeem, under a compromise decree in G&W Application No. 16/2022 disposed of by the Civil and Family Judge, Malir on 06.12.2022. Condition 9 of the compromise deed provided that in the event of violation by either party, the aggrieved party was at liberty to seek redress through a court of law; conditions 2 and 6 required the father to arrange meetings between the minors and their mother at a public place and to hand over custody on Eid holidays. The mother alleged he had failed to comply, and instituted a fresh G&W application at Karachi South, where the minors by then ordinarily resided, the father living at Clifton and the mother in District Malir. The XIXth Family Judge, Karachi South allowed the application on 25.11.2024 and handed permanent custody to the mother with visitation rights to the father; the XIIth Additional District Judge dismissed the father's appeal on 17.01.2025. Before the High Court he argued that the second application was barred, that jurisdiction lay only with the Malir court, and that the mother, being a housewife residing with her parents, could not properly look after the minors.

LEGAL ISSUE

Whether a fresh guardianship application is maintainable after an earlier application has been disposed of by a conditional compromise decree which the opposing party has breached; which court has jurisdiction when the minors' ordinary residence has changed; and whether a mother's lack of independent income is a ground to deny custody.

HOLDING

The petition was dismissed. The compromise deed itself provided, by condition 9, that a party aggrieved by violation could approach a court, so the father's failure to comply created a fresh cause of action, and estoppel did not apply because the decree was conditional in nature. On jurisdiction, section 9(1) of the Act of 1890 fixes jurisdiction in the District Court of the place where the minor ordinarily resides; the minors had shifted from Malir to South following the compromise decree, so the court at South was competent. On the merits, the trial Court had framed issues, the parties had led evidence, and it was found that the father was absent throughout the day and the minors were being maintained by a grandfather of questionable character. Section 25 makes the welfare of the ward the governing consideration, and it was for the father to prove that welfare lay with him. The mother had not remarried in order to bring up the minors; the children, aged eight and six, needed her at that tender age; and the father's violation of the compromise, depriving the minors of contact with their mother, demonstrated he was not a responsible custodian. Their established academic performance also told against disturbing the arrangement.

LEGAL SIGNIFICANCE

Useful on three points that arise constantly in guardianship practice. First, the effect of a conditional compromise decree: where the deed itself preserves a right to approach the court on breach, a fresh application is not barred and estoppel does not operate — practitioners drafting such compromises should note how much turns on the wording of the liberty clause. Secondly, jurisdiction under section 9 follows the minors' ordinary residence at the time the fresh application is made, not the court that decided the earlier one; a change of residence consequent on the compromise itself moves the forum. Thirdly, the Court's firm rejection of the argument that a mother without independent means is on that account unfit — maintenance being the father's obligation — together with its reliance on the UN Convention on the Rights of the Child for the proposition that the rights in question belong to the child and not to the parents.

LEGAL PROPOSITIONS (VERBATIM)

— *It is the child who has rights against the parents but not the parents.*

— *Mere assertion that mother was a house wife and lacked resources to earn livelihood was no ground to deprive her of the custody.*

— *It is the father responsible to maintain the children until their legal entitlement.*

— *The minors are eight and six years old respectively, at this tender age they need the lap of their mother to become a useful citizen in future and if they are left in the custody of father it will not serve the cause of welfare of minors.*

LEGAL PRINCIPLES EXPOUNDED

The welfare of the minor is the paramount consideration in regulating permanent custody, and the burden lies on the parent asserting that welfare lies with him.

Source: *From a bare reading of the law, it is evident that the legislation in its own wisdom and intents has placed "welfare of minors" as the paramount consideration for regulating permanent custody of minors.*

Authority: *Section 25, Guardians and Wards Act, 1890*

Jurisdiction to entertain a guardianship application lies with the court of the place where the minors ordinarily reside.

Source: *From the perusal of above provisions of law, it is crystal clear that jurisdiction to entertain G&W application lies with the Court where minors ordinarily resided.*

Authority: *Section 9(1), Guardians and Wards Act, 1890*

A party's violation of the terms of a compromise in guardianship proceedings is itself a ground disentitling him.

