

JUDGMENT SHEET

IN THE HIGH COURT OF BALOCHISTAN QUETTA.

CONSTITUTIONAL PETITION NO. 399 OF 2025
(CC # 100107800927)

Abdul Jalil Baloch
v.

Chief Minister Balochistan through its Principle Secretary & others

AND

CONSTITUTIONAL PETITION NO. 535 OF 2025
(CC # 100107801158)

Habib-ur-Rehman & another

v.

Government of Balochistan through Chief Secretary Balochistan & others

J U D G M E N T

Date of hearing: 11th May 2026.

In Constitutional petition No. 399 of 2025.

Petitioner by: M/s. Naseebullah Tareen, Rehan Khan Babar and Barrister Nadeem Lehri, Advocates alongwith petitioner Mr. Abdul Jalil Baloch, advocate, Advocate.

Respondent Nos.1 to 4 by: Mr. Shai Haq Baloch, Additional Advocate General.

Respondent No. 5 by: M/s. Kamran Murtaza, Adnan Ejaz, Noor Jan Buledi and Babar Abbas, Advocates.

In Constitutional petition No. 535 of 2025.

Petitioners by: M/s. Naseebullah Tareen, Rehan Khan Babar and Barrister Nadeem Lehri, Advocates alongwith petitioner Mr. Abdul Jalil Baloch, advocate, Advocate.

Respondent No.1: Mr. Shai Haq Baloch, Additional Advocate General.

Respondent No.3 by: M/s. Kamran Murtaza, Adnan Ejaz, Noor Jan Buledi and Babar Abbas, Advocates.

Respondent Nos.4 & 5 by: Mr. Abdul Musawir, Advocate

Mr. Muhammad Idrees, Additional General Manager (Legal) BDA & Mr. Shahjahan, Deputy Manager (Legal) BDA.

MUHAMMAD KAMRAN KHAN MALAKHAIL, C.J: Through this common judgment, we are proposed to finally decide these Constitutional Petitions No. 399 & 535 of 2025, as both petitions arise out of a common set of facts and involve identical questions of law. In these petitions, the respective petitioners have called in question the legality and validity of the Notifications dated 06th February 2025 and Notification dated 01st March 2025 issued by the official respondents, whereby, the respondent No.5 was allowed to continue his services as Director, Balochistan Development Authority for three (03) years and consequently appointed as Chairman BDA.

2. Brief facts in precise are that the petition No. 339 of 2025, is being filed in the nature of a public interest/*pro bono* matter. It is the petitioner's case that the respondent No.5 (*Javed Khan*), who was retired from the post of Chairman/Director BPS-21 of the Balochistan Development Authority ('**BDA**') on 28th February 2025, was unlawfully granted extension in service and re-employed against the post of Director, Balochistan Development Authority (BDA) vide Notification dated 06th February 2025, and was thereafter appointed as Chairman, BDA vide Notification No. 01st March 2025. Statedly, respondent No.5 neither possesses the requisite qualifications nor fulfills the eligibility criteria prescribed for the said posts; that re-employment by means of extension as Director, and subsequent appointment as Chairman BDA are illegal being contrary to the Balochistan Development Authority Act, 1974 ('**the Act**') and the Balochistan Development Authority (BPS-16 and Above) Service Rules, 2024 ('**the Rules**') governing the appointments in BDA; that

under the relevant service rules, the post of Director (Planning & Admit) is required to be filled by promotion from amongst officers holding the post of General Manager (BPS-19), who have successfully completed the Senior Management Course (SMC) and possess at least seventeen years' service in BPS-17 and above, on the basis of seniority-cum-fitness; that a despite the existence of a clear statutory framework, respondent No.5, being already retired from service, was granted extension by means of re-employment and subsequently appointed as Chairman, BDA, without adherence to the mandatory legal requirements and prescribed procedure; that both the extension in service and the appointment of respondent No.5 as Chairman, BDA, are wholly without lawful authority and have been made in complete disregard to the applicable laws, rules, and governing principles regulating such appointments.

