JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT,

ISLAMABAD

WRIT PETITION. NO. 75 OF 2018

MUHAMMAD ILYAS BHATTI

VS

FEDERAL SECRETARY, MINISTRY OF INFORMATION & ANOTHER

Petitioner by	**:**	**Petitioner in person.**
Respondents by	**:**	**Raja Zamir ud Din, AAG.** **Mr. Khurram Ibrahim Baig, Advocate on behalf of Respondent No.2.**
Date of hearing	**:**	**21.04.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant Writ petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred to as the **"Constitution"**), the Petitioner [Muhammad Ilyas Bhatti] has prayed as under:

> *"It is prayed that Respondents may be directed to immediately start payment of annual increases for the years 2015, 2016, and 2017 along with the payment of arrears to the Petitioner."*

2. The brief facts of the case as per the contents of the instant petition are that the Petitioner is a retired Chief News Editor of the Associated Press of Pakistan who retired from service on 31st March, 2010. The Petitioner had been receiving regular pension along with annual increases announced by the Government of Pakistan from time to time till 2014. The Petitioner's annual increases for the years 2015, 2016, and 2017 were stopped and the Petitioner approached this Court in October 2017 by filing Writ Petition No. 3484/2017, which was disposed of vide Order dated 13.10.2017 with a direction to the Respondents to decide the Petitioner's representation strictly in accordance with law and applicable rules, expeditiously and preferably within two months. The Respondent No.2, in its reply to the Petitioner dated 19.12.2017, stated that the raise in pension for the years 2015, 2016, and 2017 had not been approved by the Associated Press of Pakistan Corporation (APPC)

Board of Directors, as the same had been linked to the approval of the APPC Financial Rules. Feeling aggrieved, the Petitioner filed the instant Writ Petition.

3. The learned counsel for the Petitioner contended that the APP Board of Directors had taken an illegal step by stopping the annual increases as it was against Clause 3(2)(c) of the APP Ordinance, 2002 and other relevant provisions; that the payment of monthly pension and annual increases announced by the Federal Government is mandatory and the Respondents were bound to grant annual increases to the Petitioner; that the predecessor of Respondent No.2, in a letter addressed to the Chairman of the Board/Respondent No.1 dated 26.10.2010, had declared the payment of arrears of pension as mandatory and binding on the Government; that earlier, the Respondents had stopped the annual increase of the Petitioner w.e.f. 01.07.2014, which was challenged before the Wafaqi Mohtasib on 09.12.2015 and vide judgment dated 04.01.2016, it was directed that the increase be granted to the Petitioner. Lastly, learned counsel prayed for acceptance of the instant writ petition.

4. On behalf of Respondents No.1 and 2, it was argued that the instant writ petition is not maintainable as the Petitioner has not availed the alternative, adequate, and efficacious remedy available under the law, and the same is liable to be dismissed on this ground alone; that the Petitioner has no locus standi or cause of action against the Respondents; that the instant petition has been filed with *mala fide* intentions and for ulterior motives; that the case for pension increases for the Petitioner and other retired APPC employees was placed before the APP Board of Directors in its meeting held on 29.12.2015; that the Board of Directors approved the pension increase for the year 2014–2015 only and decided to consider remaining increases for the years 2015–2016 and 2016–2017 in the next meeting; that the APP Board of Directors, in its 24th meeting held in July 2017, approved a raise in pension for the financial years 2015–16, 2016–17, and 2017–18 for APPC retired employees receiving full pension and deferred a decision for those who opted for commutation of pension until finalization of the Financial Rules, with the option to be provided to each employee to choose between pension commutation and Contributory Provident Fund. It was further stated that the Petitioner falls within the category of those pensioners who opted for commutation of pension, therefore, until finalization of the APPC Financial Rules, he would not be granted a raise in pension. In conclusion, it was prayed that the instant writ petition may be dismissed.

5. I have heard the learned counsel for the parties and perused the record with their able assistance.

6. The subject matter of the instant Writ Petition is the payment of annual pension increments pertaining to the years 2015, 2016, and 2017, along with payment of arrears to the Petitioner. The Petitioner retired on 31.03.2010, as Chief News Editor of the Associated Press of Pakistan and has filed the instant Writ Petition seeking payment of arrears of annual pension increases against the Respondents. In response, the Respondents' main contention is that the Petitioner falls within the category of pensioners who opted for commutation of pension and, therefore, until finalization of the APPC Financial Rules, the raise in pension would not be granted to him. The counsel for the Respondents submitted a copy of Letter bearing No.F.No.1(1)/2024-PII-GenMisc dated 28.03.2025, which states that "arrears have not been paid yet due to lack of funds. APPC has requested approximately Rs.400 million from the Finance Division through the Ministry to address this shortfall." This letter is authored by Afra Hussain, Assistant Director (P-II), Ministry of Information & Broadcasting (Internal Publicity Wing), Government of Pakistan.

7. Admittedly, a petition in terms of Article 199 of the Constitution is generally not maintainable against the Associated Press of Pakistan, as the rules governing it are non-statutory, as envisaged under Section 21 of the Associated Press of Pakistan Corporation Ordinance, 2002. Section 21 of the said Ordinance stipulates that the Federal Government may, by notification in the official gazette, make rules for carrying out the purposes of the Ordinance. However, the *lis* at hand pertains to the provision of annual pension increments. The Apex Court has repeatedly emphasized the importance of the timely award of pensionary benefits and its connection with the fundamental right to life. Reliance is placed on case law reported as **(2021 SCMR 730)**, (**PLD 2007 Supreme Court 35)**, and (**2005 SCMR 292)**.

8. According to Article 9 of the Constitution, the question of pension payments relates to the right to life and cannot be ignored, regardless of whether the service rules of an autonomous body are statutory or not. Reliance is placed on **(2021 PLC (CS) 1226)** titled *"Nasir Kamal vs. Federation of Pakistan and others,"* wherein it was held that the right to pension is fundamental in nature. It was also held by the

august Supreme Court in *"Pakistan Defence Officers Housing Authority and others vs. Lieutenant Colonel Syed Jawaid Ahmed",* **(2013 SCMR 1707)** that where the action of a statutory authority in a service matter disregards procedural requirements and violates principles of natural justice, it can be interfered within writ jurisdiction. Similarly, in the case of "*Muhammad Rafi and another vs. Federation of Pakistan and others"*, **(2016 SCMR 2146)**, it was held that an aggrieved person can invoke the constitutional jurisdiction of the High Court against a public authority if the act of such authority is violative of service regulations, even if they are non-statutory. Therefore, the jurisdiction under Article 199 of the Constitution, in the matter of provision of pensionary benefits against the Respondent, Associated Press of Pakistan, is not barred.

9. The Respondent No.2 has expressed willingness to pay the Petitioner's pension claim, subject to the availability of funds, and has already requested the Finance Division to sanction approximately Rs.400 million to pay arrears. This fact stands corroborated by the Letter dated 28.03.2025.

10. In light of the foregoing, the instant Writ Petition is **disposed of** with the direction to the Respondents to pay the arrears to the Petitioner, subject to the availability of funds upon approval by the Finance Division.

(MUHAMMAD AZAM KHAN)
JUDGE

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