JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

W.P. NO. 3496 OF 2018

AMBAREEN ETC

VS

FEDERATION OF PAKISTAN, ETC.

Petitioners by	**:**	**Mr. Abdul Haseeb Afridi, Advocate for the Petitioners No.1 & 2.** **Petitioners No.3, 4, 5 & 7 in person.**
Respondents by	**:**	**Raja Zamir ud Din, AAG.** **Mr. Saeed Ahmed Zaidi, Advocate for the Respondent No.2.**
Assisted by:		**Ms. Amna Danial Khawaja, Law Clerk.**
Date of hearing	**:**	**24.04.2025**

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 Petitioners have prayed for the following reliefs:

a. Declare that the O.M dated 19.07.2017 cannot be implemented on the petitioners and the act of the respondents reducing the salaries of the petitioners is illegal, unlawful, unconstitutional, and void ab initio;
b. Set aside the letter dated 08.12.2017 issued by respondent No.3.
c. Direct the respondents not to take any adverse action against the petitioners without hearing the reason.
d. Direct respondents to refrain from recovering the salaries from the petitioners.
e. Direct respondents to pay back the salaries that have already been recovered.

2. The Petitioners, contract employees of Respondent No.2, are engaged in the Integrated Transit Trade Management System (ITTMS) project, which was approved by ECNEC and is being executed under the supervision of the Federal Board of Revenue. Their appointments and salaries were fixed in accordance with the PC-1, which was approved by ECNEC and administratively endorsed by the President of Pakistan. The PC-1 explicitly stipulates that any amendment, including salary revisions, requires prior approval from ECNEC. Despite this,

Respondent No.1 issued an Office Memorandum (O.M.) dated 19.07.2017 introducing a lower pay package, later clarified by another O.M. dated 19.10.2017, which also acknowledged the requirement of ECNEC approval for implementation. No such approval was obtained. Nevertheless, the Respondents unilaterally applied the O.M. dated 19.07.2017, reduced the Petitioners' salaries, and deducted amounts previously paid, in violation of the contractual terms.

3. The learned counsel for the Petitioners contends that the Petitioners accepted their contractual roles on the basis of market-based salaries offered under the duly approved PC-1, particularly given the harsh working conditions and the absence of allowances or accommodations at project sites such as Torkham and Chaman. The unilateral reduction of salaries through the O.M. dated 19.07.2017 is asserted to be illegal, especially when the subsequent O.M. dated 19.10.2017 itself acknowledges that ECNEC approval is a mandatory precondition for implementing any revision. It is submitted that the Finance Division cannot override the terms of PC-1 duly approved by ECNEC, and any such reduction without the Petitioners' consent violates contractual rights as well as Article 4 of the Constitution, which guarantees protection of law and due process. The Respondents are said to have acted arbitrarily, without lawful authority, and in violation of settled principles, as expounded in various judgments of the Hon'ble Supreme Court, including 2006 SCMR 1360, 2008 SCMR 1148, 1998 SCMR 2268, and 2011 SCMR 1, and in light of Section 24-A of the General Clauses Act and ESTACODE 2007.

4. On the other hand, learned counsel for Respondent No.2 submitted that the Government initiated the Integrated Transit Trade Management System Project (ITTMS), which is executed by the FBR and was to be completed within five years; that the PC-1 for the project was duly approved by ECNEC; that in order to ensure timely completion, it was decided to incentivize project manpower by offering market-based salaries instead of the standard pay packages under the Finance Division's O.M. of 2009 (which was later superseded by the O.M. dated 19.07.2017); that the Petitioners were employed on contract for one year, extendable yearly during the life of the project, and are working in the Project Monitoring Unit; that their salaries were offered in accordance with the approved PC-1. However, following the issuance of the O.M. dated 19.07.2017 by the

Finance Division, Respondent No.3 (AGPR) raised objections and directed the FBR to revise the salaries in conformity with the revised standard pay package; that consequently, FBR revised the contracts of the PMU employees, including the Petitioners, as per the Finance Division's instructions; and that such revisions are being supported to maintain uniformity and retention of project manpower.

