JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

WRIT PETITION NO. 3748 OF 2024

Zafar Yaqoob Khan, etc.

Versus

Federation of Pakistan, etc.

Petitioners by	**:**	**Mr. Arif Khan Gigyani, Advocate.**
Respondents by	**:**	**Mr. Meraj Tareen, Advocate for NHA.** **Raja Zamir Ud Din, learned A.A.G.** **Mr. Yousaf Sani & Altaf Ur Rehman, A.D (Legal), NHA.**
Date of Hearing:		**22.10.2025**

MUHAMMAD AZAM KHAN, J. Through the instant petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, the petitioners, who are serving as regular employees of the National Highway Authority (NHA), have sought implementation of the order dated 22.04.2009 passed by the President, National Highway Council (NHC), whereby directions were issued for their reinstatement and regularization in the mainstream cadre of NHA at par with their colleagues in BS-18. It is contended that despite subsequent acceptance of their representation by Respondent No. 2/Secretary, Ministry of Communications, and issuance of further directions dated 18.07.2019 for implementation of the said order, the respondent department has failed to comply therewith without any lawful justification.

2. Learned counsel for the petitioners submits that the petitioners were initially appointed on contract basis and had performed their duties diligently to the satisfaction of their superiors. However, their contracts were not renewed, compelling them to approach the competent forums, including the President, NHC, for redress. Despite clear and binding directives issued by the competent authorities, the respondent department has deliberately withheld implementation, discriminated against the petitioners, and extended undue benefits to certain

favored individuals, thereby violating the principles of equality, fairness, and non-discrimination as enshrined in Articles 4 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973.

3. In order to appreciate and adjudicate the contentions advanced by the learned counsel for the petitioner, the respondents were put on notice. In compliance thereof, the respondents have submitted a detailed report, which has been placed on the record.

4. I have heard the learned counsel for both the parties at considerable length, examined the report submitted by the respondents vis-à-vis the grounds urged in the petition.

5. From a bare perusal of the record, it is evident that the legality and validity of the order dated 22-04-2009, passed by the President, National Highway Council (NHC), already stood conclusively adjudicated by this Court in I.C.A. No. 507/2014, decided on 29-08-2017, wherein the said order was declared to be without lawful authority. The present petition, in substance, seeks revival and enforcement of the very same order and, therefore, squarely attracts the bar of res judicata embodied in Section 11, Code of Civil Procedure, 1908. The doctrine—rooted in public policy to secure finality in litigation—precludes a court from re-trying a matter directly and substantially in issue between the same parties or their privies, where such issue has been heard and finally determined by a court of competent jurisdiction.

6. The bar operates at two levels. First, issue/claim res judicata: once the lawfulness of the NHC order dated 22-04-2009 has been negatived in appellate proceedings, the petitioners cannot, by altering the form of action or relief, re-open that settled determination before the constitutional court. Second, constructive res judicata (Explanation IV to Section 11 CPC): any ground which might and ought to have been taken in the earlier round, but was not, is deemed to have been taken and stands equally barred. The present attempt to pivot the claim through subsequent correspondence (e.g., the Secretary's letter dated 18-07-2019) does not create a fresh, independent cause of action; rather, it is parasitic

upon the earlier NHC order and cannot survive the previous adjudication that stripped that order of legal efficacy.

7. It is also well-settled that the extraordinary jurisdiction under Article 199 is not a vehicle to circumvent a prescribed statutory course or to collaterally attack a concluded adjudication. Constitutional remedies are discretionary and equitable; they are not intended to defeat finality or to provide a parallel forum for re-litigation. The guiding principle, consistently affirmed by the Hon'ble Supreme Court, is that where the foundational issue has been adjudicated, a writ court will decline interference unless the petitioner demonstrates jurisdictional defect, fraud, or a subsequent change in law that strikes at the root of the prior judgment. None of these exceptional circumstances has been pleaded with particularity or established on the record. The Secretary's advisory/administrative communication, by itself, neither annuls the binding appellate judgment nor resurrects an order (22-04-2009) already held to be without lawful authority.

8. Viewed thus, all four limbs of Section 11 CPC are satisfied: (i) identity of parties (petitioners and NHA/Federation or their privies), (ii) identity of subject-matter (enforcement/effect of the NHC order dated 22-04-2009 and the consequential service benefits), (iii) final adjudication by a competent appellate bench in I.C.A. No. 507/2014, and (iv) the subsequent proceedings seeking substantially the same relief. The rule of finality (functus officio) and the abuse-of-process doctrine reinforce the same conclusion: permitting a second bite would undermine legal certainty, consume judicial time, and expose the respondents to perpetual litigation over a matter already settled.

9. In view of the foregoing discussion, this Court is of the considered view that the petition is not maintainable in law. The controversy raised herein has already been conclusively adjudicated upon by a competent Division Bench of this Court in I.C.A. No. 507/2014, and the principle of *res judicata* squarely applies. The petitioners have failed to point out any new cause of action, jurisdictional error, or illegality that would justify re-opening a matter already settled through judicial determination. The attempt to re-agitate an issue which

stands finally concluded not only offends the principle of finality in litigation but also constitutes an abuse of the process of this Court.

10. Accordingly, finding no merit, substance, or legal justification in the present petition, the same is ***dismissed***, being barred by res judicata and devoid of merit. No order as to costs.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in Open Court on _____.

JUDGE

Sajid

Approved for Reporting
Blue Slip added