3. Through Constitutional Petition No. 535 of 2025, the aforesaid notifications have likewise been called in question by officers of the QDA on substantially similar grounds. The petitioners therein have expressed their grievance that the extension in service to the respondent (Javed Khan) granted for a further period of three years has seriously prejudiced their vested and legitimate right of consideration for promotion, as they are otherwise eligible and entitled for appointment against the said post in accordance with law.

4. Learned counsel for the petitioner argued that the instant petition is fully maintainable in the nature of *quo warranto*, as the petitioner, being a practicing Advocate and law-spirited person, is competent to question the legality and validity of the appointment

and continuation of respondent No.5 against a public office allegedly held without lawful authority; that in matters involving unlawful occupation of a public office, any law-spirited person can invoke the constitutional jurisdiction of this Court to ensure that appointments are made strictly in accordance with law; that the extension granted to respondent No.5 against the post of Director, Balochistan Development Authority (BDA), vide notification dated 06th February 2025, is patently illegal and in direct violation of Rule 5 and Rule 18 of the BDA (BPS-16 and Above) Service Rules, 2024; that the relevant rules neither permit such extension in the manner adopted by the respondents nor authorize continuation of a retired officer without fulfillment of the mandatory legal requirements prescribed therein; that no reasons whatsoever have been assigned in the impugned notification for granting extension to respondent No.5 after his retirement, whereas, under the settled principles governing re-employment or extension in service, strong and exceptional reasons are required to be recorded. It was further submitted that re-employment or extension after retirement can only be justified in exceptional circumstances, where the employee possesses extraordinary experience or specialized expertise not otherwise available in the department, and even then such extension cannot be granted if it adversely affects the rights of officers next in line for promotion, but in the case in hand, neither any exceptional circumstance nor any compelling administrative necessity has been disclosed by the respondents. Likewise, no material has been placed on record to demonstrate that respondent No.5 possessed such

extraordinary qualifications or experience warranting his continuation in service after retirement. Rather, the extension has directly prejudiced the rights of eligible officers awaiting promotion under the relevant service rules, which was otherwise discouraged by the Superior Courts, particularly where such appointments are made at the cost of career progression of serving officers and in violation of the prescribed statutory framework. According to the learned counsel, the impugned action of the respondents, is therefore, contrary to the applicable rules but also to the law laid down by the superior courts from time to time.

It was next contended that yet another illegality was committed through notification dated 01st March 2025, whereby, respondent No.5 was appointed as Chairman, BDA. Learned counsel submitted that the said appointment is also contrary to the governing law and rules regulating appointment to the post of Chairman, BDA; that the rules prescribe specific qualifications, eligibility criteria, and mode of appointment for the said post, which respondent No.5 admittedly does not fulfill; that the appointment has been made in complete disregard to the prescribed procedure and mandatory statutory requirements.

5. Learned counsel for the petitioner No.2, also representing the petitioners in Constitutional Petition No. 535 of 2025 adopted the arguments advanced by the learned counsel for the petitioner No.1 in Constitutional Petition No. 399 of 2025. He finally urged that appointment of respondent No.5 is liable to be declared null and void in the eyes of law.

6. Learned Additional Advocate General, appearing on behalf of the official respondents, opposed the petitions and contended that the impugned notifications were issued strictly in accordance with law after completion of all legal and codal formalities; that the matter was duly processed through the competent administrative channels and was placed before the Provincial Cabinet, which accorded its concurrence and approval in accordance with the prescribed procedure; that no provision of law, rules, or regulations governing the appointments in the BDA has been violated in any manner; that the extension in service granted to respondent No.5 and his appointment as Chairman, BDA, were made lawfully and after fulfillment of all procedural requirements. He therefore argued that the impugned notifications do not suffer from any legal infirmity warranting interference by this Court in exercise of its constitutional jurisdiction.