Source: *Moreover the compromise was effected between the parties on certain terms and conditions and violation thereof constituted a sufficient ground to dis-entitle either party accused of such violation.*

Authority: *Guardians and Wards Act, 1890*

The writ jurisdiction will not disturb concurrent findings of fact unless they are perverse, contrary to the record, or suffer from a jurisdictional defect.

Source: *This Court, in exercise of its writ jurisdiction, does not ordinarily interfere with concurrent findings of fact unless such findings are found to be perverse, contrary to the record, or suffering from any jurisdictional defect.*

Authority: *Article 199, Constitution of Pakistan, 1973*

OPERATIVE ORDER

> *Consequently, this petition fails and is, accordingly, dismissed with no order as to the costs.*

View Full Judgment

ESTABLISHMENT OF THE OFFICE OF OMBUDSMAN FOR THE PROVINCE OF SINDH ACT, 1991 SS. 11(5), 12(1), 16; CONSTITUTION OF PAKISTAN, 1973 ART. 199 — ENFORCEMENT OF AN ORDER OF THE PROVINCIAL OMBUDSMAN LIES UNDER SECTION 16 OF THE ACT OF 1991, AND A CONSTITUTIONAL PETITION CANNOT ORDINARILY BYPASS THAT MECHANISM

Ghulam Mohyuddin Awan (deceased) through his legal heirs v. The Director General KDA and others

PETITION DISPOSED OF WITH LIBERTY TO APPROACH THE PROVINCIAL OMBUDSMAN FOR IMPLEMENTATION; APPROVED FOR REPORTING

C.P. No. D-1001 of 2020, High Court of Sindh at Karachi; 2026 SHC KHI 1754 · Bench: Muhammad Saleem Jessar, J (Head of Constitutional Benches) and another · Decided: 16.09.2026 · Uploaded: 16.09.2026

FACTS

The petitioner, now deceased and represented by his legal heirs, complained that an order of the Provincial Ombudsman, Sindh dated 02.11.2011 had not been implemented, and that the respondents had failed to comply with the Court's own directions of 22.01.2024. The Assistant Advocate General and counsel for the Malir Development Authority objected to maintainability, pointing to the remedy available under section 16 of the Establishment of the Office of Ombudsman for the Province of Sindh Act, 1991, under which the petitioner could approach the Ombudsman himself for implementation. Counsel for the Karachi Development Authority filed a statement dated 16.09.2026 together with a compliance report.

LEGAL ISSUE

Whether a constitutional petition lies for enforcement of an order of the Provincial Ombudsman where the Act of 1991 itself provides a mechanism for securing implementation.

HOLDING

The petition was disposed of without any opinion on the merits. The grievance related primarily to implementation of an order of the Provincial Ombudsman, and the statute itself provides a mechanism for seeking implementation, so the petitioner could not ordinarily bypass the remedy specifically provided under section 16. The Court followed its own decision in Director of School Education, Hyderabad Region v. Provincial Ombudsman (1999 MLD 2856), where, dealing with non-compliance with an Ombudsman's order, it was observed that the aggrieved person could approach the Ombudsman under section 16 for appropriate action including contempt proceedings; and Syed Muhammad Tauheed v. Province of Sindh (C.P. No. D-4770 of 2021, decided 18.11.2021), where a Division Bench held that an efficacious remedy was available under sections 11(5) and 12(1), the Ombudsman being duly empowered to secure implementation of his recommendations. The petitioner was given liberty to apply to the Ombudsman, with a direction that any such application be dealt with strictly in accordance with law.

LEGAL SIGNIFICANCE

A short but practically important decision for anyone holding an unimplemented Ombudsman's order, and a reminder that the Act of 1991 contains its own enforcement machinery — including a contempt power — which must be exhausted before Article 199 is invoked. The judgment collects the Sindh authorities on the point in one place, and pairs them with the general principle from Human Rights (Environmental Pollution in Balochistan) (PLD 1994 SC 102) and Abdur Rehman's case (PLD 1987 SC 21) that writ jurisdiction may be exercised only on proof that no adequate remedy is available. Practitioners should note that the Court disposed of the petition rather than dismissing it, expressly preserving the merits and directing that any application to the Ombudsman be dealt with in accordance with law — a disposal worth seeking where the statutory route has not yet been tried.

