

ORDER SHEET
IN THE LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT

Case No: Writ Petition No. 41826 of 2023

Taj Din Vs *The Province of Punjab & 4 others*

S.No. of order/proceeding	Date of order/Proceeding	Order with signature of Judge, and that of parties or counsel, where necessary
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20.06.2023	Mr. Qamar Pervaiz Zia, Advocate for the petitioner. Rana Sher Zaman Akram, Assistant Advocate General on Court's call.
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Through present petition, filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has made the following prayer:-

"It is, therefore, respectfully prayed that notification No.FD.SR.II/2-97/2019 dated 01.06.2023 issued by respondent No.3 by the order of respondent No.1 may kindly be ordered to be set aside as illegal and unlawful and the amendment introduced by the respondents in the Revised Leave Rules 1981 of the Punjab Civil Servant Act, 1974 regarding decreasing the payment of LPR be declared illegal, unlawful and void ab initio being unconstitutional amendment and against the rights of the Punjab Government Employees in the interest of justice, equity and fair play.

It is further prayed that the operation of the impugned notification No. FD.SR.II/2-97/2019 dated 01.06.2023 issued by respondent No.3 by the order of respondent No.1 carrying illegal and unlawful amendment may kindly be ordered to be suspended till the final disposal of the petition for writ by this Hon'ble Court.

Any other relief, which this Hon'ble Court deems fit and proper may also be granted in favour of the petitioner."


2. Learned counsel for the petitioner submits that on 05.06.2023 application disclosing the



grievances of the petitioner was filed before the Chief Secretary / respondent No. 1, however, till today no response to the said application has been received. He further submits that failure of the respondent No. 1 to exercise the jurisdiction vested by law as well as the undue delay in deciding the application amounts to infringement of fundamental rights of the petitioner. Adds that he will be satisfied if necessary direction is given to the said respondent for early decision as to the grievances of the petitioner. Learned Law Officer has not opposed this request.

3. Be that as it may, respondent No. 1 is directed to decide the above said application, himself or entrust the same to any authorized officer for the decision, if still pending. The application shall be decided strictly in accordance with law, at earliest and preferably within four weeks from the date of receipt of certified copy of this order.

4. Disposed of.


(Sultan Tanvir Ahmad)
Judge

Before the Lahore High Court, Lahore.

W.P.No 41826 of 2023

**Taj Din son of Muhammad Sadiq Nasir, President Municipal Committee,
Punjab office at Chota Adda Laryan Office Municipal Committee Sharqpur
Sharif.**

Petitioner

Versus

- 1. The Province of Punjab through Chief Secretary, Punjab.**
- 2. The Minister Baldiat, Province of the Punjab. Through Chief Secretary,
Punjab.**
- 3. The Secretary Finance, Punjab, Lahore.**
- 4. The Chief Secretary Punjab, Lahore.**
- 5. The Secretary Local Government and Community Development
Department Punjab, Lahore.**

Respondents

.....
**Petition for writ under Article 199 of the constitution
of the Islamic Republic of Pakistan, 1973.**
.....

Respectfully Sheweth:-

- 1. That the petitioner is working as Sanitary Inspector in the
Department of Municipal Committee Sharqpur Sharif District
Sheikhupura and is an elected President of Municipal Committee of the
Province of the Punjab vide letter reference No.SCKB278 dated 05-
04-2021 sanctioned by Supreme Council of Baldiati Federation issued
by the Central President Shaheen Baldiati Federation and he is fully
authorized to the initiate legal proceedings before this Hon'ble Court
vide NOC letter reference No.204 dated 24.04.2022. (Copies of the
Notification and NOC Letter are attached herewith as Annex-A & B)**