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

6. Before delving deeper to examine the merits and legal intricacies of the present case, it is imperative to first consider the question of maintainability. There is no cavil that this Court, while exercising its constitutional jurisdiction, cannot settle the terms and conditions of a contract between the parties, nor can it direct the executive to incorporate or omit any specific stipulation therein, as such matters fall exclusively within the domain of the executive. It is equally well-established that in matters concerning the enforcement of contractual obligations, this Court ordinarily refrains from exercising constitutional jurisdiction to enforce the terms and conditions of the contract and/or to provide a remedy for its breach. The constitutional jurisdiction of this Court cannot be ousted, nonetheless, especially where an element of perversity or patent illegality is prima facie apparent on the face of the record. It is a recognized principle of law that albeit the constitutional jurisdiction should not be exercised ordinarily in matters arising out of breach of contract, however, an exception exists where the breach has been committed by the Government, a semi-Government body, or a Local Authority, necessitating the resolution of intricate and disputed legal questions. In such circumstances, the grievance may appropriately be addressed through the exercise of jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973. The august Supreme Court in case titled *"Messrs Airport Support Services Versus The Airport Manager, Quaid-E-Azam International Airport, Karachi and Others"* **(1998 SCMR 2268)** propounded the following: -

> ***"****It has consistently been held that while routine contractual disputes between private parties and public functionaries are not open to scrutiny under the Constitutional jurisdiction, breaches of such contracts, which do not entail inquiry into or examination of minute or controversial questions of fact, if committed by Government, semi-Government or Local Authorities or like controversies if involving dereliction of obligations, flowing from a statute, rules or instructions can adequately be addressed for relief under that*

> *jurisdiction. Further a contract, carrying elements of public interest, concluded by functionaries of the State, has to be just, fair, transparent, reasonable and free of any taint of mala fides, all such aspects remaining open for judicial review. The rule is founded on the premises that public functionaries, deriving authority from or under law, are obligated to act justly, fairly equitably, reasonably, without any element of discrimination and squarely within the parameters of law, as applicable in a given situation. Deviations, if of substance, can be corrected through appropriate orders under Article 199 of the Constitution. In such behalf even where a contract, pure and simple, is involved, provided always that public element presents itself and the dispute does not entail evidentiary facts of a disputed nature, redress may be provided. A number of precedents have contextually come to-occupy the field and, inter alia, may to noted (1) Anjuman-e-Ahmadiya, Sargodha v. Deputy Commissioner, Sargodha, PLD 1966 SC 639, (2) The D.F.O. South Khari v. Ram Sanehi Singh, 1971 (3) Supreme Court Cases 864-AIR 1973 SC 205; (4) Rashid A. Khan v. West Pakistan Railway Board PLD 1973 Lahore 733; (5) The Majilis-i-Intizamia, Jamia Masjid, Ghulam Muhammad Abad Colony v. Secretary to Government of West Pakistan, Communication and Works Department, PLD 1975 SC 355; (6) Muhammad Ashraf Ali v. Muhammad Naseer and 2 others 1986 SCMR 1096 (7) M/s. Dwarkadas Marfatia & Sons v. Board of Trustees, Bombay Port, AIR 1989 Supreme Court 1642; (8) M.H. Abidi v. State Life Insurance Corporation, 1990 MLD 563; (9) Mahabir Auto Stores v. Indian Oil Corporation, AIR 1990 Supreme Court 1031; (10) Shrilekha Vidyarthi v. State of U.P. AIR 1991 Supreme Court 537; (11) M/s Pacific Multinational (Pvt.) Ltd. v. Inspector-General of Police Sindh. PLD 1992 Karachi 283; (12) M/s Presson Manufacturing Ltd. v. Secretary Ministry of Petroleum & Natural Resources and 2 others 1995 MLD 15 (Lahore) and (16) Shoaib Bilal Corporation v. Government of Pakistan KLR 1997 Rev. Cas. 27 Lahore.***"***