LEGAL PROPOSITIONS (VERBATIM)

> *— The Court accordingly recognized the statutory mechanism available before the Ombudsman for securing compliance with his order.*
>
> *— Article 199 of the Constitution provides that same cannot be invoked if alternate remedy is available to the aggrieved party under the relevant law.*
>
> *— The constitutional petition was, therefore, held to be not maintainable in the circumstances.*

LEGAL PRINCIPLES EXPOUNDED

Where the statute provides a mechanism for implementation of an Ombudsman's order, the aggrieved party cannot ordinarily bypass it by constitutional petition.

Source: *The statute itself provides a mechanism for seeking implementation of such order, and therefore, the petitioner cannot ordinarily bypass the remedy specifically provided under Section 16 of the Act.*

Authority: *Section 16, Establishment of the Office of Ombudsman for the Province of Sindh Act, 1991*

The Ombudsman is empowered to secure implementation of his own recommendations, including by proceedings for contempt.

Source: *the learned Division Bench of this Court considered a petition seeking, inter alia, implementation of an order passed by the Provincial Ombudsman. The Court held that an efficacious remedy was available before the Provincial Ombudsman under Sections 11(5) and 12(1) of the Establishment of the Office of Ombudsmen for the Province of Sindh Act, 1991, and observed that the Ombudsman was duly empowered to secure implementation of his recommendations.*

Authority: *Sections 11(5), 12(1) and 16, Establishment of the Office of Ombudsman for the Province of Sindh Act, 1991; Syed Muhammad Tauheed v. Province of Sindh (C.P. No. D-4770 of 2021)*

OPERATIVE ORDER

> *In view of above, without expressing any opinion on the merits of petitioner's claim, instant petition is disposed of with liberty to the petitioner to avail remedy available under the law before competent forum. In case petitioner approaches the Provincial Ombudsman, Sindh, with an appropriate application for implementation of the order dated 02.11.2011, same shall be dealt with strictly in accordance with law. Petition stands disposed of in the above terms along with pending applications, if any.*

View Full Judgment

CODE OF CIVIL PROCEDURE, 1908 O. XXXVII R. 3, S. 115; NEGOTIABLE INSTRUMENTS ACT, 1881 — WHETHER TO GRANT CONDITIONAL OR UNCONDITIONAL LEAVE TO DEFEND IN A SUMMARY SUIT IS A MATTER FOR THE TRIAL COURT'S DISCRETION, AND A REASONED ORDER WILL NOT BE DISTURBED IN REVISION

Ikram Danish v. Muhammad Javeed Khan

CIVIL REVISION APPLICATION DISMISSED; CONDITIONAL LEAVE TO DEFEND UPHELD; APPROVED FOR REPORTING

R.A. No. 98 of 2026, High Court of Sindh, Circuit Court, Hyderabad; 2026 SHC HYD 1737 · Bench: Jawad Akbar Sarwana, J · Decided: 09.09.2026 · Uploaded: 09.09.2026

FACTS

The respondent instituted Summary Suit No. 147 of 2025 claiming Rs. 1,30,00,000, comprising a cheque bearing No. D-92241063 dated 20.04.2022 drawn on Meezan Bank and a promissory note for Rs. 1,00,00,000. The trial Court first allowed conditional leave to defend by order dated 18.02.2026. That order was challenged in Civil Revision Application No. 35 of 2026, and by revision order dated 13.04.2026 the High Court remanded the matter with a direction to decide the leave application afresh and articulate the reasons. On remand the trial Court again granted conditional leave by order dated 05.05.2026, this time recording its reasons: that the defence involved the authenticity of the signature and handwriting on the negotiable instruments, and that limitation was a mixed question of law and fact, so the summary suit could not be dismissed on a point of law alone. Surety was fixed at Rs. 30,00,000, below the amount claimed. The plaintiff did not contest that reduction. The applicant's counsel did not appear at the hearing of the second revision. The Court also noted an apparent contradiction between the promissory note filed with the plaint and the one filed with the respondent's objections.