2. That respondent No.3, the Secretary Finance has issued a notification No.FD.SR.II/2-97/2019 dated 01.06.2023 by the orders of respondent No.1 the Governor of Punjab whereby an amendment has been made in the Revised Leave Rules 1981 and has introduced an illegal and unlawful amendment regarding payment of LPR on the basis of Basic Pay Scale which has been changed towards minimum pay and have thus resorted to an excess against all the provincial government employees including the Baldia Employees. (A copy of the notification is attached herewith as Annex-C)
3. That the above mentioned amendment has been introduced by the respondents illegally and unlawfully as it has not been passed by the provincial assembly as the provincial assembly is not in session and care taker government is dealing day to day business of the province of Punjab and is set up just to conduct elections and has no authority and power to make legislation or to introduced or pass any law, furthermore, the above mentioned amendment in the Revised Lave Rules 1981 has been introduced by the respondents through a notification instead of passing the ordinance in violation of the provisions of the Constitution of Islamic Republic of Pakistan.
4. That the petitioner filed an application No.12 dated 05.06.2023 to respondent No.5 vide diary dated 14.06.2023, application No.15 dated 05.06.2023 to respondent No.2 vide diary dated 14.06.2023 and application No.16 dated 05-06-2023 to respondent No.4 vide diary No.6253 dated 14.06.2023 for cancellation of the impugned notification of amendment introduced by respondent No.3 by the orders of respondent No.1 being illegal, unlawful, as being against the fundamental rights of the Punjab Government Employees but the respondents have willfully failed to take any notice on the applications of the petitioner. (Copies of the applications are attached herewith as Annex-D, E & F)
5. That the amendment made by the respondents in Revised Leave Rules 1981 of the Punjab Civil Servant Act, 1974 in policy of making payment of LPR vide notification No.FD.SR.11/2-97/2019 dated 01.06.2023 is absolutely illegal and unlawful, void ab initio and against the fundamental rights of the Punjab Government Employees, against the provisions of the Constitution of Islamic Republic of Pakistan, 1973 and is liable to be set aside.
6. That the petitioner has no other efficacious remedy available to him except him invoke the constitutional jurisdiction of this Hon'ble Court.

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It is, therefore, respectfully prayed that notification No.FD.SR.II/2-97/2019 dated 01.06.2023 issued by respondent No.3 by the order of respondent No.1 may kindly be ordered to be set aside as illegal and unlawful and the amendment introduced by the respondents in the Revised Leave Rules 1981 of the Punjab Civil Servant Act, 1974 regarding decreasing the payment of LPR be declared illegal, unlawful and void ab initio being unconstitutional amendment and against the rights of the Punjab Government Employees in the interest of justice, equity and fair play.

It is further prayed that the operation of the impugned notification No.FD.SR.II/2-97/2019 dated 01.06.2023 issued by respondent No.3 by the order of respondent No.1 carrying illegal and unlawful amendment may kindly be ordered to be suspended till the final disposal of the petition for writ by this Hon'ble Court.

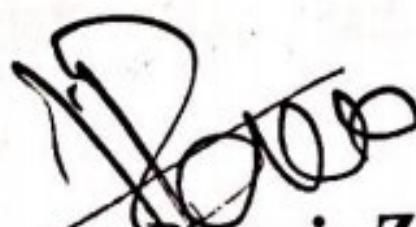
Any other relief, which this Hon'ble Court deems fit and proper may also be granted in favour of the petitioner.

Dated:-16.06.2023


Petitioner




Through


(Qamar Pervaiz Zia)
Advocate, Supreme Court of
Pakistan, 256-District Courts,
Lahore.
CNIC No.35201-1569906-1
Cell No.0321-8492101

Note:-

As per instructions my client of my client this is the first petition for writ by this Hon'ble Court.


Advocate

Note:-

That the act of respondents is in violation of the fundamental rights of the petitioner.


Advocate

(4)

Before the Lahore High Court, Lahore.

W.P.No _____ of 2023

Taj Din

Petitioner

Versus

The Province of Punjab etc.

Respondents

.....
Petition for writ under Article 199 of the constitution
of the Islamic Republic of Pakistan, 1973.
.....

Affidavit of Taj Din son of Muhammad Sadiq Nasir, President
Municipal Committee, Punjab office at Chota Adda Laryan Office
Municipal Committee Sharqpur Sharif.

I, the above named, do hereby declare and solemnly affirm as under:-

1. That the petitioner is working as Sanitary Inspector in the Department of Municipal Committee Sharqpur Sharif District Sheikhpura and is an elected President of Municipal Committee of the Province of the Punjab vide letter reference No.SCKB278 dated 05-04-2021 sanctioned by Supreme Council of Baldiati Federation issued by the Central President Shaheen Baldiati Federation and he is fully authorized to the initiate legal proceedings before this Hon'ble Court vide NOC letter reference No.204 dated 24.04.2022. (Copies of the Notification and NOC Letter are attached herewith as Annex-A & B)
2. That respondent No.3, the Secretary Finance has issued a notification No.FD.SR.II/2-97/2019 dated 01.06.2023 by the orders of respondent No.1 the Governor of Punjab whereby an amendment has been made in the Revised Leave Rules 1981 and has introduced an illegal and unlawful amendment regarding payment of LPR on the basis of Basic Pay Scale which has been changed towards minimum pay and have thus resorted to an excess against all the provincial government employees including the Baldia Employees. (A copy of the notification is attached herewith as Annex-C)
3. That the above mentioned amendment has been introduced by the respondents illegally and unlawfully as it has not been passed by the