In the case of "*Mahmood Ali Butt Vs. Inspector General of Police, Punjab, Lahore and 10 others*" **(PLD 1997 Supreme Court 823)**, the Honorable Supreme Court held that: -

> *"Before parting with this judgment, we may add that the plea that a High Court in exercise of Constitutional jurisdiction vested under Article 199 of the Constitution cannot direct payment of money in any case is without substance. The High Court normally does not entertain a petition under Article 199 of the Constitution to enforce the civil liability arising out of a breach of contract to pay the amount of money due to the claimant and ordinarily leaves it to the aggrieved party to agitate the question in a civil suit filed for that purpose but an order for payment of money may be made in Constitution petition against State or its functionaries to enforce a statutory obligation. It is usual for the Courts to order refund of the money illegally collected as a duty or a tax."*

Reference can also be made to *"Hazara (Hill Tract) Improvement Trust through Chairman and others versus Mst. Qaisra Elahi and others"* **(2005 SCMR 678)**.

> *"It is well-settled by now that Article 199 casts an obligation on the High Court to act in aid of law, protect the rights of the citizens within the*

framework of the Constitution against the infringement of law and Constitution by the executive authorities, strike a rationale compromise and a fair balance between the rights of the citizens and the actions of the State functionaries, claimed to be in the larger interest of Society. This power is conferred on the High Court under the Constitution and is to be exercised subject to Constitutional limitations. The Article is intended to enable the High Court to control executive action so as to bring it in conformity with the law. Whenever the executive acts in violation of the law, an appropriate order can be granted which will relieve the citizen of the effects of illegal action. It is an omnibus Article under which relief can be granted to the citizens of the country against infringement of any provision of law or of the Constitution. If the citizens of this country are deprived of the guarantee given to them under the Constitution, illegally or, not in accordance with law, then Article 199 can always be invoked for redress. (Ghulam Mustafa Khar v. Pakistan and others PLD 1988 Lah. 49, Muhammad Hussain Khan v. Federation of Pakistan PLD 1956 Kar. 538(FB), S.M. Yousuf v. Collector of Customs PLD 1968 Kar.599 (FB). It is to be noted that paramount consideration in exercise of Constitutional jurisdiction is to foster justice and right a wrong. (Rehmatullah v. Hameeda Begum 1986 SCMR 1516, Raunaq Ali v. Chief Settlement Commissioner PLD 1973 SC 236). There is no cavil with the proposition that so long as statutory bodies and executive authorities act without fraud and bona fide within the powers conferred on them by the Statute, the judiciary cannot interfere with them. There is ample power vested in the High Court to issue directions to an executive authority when such an authority is not exercising its power bona fide for the purpose contemplated by the law or is influenced by extraneous and irrelevant considerations. Where a statutory functionary acts mala fide or in a partial, unjust and oppressive manner, the High Court in the exercise of its writ jurisdiction has ample power to grant relief to the aggrieved party. (East and West Steamship Co. v. Pakistan PLD 1958 SC (Pak.) 41). In our considered view, technicalities cannot prevent High Court from exercising its Constitutional jurisdiction and affording relief which otherwise respondent is found entitled to receive."

In the case of "*Messrs AMEER KHAN & CO. versus GOVERNMENT OF THE PUNJAB through Secretary, Local Government, Lahore*" **(PLD 2010 Lahore 443)** in somewhat similar circumstances, this Court held as under:-

"*The preliminary objections taken by the respondents with regard to the maintainability of this petition are to be addressed in the first instance. There can be no cavil with the proposition that routine contractual disputes between private parties are not to be scrutinized by this court while exercising its extraordinary constitutional jurisdiction under Article 199 of the Constitution of Islamic Republic of Pakistan 1973. However, an exception to this rule would be that this court would have the jurisdiction to examine a contract concluded by public functionaries which do not entail any factual inquiry and it would be open to judicial review, since such contracts have to be just, fair, transparent and reasonable.****"***