LEGAL ISSUE

Whether the High Court should interfere in revision with an order granting conditional leave to defend in a summary suit, where the trial Court has articulated its reasons on remand.

HOLDING

The revision was dismissed. Whether to grant conditional or unconditional leave to defend in a summary suit is entirely within the trial Court's discretion. The trial Court had, on the second occasion, clearly articulated its reasons — the authenticity of the signature and handwriting on the negotiable instruments was in issue, and limitation was a mixed question of law and fact, so the suit could not be dismissed on a point of law alone. There was accordingly no arbitrariness in the grant of conditional leave. The Court observed that in the broader context this was the second challenge to leave to defend and that the applicant's conduct did not inspire confidence, particularly where the respondent had instituted summary proceedings. The apparent contradiction between the two versions of the promissory note was a matter for the trial Court and not for revision. Finding neither arbitrariness nor capriciousness, the Court held the trial Court had exercised its discretion well within the contours of Order XXXVII Rule 3 CPC.

LEGAL SIGNIFICANCE

A compact statement of the revisional court's proper restraint in summary-suit litigation, and a useful counterpart to the many decisions setting aside unreasoned grants of conditional leave. The sequence matters: the first order was set aside for want of reasons, and the second survived because reasons were given — which tells practitioners precisely where the vulnerability of such an order lies. Two further points are worth noting. The Court treated the authenticity of a signature on a negotiable instrument, and limitation where it turns on disputed facts, as classic grounds for conditional rather than unconditional leave. And it declined to be drawn into a documentary discrepancy between the two versions of the promissory note, leaving it to the trial Court — a reminder that revision under section 115 corrects jurisdictional error and material irregularity, not the appreciation of documents.

LEGAL PROPOSITIONS (VERBATIM)

— *It is entirely the discretion of the trial Court in the summary suit whether or not to grant conditional or unconditional leave to defend.*

— *Given that, this time around, the trial Court has clearly articulated reasons for granting such leave to defend, I do not find any arbitrariness in the trial Court granting conditional leave to defend.*

— *Be that as it may, this matter is to be decided by the trial Court and not in revision.*

— *As such, there is neither any arbitrariness nor capriciousness in the impugned Order.*

LEGAL PRINCIPLES EXPOUNDED

Where the defence puts in issue the authenticity of the signature and handwriting on a negotiable instrument, and limitation is a mixed question of law and fact, a case for conditional leave to defend is made out and the summary suit cannot be dismissed on a point of law alone.

Source: *the trial Court observed that, as the allegation/defence involves the authenticity of the signature and handwriting on the negotiable instrument (promissory note/cheque), the issue of limitation is a mixed question of law and fact; hence, a case for granting conditional leave to defend is made out, and the summary suit cannot be dismissed on point of law alone.*

Authority: *Order XXXVII Rule 3, Code of Civil Procedure, 1908*

A reasoned exercise of discretion under Order XXXVII Rule 3 will not be disturbed in revision absent arbitrariness or caprice.

Source: *In the circumstances, I find that the trial Court has exercised its discretion well within the contours of Order XXXVII Rule 3 CPC.*

Authority: *Order XXXVII Rule 3 and section 115, Code of Civil Procedure, 1908*

OPERATIVE ORDER

> *Given the above, I do not find any ground for intervention in the impugned Order dated 05.05.2026, which has allowed conditional leave to defend to the applicant/defendant as well as reduced the quantum of the total amount claimed by the respondent/plaintiff in the summary suit. As such, there is neither any arbitrariness nor capriciousness in the impugned Order. In the circumstances, I find that the trial Court has exercised its discretion well within the contours of Order XXXVII Rule 3 CPC. Accordingly, the instant revision application stands dismissed.*

■ **View Full Judgment**