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provincial assembly as the provincial assembly is not in session and care taker government is dealing day to day business of province of Punjab and is set up just to conduct elections and has no authority and power to make legislation or to introduced or pass any law, furthermore, the above mentioned amendment in the Revised Lave Rules 1981 has been introduced by the respondents through a notification instead of passing the ordinance in violation of the provisions of the Constitution of Islamic Republic of Pakistan.

4. That the petitioner filed an application No.12 dated 05.06.2023 to respondent No.5 vide diary dated 14.06.2023, application No.15 dated 05.06.2023 to respondent No.2 vide diary dated 14.06.2023 and application No.16 dated 05-06-2023 to respondent No.4 vide diary No.6253 dated 14.06.2023 for cancellation of the impugned notification of amendment introduced by respondent No.3 by the orders of respondent No.1 being illegal, unlawful, as being against the fundamental rights of the Punjab Government Employees but the respondents have willfully failed to take any notice on the applications of the petitioner. (Copies of the applications are attached herewith as Annex-D, E & F)



5. That the amendment made by the respondents in Revised Leave Rules 1981 of the Punjab Civil Servant Act, 1974 in policy of making payment of LPR vide notification No.FD.SR.11/2-97/2019 dated 01.06.2023 is absolutely illegal and unlawful, void ab initio and against the fundamental rights of the Punjab Government Employees, against the provisions of the Constitution of Islamic Republic of Pakistan, 1973 and is liable to be set aside.

6. That the petitioner has no other efficacious remedy available to him except him invoke the constitutional jurisdiction of this Hon'ble Court.

Certified that the Above/Under declared on Oath before me this 17 June at Lahore. By Taj Din M. Sadiq No. 510 Deponent No. Chaoqpur Sharif

Verification: Verified on oath at Lahore this 16th day of June, 2023 that the contents of the above are true to the best of my knowledge and belief and that nothing has been kept concealed.

Deponent



8

Am. "C"

GOVERNMENT OF THE PUNJAB
FINANCE DEPARTMENT

NOTIFICATION

No.FD.SR.II/2-97/2019.- In exercise of the powers conferred under section 23 of the Punjab Civil Servants Act, 1974 (VIII of 1974), Governor of the Punjab is pleased to make the following amendments in the Revised Leave Rules, 1981, with immediate effect:

AMENDMENTS

In the Revised Leave Rules, 1981:

- (1) In rule 17:
- (a) in the heading, for the word 'leave' the words "refused leave" shall be substituted;
 - (b) in sub-rule (1):
 - (i) for the expression "lump-sum leave pay", the expression "leave pay, equal to initial pay of the pay scale, for the leave refused by the Appointing Authority" shall be substituted; and
 - (ii) the words "leave on full pay" shall be omitted;
 - (c) in sub-rule (2), at the end, the words "on monthly basis" shall be inserted;
 - (d) sub-rule (3) shall be omitted;
 - (e) sub-rule (4) shall be omitted;
 - (f) in sub-rule (5):
 - (i) for the expression "lump-sum payment equal to the period falling short of three hundred and sixty five days", the expression "encashment of leave for the remaining period" shall be substituted; and
 - (ii) at the end, the following shall be inserted:

"Explanation.- The term 'family' shall be as defined for the purpose of family pension.";
 - (g) in sub-rule (6):
 - (i) for the word "leave", occurring for the first time, the words "refused leave" shall be substituted;
 - (ii) the expression "shall be effective from the first day of September, 2013" shall be omitted;
 - (iii) the words "or opted" shall be omitted; and
 - (iv) the expression "or, as the cases may be, retiring on or after the first day of September, 2013" shall be omitted;
 - (h) in sub-rule (6-A), for the word "LPR" the words "refused LPR" shall be substituted;
 - (i) in sub-rule (6-B), for the words "leave is granted on account of ill health supported by Medical Certificate or for performance of Hajj", the words "any kind of leave is granted" shall be substituted;

M. Babuwood
01/06/2023

(j) in sub-rule (6-C):

(i) for the word "LPR" the words "refused LPR" shall be substituted; and

(ii) for the words "on the basis of pay and allowances reckonable towards pension as shown in the last pay certificate of a civil servant", the words "equal to respective initial pay scale" shall be substituted; and

(k) after sub-rule (6-C), the following new sub-rule (7) shall be inserted:

"(7) A civil servant, who desires to get the benefit of encashment of LPR for a maximum period of three hundred and sixty five days, shall submit his written application to the Appointing Authority for grant of LPR, at least three months before the date of commencement of his LPR and if, the Appointing Authority so refused his request, he shall be entitled to encashment of refused LPR for three hundred and sixty five days equal to initial pay of basic pay scale:

Provided that the civil servant who compulsorily retired shall not be entitled for encashment of LPR."; and

(2) Rule 19 shall be omitted."