7. The Petitioners have not canvassed any issue involving intricacy of facts. The Petitioners had entered into lawful contracts with Respondent No. 2 on the

terms and conditions settled by the latter prior to the issuance of the Office Memorandum dated 19-07-2017. Therefore, the action of implementing the Office Memorandum dated 19-07-2017, without following the rules and procedures duly envisaged under the law, upon the contracts of the Petitioners cannot be justified, as the same is unreasonable, perverse, and arbitrary. Moreover, the Petitioners cannot be strained to adhere to the new conditions, revealed later in time, especially when these were absolutely alien at the time, the contracts were entered into by mutual consensus. Hence, any action taken by the state functionaries, prejudicial to the interest of the Petitioners, can be challenged under the Constitutional jurisdiction in order to safeguard the fundamental rights of the citizens of Pakistan, especially when matters involving livelihood are at stake. It is pertinent to mention herein that right of trade and business is guaranteed under the Constitution of the Islamic Republic of Pakistan, 1973. While discharging official functions, efforts should be made to ensure that no one gets robbed of his livelihood because of the unfair and unjust treatment on the part of any State functionary. Reliance in this regard is placed on a judgement rendered by the Honorable Supreme Court of Pakistan, **"***Shaukat Ali and others Versus Government of Pakistan through Chairman, Ministry of Railways and others***" (PLD 1997 Supreme Court 342)**.

8. As far the as applicability of the Office Memorandum dated 19-07-2017 is concerned qua implementation of the revised Standard Pay Package for the project staff directly recruited for development projects funded from PSDP, the same cannot be made effective onto the Petitioners without obtaining the mandatory approval from the competent forum, i.e., ECNEC in the instant matter. For ready reference, the relevant portion of the O.M. dated 19-07-2017 is reproduced herein below: -

> *"2. The aforesaid pay package will be effective from 01-07-2017 for the new as well as the on-going PSDP projects and* ***shall be admissible subject to the following conditions****: -*
>
> *i) This pay package will be followed for the appointments of officers/staff including Project Directors, Advisors, Specialists, Consultants etc. In the PSDP funded development projects as reflected in the PC-I/II,* ***duly approved by the competent forum****. Based on the sensitivity and size of the project, the CDWP shall decide on whether the Project Director is to be placed in PPS-10 or PPS-11 or PPS-12.*

iii) The pay of the existing PSDP funded projects employees shall be fixed to the next higher stage of the revised stage of the above pay package.

vii) ***The relevant project approving fora like*** *CDWP or* ***ECNEC will decide the number and pay scale of project staff****.*

viii) ***Adoption to Standard Pay Package-2017 shall require revision/approval of PC-1 from the competent forum****.*

9. Upon perusal of the aforementioned conditions read with another Office Memorandum dated 19-10-2017, it becomes crystal clear that prior approval from ECNEC was essential before implementing the revised standard pay package 2017 on the Petitioners. Furthermore, it is an admitted fact that the salary slips distributed among the Petitioners were earlier issued as per the pay package approved in PC-I instead of under the Finance Division's Pay Package of 2009 revised further vide Finance Division's O.M.F.4(9)R-14/2008 dated 19-07-2017. This becomes further ostensible from the letters dated 08-12-2017 and 27-12-2017 written by Respondent No. 3 and Project Director, ITTMS respectively. In simple terms, the salary slips issued to the Petitioners, prior to publishing of the Office Memorandum dated 19-07-2017, were independent of the instructions under the Finance Division's Pay Package of 2009; the remunerations for the Petitioners were fixed under the contract by Respondent No. 2 after obtaining approval from ECNEC as well as President of Pakistan. These earlier approvals were not backed by any instructions and/or orders of Finance Division. Hence, as the salary slips were issued earlier in accordance with the pay package approved in PC-I by ECNEC and President of Pakistan, the subsequent instructions/orders of Finance Division cannot be made applicable on salaries fixed prior in time, especially in the absence of approval from the competent forum, i.e., ECNEC. Reliance in this regard is placed upon *"Maqbool Ahmad Bhutta Versus Secretary Local Government and Others"* **(2010 P L C (C.S.) 1262)**, wherein the Lahore High Court held that: -

