**JUDGMENT SHEET**
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**

**ICA. NO. 146 OF 2022**

**Nusrat Nawaz**
**VS**
**Office of Advocate General, ICT and others.**

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| **Petitioner by** | **:** | **Mr. Muhammad Umair Baloch, Advocate.** |
| **Respondents by** | **:** | **Mr. Abdur Rehman Hashim Khan, State Counsel.** |
| | | **Mr. Munsul Haq DR for Respondents No.2 & 3.** |
| **Date of Hearing** | **:** | **20.10.2025** |

**MUHAMMAD AZAM KHAN, J**.:- The brief facts of the case are that the appellant was employed in the Office of Executive Engineer, Local Government and Rural Development Department, ICT, Islamabad as a driver on daily wages with effect from 01.02.2013. The contract appointment of the appellant was extended from time to time, whereafter he was transferred to the Office of Advocate General, Islamabad vide letter dated 17.06.2015. On 30.06.2016, the appellant's services were terminated, and his salary was stopped by his parent department, i.e., Executive Engineer, Local Government and Rural Development Department, ICT, Islamabad, due to non-availability of funds. Notwithstanding the termination of the appellant, the Advocate General, Islamabad did not relieve him and directed him to continue his services in his office. It is the claim of the appellant that he served the Office of Advocate General, Islamabad in different capacities, either as Naib Qasid or driver, with effect from 1st July 2016 to 31st January 2020, but he was not paid salaries for the period. The appellant made number of applications to the Office of Advocate General, his parent department, as well as to the Higher Authorities of the ICT, for the release of funds, but could not succeed in getting the same.

**2.** Aggrieved by the inaction of the authorities, the appellant was constrained to invoke the constitutional jurisdiction of this Court by filing Writ Petition No. 1116 of 2021. The matter came up for hearing before the learned Single Judge in Chambers on 28.02.2020, who was pleased to dismiss the petition. The said order has been assailed by the appellant through the instant intra-court appeal.

**3.** The learned counsel for the petitioner contended that the appellant is entitled to payment of salaries for the period he served in the Office of Advocate General and that the Advocate General, from time to time, acknowledged his services and made recommendations for the release of pay and allowances.

**4.** Conversely, Mr. Abdur Rehman Hashim Khan, learned State Counsel appearing on behalf of respondents No. 1 to 3, opposed the appeal and supported the impugned order. He contended that the appellant was engaged purely on a daily-wage basis, without any regular post or budgetary sanction. Owing to shortage of funds and administrative constraints, his contractual services were lawfully dispensed with. The learned counsel further submitted that after termination, the appellant continued to work in the Office of the Advocate General of his own volition and without any formal authorization or assurance of remuneration by any competent authority. It is argued that such voluntary service, unconnected with an enforceable appointment, does not give rise to any vested right or claim for payment of salary from the public exchequer.

**5.** We have considered the arguments advanced by both the learned counsel and have also gone through the documents placed on the case file of writ petition No. 1116-2021, in support of the claim voiced by the appellant.

**6.** The transfer of the appellant from the Office of Executive Engineer, Local Government and Rural Development Department ICT, Islamabad, to the Office of Advocate General is an admitted fact. The claim of the appellant is also an admitted to the extent that the learned Principal Law Officer of the ICT posted from time to time made recommendations for the release of the salaries in favor of the appellant. For ease of reference, the recommendations made by the learned Advocate General periodically are reproduced as under: -

**"OFFICE OF THE ADVOCATE GENERAL ISLAMABAD**
**ISLAMABAD HIGH COURT COMPLEX, ISLAMABAD**

No.62,2(05)/AG(ICT)/15 Dated: 25th May, 2017

Subject **PAYMENT OF DAILY WAGES TO MR. NUSRAT NAWAZ, N.O.**

Mr. Nusrat Nawaz, Daily Wages Work Charge Supervisor was attached with this office to perform the duties of Naib Qasid vide Local Govt. & Rural Dev. Deptt No: Misc.10 (1) 2011 dated: 18-06-2015, He has been Performing Duties. His detail of working days is given as under: -

| S.No | Month | Days in a month | Absence period (days) during month | | | Working days during the month |
|---|---|---|---|---|---|---|
| | | | Holidays | Leave/Absence | Total | |
| 1. | July, 2016 | 31 | 09 Eid, etc. | 1 | 10 | 21 |
| 2. | Aug, 2016 | 31 | 05 | 1 | 06 | 26 |
| 3. | Sept, 2016 | 30 | 04 | 4 | 06 | 24 |
| 4. | Oct, 2016 | 31 | 07 Muharram | 1 | 08 | 23 |
| 5. | Nov, 2016 | 30 | 04 | 0 | 04 | 26 |
| 6. | Dec, 2016 | 31 | 05 Rabi-ul-Awal | 2 | 07 | 24 |
| 7. | Jan, 2017 | 31 | 04 | 1 | 05 | 26 |
| 8. | Feb, 2017 | 29 | 04 | 2 | 07 | 22 |
| 9. | Mar, 2017 | 31 | 06 | 1 | 07 | 24 |
| 10. | Apr, 2017 | 30 | 05 | 1 | 06 | 24 |
| 11. | May, 2017 | 31 | 05 Labor day | 1 | 06 | 25 |
| 12. | June, 2017 | 30 | 04 | | | 0 |
| **Total days** | | | | | | **265** |