7. Learned counsel appearing on behalf of respondent No.5, at the very outset, raised a preliminary objection with regard to the maintainability of the instant petition. He contended that the petitioner has no locus standi to challenge the appointment of an officer through a writ of *quo warranto*, particularly when no personal legal right of the petitioner has been infringed.

On merits, he submitted that respondent No.5 possesses vast administrative experience, having previously served as Director as well as Chairman of the BDA; that the official respondents, while granting extension and subsequently appointing respondent No.5 as Chairman, BDA, had taken into consideration his extensive

experience, administrative capability, and familiarity with the affairs of the Authority; that Section 5 of the Balochistan Development Authority Act, 1974, does not place any prohibition or embargo upon the appointment or continuation of respondent No.5 against the post in question and therefore, the appointment and extension were made within the legal framework governing the Authority and cannot be termed unlawful merely on the basis of the objections raised by the petitioner.

8. We have heard learned counsel for the petitioner and perused the case file minutely.

9. After filing of counter affidavits and legal objections by the respondents, this Court vide order dated 15th December 2025, passed interim order by suspending the impugned notifications, the relevant excerpt whereof reads as under:

*“3. We, with the help and assistance of learned counsel for the parties, have gone through the prayer clause of the petitions, wherein, it appears that both the petitioners and respondent No.5, mainly rely upon Section (5) of the Balochistan Development Authority Act, 1974. (**the Act**). While, learned counsel for the petitioner also referred the Balochistan Development Authority, (BPS-16 and above) Service Rules, 2024 (**the Rules**)”.*

4. After hearing learned counsel for the parties and perusal of the documents appended with the petition, it appears that the office order bearing No.BDA/HQs/75-2(Admin)/2025-297-306/2025, dated 27.02.2025 with regard to retirement of respondent No.5 (Capt ® Javed Khan, Chairman/Director BPS-21, Balochistan Development Authority (BDA) was issued on his attaining the age of superannuation on 28.02.2025, but the said service was allowed for another tenure of three years

as Director vide Summary dated 23.01.2025 mainly relying upon the provision of Section 5(4) of the Act, wherein, the additional note appended/rendered by the Chief Secretary Balochistan, reads as under:

“5. Para 2/5 refers to the relevant section where in grant of another tenure is the competence of the cabinet. CM was contacted via telephone since he is out of country. He has directed that the case may be presented to the cabinet members via circulations. File to be resubmitted for conformation of CM after his return.

5. On the other hand, Section 5 of the Act reads as under:

“5. (1) There shall be a Board of Directors of the Authority consisting of such number of Directors, not being less than three or more than five, as may be appointed by Government.

(2) Each Director shall: —

(a) be a whole-time or part-time officer of the Authority as the Government may determine;

(b) perform such duties as the Board may by regulations assign to him;

(c) if he is appointed a whole-time Director before assuming that office, divest himself of any directorship of other interest held by him in any other Corporation, Company, or concern other than public company sponsored by the Authority under sub-section (5) of section 17.

(3) Government shall appoint one of the Directors to be the Chairman of the Board, who shall be the chief executive of the Authority.

(4) The Directors shall, unless sooner removed, hold office for a term of three years, and may be appointed thereafter for a further term or terms of such duration as the Government determine.

(5) A Director may at any time resign his office by writing under his hand addressed to the Government”

Similarly, Rule 18 of the Service Rules also reads as under:

“**Employment after retirement:** a retired employee of the authority shall not ordinarily be re-employed under Authority unless such re-employment is necessary in the interest of the Authority and is made with the prior approval of the Board”.

Thus, on combined study of the referred to provisions of Act and Rules. The Rule 5 of the Act provides that any

employee of the BDA can be nominated as Member Board of Directors of the Authority for period of three (03) years, and the said incumbent may continue to hold the position of Director as the Government may determine.