> *"3. Admittedly, the petitioners fall in the category of "other staff" and for that reason they are entitled to receive the project allowance at the rate of Rs.5,000 per month. The allowance, which has already been accorded in P.C.-I, cannot be withdrawn merely on the pretext that such allowance requires approval of Chief Minister. The stance of the respondents appears to be contradictory as Notification No. SO. Budget (LG)I-20/2005, dated 16-9-2006 reflects that the project allowance was sanctioned by the Governor to the various officers/employees and it was not approved by Chief Minister.*

> *4. It is settled principle of law that equal pay for equal work and an allowance is admissible to an employee, vesting to the duties, which such employee performs. The person performing duties in a project is entitled to project allowance and there can be no discrimination."*

10. Furthermore, the Respondents, under the law, are neither empowered to recover the over payment drawn by the employees of the project, nor are they authorized to withhold the salaries of the Petitioners, especially when the terms and conditions were settled inter se the parties, therefore, the same were binding upon them. Reliance in this regard is placed upon the case of *"Hamayun Safdar Khan and others Versus Planning and Development Division and others"* **(2016 PLC (C.S.) 642)**, wherein this Court held that: -

> *"Admittedly the Petitioners are fulltime workers of PDDC and they are entitled to withdraw their salaries and consequential benefits. Withholding of the said benefits amounts to the violation of fundamental rights of the Petitioners; therefore, instant writ petition is hereby accepted with the direction to Respondent No. 1 to release the funds for the payment of salaries to the Petitioners, leaving Respondent No. 1 to settle its score with the other Respondents through lawful process."*

Further reliance is placed upon the case of *"Government of West Pakistan through Secretary, Irrigation, Communications & Works Department, Lahore Versus Kazi Khan and others"* **(1968 SCMR 921)**, wherein the august Supreme Court of Pakistan has held that: -

> *"The allowances which attracted the respondents from their parent Department to serve on deputation with the W. D. P. O. came to be a part of their terms and conditions of service as long as they served in that project, and the withdrawal of those allowances, without the consent of the respondents, was evidently a variation in terms and conditions of their service to their disadvantage. The situation may have been different if the respondents had been asked to revert to their parent Department, if they were not prepared to forgo the allowances or either of them, and yet they continued to serve the W. D. P. O. No such offer was made to the respondents, and no change in their conditions of service could be forced on them. It is regrettable that the Government should have gone back on its own stipulations thus impairing the confidence of its employees in its capacity for a fair deal. The terms and conditions of the service of the respondents enjoyed a constitutional protection against their variation to their disadvantage."*

11. The terms and conditions already settled between the parties, qua fixation of salaries, render the contracts as past and closed transactions by virtue of which certain vested rights were already accrued; this further brings forth the doctrine of *locus poenitentiae*, whereby the executive is barred from unilaterally rescinding

and retrieving the benefit availed by its recipients. Thus, any subsequent unilateral decisions taken by the state functionaries cannot supersede and/or replace the already agreed upon stipulations contained in the contracts to the disadvantage of the employees. In this regard, a decision of the apex Court reported as *Fazal Din and Sons Private Limited versus Federal Board of Revenue, Islamabad,* **(2009 SCMR 973)** is being relied upon, wherein it has been held that vested right accrued prior in time cannot be subsequently taken away with retrospective effect. The relevant portion has been reproduced as hereunder: -