Mr. Nusrat Nawaz has worked 256 days during 11 months. He has not been paid the salary/remuneration since 01-07-2016. Case for payment of his dues is processed. In case of non-availability of funds with his parent department, the payment may be made from the funds of this office, if permissible under the rules.

**(Mian Abdul Rauf)**
Advocate General Islamabad.

Joint Secretary (Admin)
M/O Interior Islamabad”

"**F.No.3/1/2017-PA(AG)**
**GOVERNMENT OF PAKISTAN**
**OFFICE OF ADVOCATE GENERAL, ISLAMABAD**
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It is stated that Office of Executive Engineer, Local Govt. & Rural Development Department, ICT, Islamabad attached/posted Mr. Nusrat Nawaz, as Naib Qasid in the office of Advocate General, Islamabad vide their Office Order No.Misc.10(1) 2011, dated 17.06.2015 (copy enclosed). I was paid the salary till 30.06.2016. On account transfer of Local Government Department to Municipal Corporation Islamabad (MCI), the office of ICTA could not pay the salary etc to the said stall

2. The said official has been working in the office of Advocate General, Islamabad, but I has not been paid the salary since 01.07.2016. He stated that he is a poor man and have no sources earn livelihood for their family and requested to appoint him as Naib Qasid in the office of Advocate General Office, Islamabad and requested for payment of his outstanding dues;

3. Following two proposals are submitted for kind perusal, please:

a) that he may be appointed as Naib Qasid, on contingent basis at the strength Advocate General Office Islamabad;

b) that outstanding dues w.e.f 1.7.2016 to till date may be issued from the budget Advocate General's Office, Ministry of Interior after approval by the compete authority.

**(Muhammad Waseem Qadri)**
PA to Advocate General
24-11-2017

**Advocate General, Islamabad**"

**OFFICE OF ADVOCATE GENERAL (ICT)**
Supreme Court Building, Constitution Avenue, Islamabad

Subject: **APPOINTMENT AS DRIVER ON DAILY WAGE BASIS.**

Mr. Nusrat Nawaz working as Driver in the Office of Advocate General (ICT) Islamabad from the tenure of Ex-Advocate General (ICT). While I assumed the charge of Advocate General (ICT) I assessed and found that he is a hard worker and performs his duties with keen interest. He belongs to a poor family and being a jobless person it is very difficult for him to look after his family.

2. Keeping in view above, it is recommended that he may be appointed as Driver or daily wage basis on the staff strength of Advocate General (ICT)'s Office.

**(Tariq Mehmood Jahangiri)**
Advocate General (ICT)

**Secretary, Ministry of Interior, Pak-Secretariat, Islamabad.**
Office of Advocate General's U O.No.2/6/2018-AG(ICT), dated 8-06-2018**"**

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**"OFFICE OF ADVOCATE GENERAL (ICT)**
Supreme Court Building, Constitution Avenue, Islamabad
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Subject: **APPOINTMENT AS NAIB QASID ON DAILY WAGE BASIS.**

Mr. Nusrat Nawaz, Supervisor (daily paid employee) of Local Government Deptt, ICT, Islamabad was posted in this office vide their letter No.Misc.10(1)2011 dated 17.06.2015 (F/A). After this, on 30-03-2016 his services were terminated by his parent department due to non-availability of funds (F/B).

2. At that time, due to scarcity of staff in this office, Ex-Advocate General (ICT) Islamabad retained the official and assured he will be appointed on the staff strength of the office of Advocate General (ICT), The said official is working as Nail Qasid in this office without salary since 30-06-2016.

3. According to his application (F/C) he belongs to a poor family and being Jobless person it is very difficult for him to earn living for his innocent children who are school going and live in a rural area of Islamabad and further requested for appointment as Naib Qasid.