BY THE ORDER OF THE GOVERNOR OF THE PUNJAB

Dated Lahore, the 01st June, 2023

MUJAHID SHERDIL
FINANCE SECRETARY

NO & DATE EVEN:

A copy is forwarded for information and necessary action to the:

1. The Additional Chief Secretary, Punjab, Lahore
2. The Additional Chief Secretary, South Punjab
3. The Secretary to Governor, Punjab, Lahore
4. The Principal Secretary to Chief Minister, Punjab, Lahore
5. The Military Secretary to Governor, Punjab, Lahore
6. All Administrative Secretaries to Government of the Punjab
7. All Administrative Secretaries to Government of the Punjab, South Punjab, Multan/Bahawalpur
8. All Commissioners & Deputy Commissioners in the Punjab
9. The Director General, Audit & Accounts (Works), Lahore
10. The Provincial Director, Local Fund Audit, Punjab, Lahore
11. The Chief Inspector of Treasuries & Accounts, Punjab, Lahore

Khalid Mahmood
01/06/2023
(KHALID MAHMOOD)

ADDL FINANCE SECRETARY (REG)

NO & DATE EVEN:

A copy is forwarded for information and necessary action to the:

1. The Accountant General Punjab, Lahore
2. All the District Accounts Officers in the Punjab
3. The Director General Audit, Lahore
4. The Director General Works (Accounts), Lahore
5. The Director General Works (Audit), Lahore
6. The Director General Audit (District Governments), Punjab, Lahore

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NO & DATE EVEN:

A copy is forwarded for information and necessary action to the:

1. The Secretary to Government of Sindh, Finance Department, Karachi
2. The Secretary to Government of KPK, Finance Department, Peshawar
3. The Secretary to Government of Baluchistan, Finance Department, Quetta
4. The Secretary to Government of Azad Jammu & Kashmir, Finance Department, Muzaffarabad
5. The Finance Secretary, Government of Gilgit Baltistan, Gilgit
6. Regulations Wing, Finance Division, Government of Pakistan, Islamabad

[Handwritten Signature]

01-06-2023

SECTION OFFICER (SR-II)

Before the Lahore High Court, Lahore.

C.M.No. _____ of 2023

In
W.P.No. 41826 of 2023

Taj Din

Petitioner

Versus

The Province of Punjab etc.

Respondents

.....
Petition for writ under Article 199 of the constitution
of the Islamic Republic of Pakistan, 1973.

.....
Petition under Sections 151, C.P.C for suspension of the
operation of the impugned notification dated 01.06.2023.
.....

Respectfully Sheweth:-

1. That the petitioner has filed the above titled petition for writ before this Hon'ble Court in which no date has been fixed so far.
2. That the contents of the accompanying petition for writ be treated as an integral part of this petition.
3. That the impugned notification No.FD.SR.11/2-97/2019 dated 01.06.2023 is absolutely illegal and unlawful, void ab initio being issued by the respondents without any lawful authority and beyond the mandate of the constitution and is liable to be set aside.
4. That it is in the interest of justice that the operation of the impugned notification is ordered to be suspended.

It is, therefore, respectfully prayed that operation of the impugned notification No.FD.SR.11/2-97/2019 dated 01.06.2023 may kindly be ordered to be suspended till the final disposal of the petition for writ by this Hon'ble Court.

Any other relief which this hon'ble court deem fit and proper may also be awarded to the petitioner.

Dated:-16.06.2023

Taj Din
Petitioner

Through

Qamar Pervaiz Zia
(Qamar Pervaiz Zia)
Advocate, Supreme Court of
Pakistan, 256-District Courts,
Lahore.
CNIC No.35201-1569906-1
Cell No.0321-8492101



Before the Lahore High Court, Lahore.

C.M.No. _____ of 2023
In
W.P.No _____ of 2023

Taj Din
The Province of Punjab etc.