> *"It was held by this Court in case of Al-Samrez Enterprises (supra) that an enactment which prejudicially affected vested rights or the legality of past transactions or impaired contract cannot be given retrospective operation. It was also held that it will be inequitable and unjust to deprive a person who acts upon such assurance of the right to exemption and expose him to unforeseen loss in the business transaction by suddenly withdrawing the exemption after he had made legal commitments. In this perspective, we are inclined to hold that a right was created in favour of petitioner and a subsequent amendment in the original scheme cannot be given retrospective effect by a subsequent act of the department to destroy the said right. So the vested rights cannot be taken away by express words and necessary intendment. No doubt that the Legislature is also competent to amend, vary or repeal the same but the right conferred through statute can only be taken away by legislative enactment and not by an executive authority through notification in exercise of the rule making power or the power to amend, vary or rescind an earlier order/notification in the proponed exercise of power conferred under section 21 of the General Clauses Act, 1897."*

12. The Respondent No. 2 had announced the ITTMS project after obtaining due approval from ECNEC and the President of Pakistan. The project was sponsored by the Asian Development Bank and Public Sector Development Program. The Respondent No. 2, before entering into the contracts with the Petitioners, was well aware of the Finance Division's Office Memorandum No. F.4(9)R-3/2008-592/09, dated 18-08-2009, however, the same was not applied on the contracts.

Sr. No	Employees	Remunerations	Date of Contract
1.	Petitioner No. 1 (Ambreen Rafique)	Rs. 250,000/-	24-11-2016
2.	Petitioner No. 2 (Maj(R) Aetzaz Ali Shah)	Rs. 250,000/-	24-11-2016
3.	Petitioner No. 3 (Shakeel Hassan)	Rs. 25,000/-	12-07-2017
4.	Petitioner No. 4	Rs. 25,000/-	28-02-2017

	(Abdullah Khan Abrar)		
5.	Petitioner No. 5 (Rizwan Ali)	Rs. 25,000/-	31-10-2017
6.	Petitioner No. 6 (Shaista Jawad)	Rs. 25,000/-	28-02-2017
7.	Petitioner No. 7 (Rehan Ali)	Rs. 20,000/-	28-02-2017

The above remunerations were fixed with 5% annual increment, and the contracts were extendable. The remunerations fixed by Respondent No. 2, under the contracts with the Petitioners, were completely independent of any Finance Division's orders. Thus, any subsequent order by the executive cannot threaten the vested rights of the Petitioners already accrued under the settled contracts. In this regard, reliance is placed upon *"Naeem Rizwan and another Versus Government of Punjab and 4 others"* **(2023 PLC(C.S.) 1176)**, wherein it has been observed as under:-

> *"5. Although the respondents were fully aware while entering into the said contract with the petitioners that vide order dated 05.04.2013, earlier notification for pay protection had been withdrawn, still they offered the aforesaid terms relating to pay protection to the present petitioners which were accepted by them and they left their regular service to join as contract employees in the afore referred scales subject to said terms and conditions mentioned in the contract. As decisive steps had been taken by the petitioners upon representation of the respondents by converting their regular appointment to contract appointment, on the basis of principle of locus poenitentiae the respondents were not justified to unilaterally withdraw the terms of contract offered by them to the petitioners mentioned in Column Nos. 17 and 18 of letter of appointment already reproduced above. Reliance in this regard is placed on the judgment reported as Federation of Pakistan through Secretary Capital Administration and Development Division, Islamabad and others v. Nusrat Tahir and others (2018 SCMR 691) wherein it is held that payment of the health allowance to the respondents has conferred a vested right upon them. In such circumstances, the executive is barred by the rule of locus poenitentiae from unilaterally rescinding and retrieving the benefit availed by its recipients. Consequently, withdrawal of pay protection at a subsequent stage by the respondents to the extent of the petitioners is without any legal justification in the present case and is, therefore, declared to be without lawful authority and of no legal effect with the observation that both the parties are bound by terms and conditions of contract settled between them. This view is further fortified by the assertion of the petitioners that had the respondents not offered such terms, the petitioners may not have agreed to accept the offer made by the respondents to convert their regular appointment to contract basis.*
>
> *6. For what has been discussed above, it is held that the respondents have no authority to unilaterally change the terms and conditions of the offer to the petitioners after the said offer had been accepted and had been*