3. It is highly recommended that he may be appointed as Naib Qasid (daily wage basis) on humanitarian grounds.

**(Tariq Mehmood Jahangiri)**
Advocate General (ICT)

**Secretary, Ministry of Interior, Pak-Secretariat, Islamabad.**
Office of Advocate General's U.O.No.2/6/2018-AG(ICT), dated 13-09-2018

**"OFFICE OF THE**
**ADVOCATE GENERAL (ICT)**
**Supreme Court Building, Islamabad.**
**Tel: (02-51)9216510, Fax: (02-51) 9216519**
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No.3/1/2020-AG(ICT) Islamabad the 1st April, 2020

**From: Niazullah Khan Niazi,**
**Advocate General (ICT).**
**Islamabad.**

**To, Executive Engineer,**
**LG&RD ICT,**
Islamabad**.**

Subject: **PAYMENT OF OUTSTANDING SALARY**

This case relates with Mr. Nusrat Nawaz, appointed as supervisor in Local Government Islamabad and attached with this office. He submitted an application wherein requested for payment of his outstanding salary w.e.f. 1st July, 2016 to 31 January, 2020. (Application attached)

2 It is recommended that his case kindly be observed on humanitarian ground as well as his outstanding salary be issued at the earliest.

**(Niazullah Khan Niazi)**
Advocate General (ICT)
Islamabad**"**

**7.** The Office of the Advocate General is a constitutional office established under the Presidential Order No. 1 of 2015, which provides that there shall be an Advocate General for the Islamabad Capital Territory, to be appointed by the President. The qualifications prescribed are that the incumbent must be a citizen of Pakistan and qualified to be a Judge of a High Court. The Advocate General, being the principal law officer of the Islamabad Capital Territory, not only represents all departments of the ICT but also occupies a position of constitutional stature and public trust. In this capacity, the Advocate General retained the services of the appellant for official duties. It is deeply regrettable and difficult to reconcile with the conscience of the law that an employee, who served under the supervision of a constitutional office, was made to work without remuneration for several years. The appellant, a humble worker, appears

to have struggled from pillar to post to secure his rightful dues, the wages of his honest labour.

**8.** The Constitution of the Islamic Republic of Pakistan, founded upon the principles of Islamic ideology, imposes an unequivocal duty upon the State to realize and safeguard the fundamental rights of its citizens, irrespective of gender, faith, or social standing, in order to promote social and economic justice. Denial of salary for work duly performed not only contravenes this constitutional command but, in effect, amounts to forced labour, which stands expressly prohibited under Article 11(3) of the Constitution and constitutes an offence against the moral and legal order of the Republic.

**9.** The issue at hand cannot be confined merely to administrative or financial irregularity. It raises a deeper question, one that touches upon the moral conscience of the State and the social justice framework of Islam, which forms the ideological foundation of the Constitution of Pakistan. In Islamic jurisprudence, justice (‘Adl) is not a procedural concept limited to courts of law; it is a comprehensive moral order, encompassing fairness in distribution, equality of opportunity, and protection of the weak from the excesses of the strong. The Holy Qur’an categorically commands that the rights of workers be fulfilled promptly and equitably. Allah Almighty says:

> **“Give full measure and weight in justice, and wrong not people in their things.” (Surah al-A‘raf 7:85)**
>
> **“Do not withhold from the people the things that are their due.” (Surah ash-Shu‘ara 26:183).**

**10.** These verses underscore the moral and legal duty upon all employers, public or private, to honour the entitlements of those who labour under their authority. A person who withholds wages due to another commits a moral wrong and an economic injustice prohibited in Islam. The Prophet Muhammad (*Peace Be Upon Him*) emphatically reinforced this command in his Sunnah. In an authentic narration, he said:

> **"Pay the labourer his wages before his sweat dries." (Sunan Ibn Majah, Hadith No. 2443).**

**11.** This Hadith has long been treated by Islamic jurists as a binding principle of justice (*'adl*)**,** establishing that delayed or denied wages constitute a violation of Shariah. The Prophet (*Peace Be Upon Him*) also warned:

> **"There are three persons against whom I shall be a plaintiff on the Day of Judgment: one who employs a labourer and takes full work from him but does not pay him his wages." (Sahih al-Bukhari, Hadith No. 2227).**

**12.** The Holy Qur'an and the Sunnah repeatedly emphasizes that justice (*'Adl*) is the ultimate objective of divine revelation and the very foundation of human society. These injunctions elevate the obligation to pay wages from a mere contractual responsibility to a moral and religious duty. Islamic jurists, including *Imam Abu Hanifa, Imam Malik, and Imam al-Ghazali,* consistently held that withholding remuneration constitutes *ghasb* (unlawful usurpation) and obliges restitution with compensation. Thus, under Islamic law, the payment of wages is not an act of administrative grace but a binding duty of justice, the breach of which amounts to oppression and draws divine displeasure.