Versus

Petitioner
Respondents

.....
Petition for writ under Article 199 of the constitution
of the Islamic Republic of Pakistan, 1973.
.....

Petition under Sections 151, C.P.C for suspension of
the operation of the impugned notification dated 01.06.2023.
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Affidavit of Taj Din son of Muhammad Sadiq Nasir, President
Municipal Committee, Punjab office at Chota Adda Laryan Office
Municipal Committee Sharqpur Sharif.

I, the above named, do hereby declare and solemnly affirm as under:-

1. That the petitioner has filed the above titled petition for writ before
this Hon'ble Court in which no date has been fixed so far.

That the contents of the accompanying petition for writ be treated as
an integral part of this petition.

That the impugned notification No.FD.SR.11/2-97/2019 dated
01.06.2023 is absolutely illegal and unlawful, void ab initio being issued by the
respondents without any lawful authority and beyond the mandate of the
constitution and is liable to be set aside.

4. That it is in the interest of justice that the operation of the impugned
notification is ordered to be suspended.



Certified that the above was declared on Court
by Mr./Mrs. Taj Din
S/o, D/o, W/o Muhammad Sadiq
R/o Sharqpur Sharif
Identified by Mr. [Signature]
CC No. [Blank]

(MUHAMMAD SADIQ) 16/6/23
Assistant Oath Commissioner
Lahore High Court, Lahore.
Verified on oath at Lahore this 16th day
of June, 2023 that the contents of the above
are true to the best of my knowledge and belief
and that nothing has been kept concealed.

[Signature]

Deponent

[Signature]

Deponent

Before the Lahore High Court, Lahore.

103598/23

C.M.No. _____ of 2023

In
W.P.No. 41826 of 2023

Taj Din

Versus

Petitioner

The Province of Punjab etc.

Respondents

.....
Petition for writ under Article 199 of the constitution
of the Islamic Republic of Pakistan, 1973.
.....

Petition Under Section 151, C.P.C for dispensing
with the production certified copies of the annexures.
.....

Respectfully Sheweth:-

1. That the petitioner is filing the above titled petition for writ without placing on record certified copies of the some of the documents attached as annexures.
2. That the petitioner will place on record the certified copies of the documents when the same are available.
3. That it is in the interest of justice that in view of the urgency of the matter the petition for writ is admitted to regular hearing without placing on record the certified copies of the documents.

It is, therefore, respectfully prayed that the production of certified copies of the documents attached with the petition may very kindly be dispensed with for the time being.

Dated:-16.06.2023



Petitioner

(Signature)

(Qamar Pervaiz Zia)
Advocate, Supreme Court of
Pakistan, 256-District Courts, Lahore.
CNIC No.35201-1569906-1
Cell No.0321-8492101

Before the Lahore High Court, Lahore.

C.M.No. _____ of 2023

In

W.P.No _____ of 2023

Taj Din

Petitioner

Versus

The Province of Punjab etc.

Respondents

.....
Petition for writ under Article 199 of the constitution
of the Islamic Republic of Pakistan, 1973.
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Petition Under Section 151, C.P.C for dispensing
with the production certified copies of the annexures.
.....

Affidavit of Taj Din son of Muhammad Sadiq Nasir, President
Municipal Committee, Punjab office at Chota Adda Laryan Office
Municipal Committee Sharqpur Sharif.

I, the above named, do hereby declare and solemnly affirm as under:-



1. That the petitioner is filing the above titled petition for writ
without placing on record certified copies of the some of the documents
attached as annexures.

2. That the petitioner will place on record the certified copies of the
documents when the same are available.

3. That it is in the interest of justice that in view of the urgency of
the matter the petition for writ is admitted to regular hearing without
placing on record the certified copies of the documents.

Certified that the above was Declared on Oath
by Mr./Mrs. Taj Din

to, D/o, W/o Muhammad Sadiq

o Shahid Hussain

Verified by Mr. Shahid Hussain Verified on oath at Lahore this 16th day
of June, 2023 that the contents of the above

No. _____ are true to the best of my knowledge and belief
and that nothing has been kept concealed.

MUHAMMAD SADIQ

Assistant Registrar (Reid)
Oath Commissioner
Lahore High Court, Lahore.

Application No-918-Genl/X.B.9. (b) (1)

Expiry Date: 09-04-2025

Mob: 9333-4424354
NIC: 36392-6555270-5

16/6/23

Taj Din
Deponent

Shahid Hussain
Deponent