> *converted into a binding contract between the parties. Hence, the impugned orders are set-aside as having been passed without any lawful authority and the petitioners are held entitled to protection of their pay and allowances in terms of their appointment letters."*

13. Moreover, it is a settled principle of law that if any existing rights are jeopardized by giving an executive order retrospective effect, further causing inconvenience or injustice so as to hamper the vested rights, then the courts will not favour an interpretation giving retrospective operation to the same. Hence, the action of recovering the over-payments drawn by the employees of the project against the approved PC-I by Respondent No. 3 is highly unwarranted, unjustified and illegal. Reliance in this regard is placed upon *Abdul Hayee EX-SST(G) Versus the Accountant General Balochistan Sariab Road, Quetta and another,* (**2024 PLC(C.S.) 393),** wherein it has been held as under:-

> *"The respondents have paid the salary, which creates vested right which cannot subsequently be taken away on mere assumption and supposition or on the whim of executive authority. Such right once vests cannot be withdrawn as legal bar would come into play under the doctrine of locus poenitentiae. The predecessor of the petitioners was being paid the salary of BPS-I9 for six years, which is not his fault rather mistake of the department. As per principle of locus poenitentiae respondents cannot recover the salary and benefit received by the predecessor of the petitioners."*

14. It is pertinent to mention herein that the project sites, viz. Torkham and Chaman are highly dangerous areas in terms of volatile security situation and harsh weather, for which no security or hard area allowance has been granted to the officers and project staff under the approved PC-1. Likewise, no insurance cover and/or accommodation at the site is provided to them. Excluding all these allowances, the salaries were fixed by Respondent No. 2 under the approved PC-I project, which the Petitioners had willfully accepted. However, the issuance of subsequent Office Memorandum dated 19-07-2017 cannot renounce and/or retract the remuneration already settled earlier. Even without affording all these benefits, the salary packages cannot be further reduced to the disadvantage of the Petitioners.

15. Keeping in view the above principles settled by the apex courts of Pakistan, this Court is fortified in concluding that the Office Memorandum dated 19-07-2017 is not applicable on the Petitioners, as the same was never approved by the Competent Forum, i.e., ECNEC. It is essential to mention herein that when a law

requires a particular thing to be done in a particular manner, it has to be done accordingly. Furthermore, under the said Office Memorandum, it was ECNEC's mandate to determine the number and pay scale of the project staff. This reinforces that the Respondents, without obtaining prior approval or instructions from ECNEC, continued to issue unlawful directives based on their own whims. The act of ordering recovery of alleged over-payments from the Petitioners, and the arbitrary implementation of the said Office Memorandum, is thus perverse, unlawful, and unjust, as it infringes upon the vested rights of the Petitioners, which had accrued under the mutually settled terms and conditions between the parties. Hence, the act of reducing the salaries of the Petitioners is thus illegal, unconstitutional and void *ab initio*. In light of the above, the Letter dated 08-12-2017 issued by Respondent No. 3 is hereby set aside, with strict directions to the Respondents to refrain from recovering the over-payments from the Petitioners. The Respondents are further directed to release the amounts already recovered from the Petitioners by returning them forthwith. The Respondents have no right to recover the over-payments and/or to reduce the salaries, especially when the same were fixed by the Respondents themselves.

16. Before parting with the Judgment, although Petitioners No. 3 to 7 have expressed their intention not to press the Petition, it is observed that any directions or declarations made herein shall apply with equal force to them. Their entitlement to receive salaries shall not be prejudiced by their decision to forgo the present proceedings. Their withdrawal shall not operate as a waiver of any lawful right accruing under the terms and conditions of their services.

17. For the foregoing reasons, the instant Constitutional Petition is **allowed** as prayed for.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the Open Court on this _____ day of May 2025.

JUDGE

//Sajid//*
Approved for Reporting
Blue Slip added.