**13.** The Constitution of the Islamic Republic of Pakistan, 1973**,** embodies these Islamic precepts. Its Preamble affirms that sovereignty belongs to Almighty Allah and that the State's authority is a sacred trust, to be exercised within His prescribed limits. Article 3 mandates the elimination of all forms of exploitation and equitable distribution of wealth. Article 11(3) prohibits forced or unpaid labour. Article 14 declares the dignity of man to be inviolable. Article 25 guarantees equality before law. Article 37(e) obliges the State to secure just and humane conditions of work. Together, these provisions form a constitutional codification of Qur'anic justice, obligating every public authority to protect citizens from economic injustice. Thus, denying an employee's wages is not only a breach of contract, it is a constitutional wrong and an offence against the social order envisioned by Islam**.**

**14.** It is indeed a matter of profound concern that, in the prevailing economic circumstances, where even salaried employees are struggling to make ends meet, those who have rendered services without pay for several years are enduring unimaginable hardship. The unrelenting inflation, rising cost of living, and escalating prices of essential commodities have made survival increasingly difficult for ordinary citizens. In such a climate, it is almost inconceivable how a person who has worked continuously without salary for four long years, and whose employment constitutes the sole means of subsistence, sustains his family and preserves his dignity.

**15.** It may not be out of place to observe that, for most citizens in this country, salary is not merely a form of compensation, it is the lifeline that sustains an entire household. It feeds families, educates children, and preserves dignity. One must pause and reflect: if the only source of income for a person is his monthly salary, and that too is withheld for several years despite his continuous labor, what unspeakable hardship and anguish must he endure? The Court cannot remain blind to this human reality. It is easy to speak of procedures and budgets in abstraction, but behind every unpaid employee stands a family struggling to survive, kitchens left cold, children waiting for school fees, and lives quietly breaking under the weight of neglect.

**16.** This reflection is not rhetorical; it is moral and constitutional in essence. The right to livelihood is inseparable from the right to dignity. When the State fails to pay for services rendered in good faith, it does not merely breach a contract, it wounds the social contract itself. It is, therefore, incumbent upon every public institution to ensure that no servant of the State is made to work in vain, and that justice is not delayed where the bread and dignity of a citizen are at stake.

**17.** In the present case, the appellant served under the authority and supervision of a constitutional office, the Advocate General of Islamabad, for several years, performing official duties assigned by that office. His unpaid labour reflects not merely administrative negligence but a moral and

constitutional failure of the system. The Office of the Advocate General, being one of constitutional dignity and institutional sanctity, is expected to exemplify adherence to the rule of law and fairness in administrative conduct. It is a settled maxim that *the higher the office, the higher the responsibility*. Those who occupy positions of constitutional trust are duty-bound to act with a heightened sense of accountability, compassion, and fidelity to the rights of those who serve under their command.

**18.** To permit the State or its constitutional functionaries to derive benefit from the work of an individual without remuneration would amount to institutional exploitation, an act that both Islam and the Constitution unequivocally condemn. Such deprivation strikes at the very root of the social justice framework envisaged by our constitutional order and Islamic principles alike. This Court, as the guardian of the Constitution and the custodian of fundamental rights, cannot remain indifferent to such injustice. The combined weight of Islamic social justice, constitutional guarantees of dignity and equality, and the universal conscience of law compel that the appellant be paid his wages in full measure, together with appropriate compensation for the hardship endured.

**19.** The appellant has suffered not because of any fault or negligence on his part, but solely due to administrative indifference and procedural lapses on the part of the government functionaries. He continued to serve in good faith under the direction of a constitutional office, expecting that the State would honor its basic obligation of paying for work performed. Considering the peculiar facts and circumstances of the case, as well as the moral, constitutional, and legal principles discussed above, we hold that the appellant is entitled to receive his unpaid salaries for the period from 07.07.2016 to 31.01.2020. The arrears shall be calculated from the date they became due and paid to him along with interest at the prevailing bank rate.

**20.** The Chief Commissioner and the Office of the Advocate General shall make settlements/modalities under which the payment is to be made, either from

the allocated funds of the Office of the Advocate General or the Office of the Chief Commissioner, within a period of one month under the intimation to this Court. The appeal is **ALLOWED** in the above terms.

**21.** Before parting with this judgment, it is observed that the purpose of constitutional adjudication is not confined to resolving disputes in isolation but to reaffirm the enduring moral foundations upon which the legal order rests. The Constitution of Pakistan, drawing its spirit from Islam, enjoins that governance be conducted in accordance with the principles of justice, equality, and compassion. In implementing these principles, the courts serve not merely as arbiters of rights but as instruments of social conscience — ensuring that no citizen, however humble, is deprived of what is lawfully his. This judgment, therefore, is rendered not only in the enforcement of legal entitlement but also in aid of constitutional justice and in fidelity to the moral vision of Islam, which regards the protection of human dignity and the fair reward of labor as sacred duties of the State.

**(MUHAMMAD ASIF)**
**JUDGE**

**(MUHAMMAD AZAM KHAN)**
**JUDGE**

*Sajid*

***Approved for Reporting***
***Blue slip added***