On the other hand, the appendix of the Rules with regard to appointment of Chairman, Balochistan Development Authority (BDA) stipulates as under:

“By transfer from amongst the officers of equivalent grade from BCS/BSS cadre”

6. *In view of afore-quoted legal provisions, prima facia it appears that after retirement of respondent No.5, his re-employment could have been made only by the approval of the Board, and therefore, additional note appended by the Chief Secretary is not supported by any provision of law.*

The last but not least that only officer of equivalent grade from BCS and BSS cadres can be appointed as Chairman BDA. In the instant case, the respondent No.5 after retirement is no more in service of BDA, therefore, continuation and extension of his services on desire of the Chief Minister is not supported by any provision of referred to Laws and Rules, and similarly, respondent No.5 does not belong to either BCS or BSS cadre.

7. *Thus, under the above circumstances, the Notification bearing No.P&D-SOA.I(137.1)/2025/626, dated 06.02.2025, whereby, the respondent No.5 was allowed to continue the service as Director and Notification bearing No.S-II-2(1)/1/2025-S&GAD dated 1st March, 2025, whereby, the respondent No.5 was appointed as Chairman, Balochistan Development Authority, shall remain suspended till the next date of hearing.*

At this juncture, on request of learned Addl:AG, if during the intervening period, Government realizes to undue the proceedings or appoint any other Chairman/Acting Chairman, it shall be strictly in accordance with the law and rules framed thereunder.”

The respondent No.5, being aggrieved of order dated 15th December 2025 preferred FCPLA No. 433 of 2025, before Hon'ble Federal Constitutional Court, which was disposed of vide order dated 25th March 2026, in the following manner:

“this petition is directed against the interim order passed by the Balochistan High Court, Quetta in writ petition No. 399 of 2025, operation whereof has been suspended by this Court vide order dated 2.1.2026.

2. *Learned counsel for the parties, after arguing the case at length, agree with the disposal of the petition with the direction to the High Court for decision in the pending writ petition expeditiously.*

3. *In view of the matter, this petition is converted into appeal and disposed of with a direction to the High Court of Balochistan to decide the pending writ petition expeditiously, preferably within a period of two months, without being influenced by the observations made in the impugned order.”*

10. The controversy involved in the present petitions principally revolves around the legality of: (i) the extension/re-employment granted to respondent No.5 vide Notification dated 06th February 2025 against the post of Director in BDA, and (ii) his subsequent appointment as Chairman, BDA, vide Notification dated 01st March 2025.

11. Before advertng to the merits of the controversy, it would be appropriate to first address the preliminary objection raised by the learned counsel for respondent No.5 regarding the maintainability of the petition. The objection is primarily founded on

the contention that the petitioner No.1 has no locus standi to challenge the appointment of respondent No.5 through a writ of quo warranto, particularly when no personal legal right of the petitioner No.1 has allegedly been infringed.

We are unable to comprehend the contention. It is by now a well settled principle of constitutional jurisprudence that where the legality of appointment or continuation of a person against a public office is questioned on the ground that such appointment is contrary to law, a petition in the nature of quo warranto is maintainable at the instance of any public-spirited person. In such matters, strict rules relating to aggrieved person or personal injury are not attracted, as the object of quo warranto proceedings is to ensure that public offices are occupied strictly in accordance with law and that no person continues to hold a public office without lawful authority. The petitioner No.1, being a practicing advocate, was therefore competent to invoke the constitutional jurisdiction of this Court to examine the legality of the impugned appointments. Besides, the petitioner No.2 who is also petitioner in connected petition alongwith other petitioner (*Habib-ur-Rehman*) are the officer of the BDA and their personal rights are being involved in the matter. Even otherwise, the writ of quo warranto is a legal action used to challenge an individual's right to hold a public office or government position. It compels the office-holder to demonstrate the legal authority under which they hold their position, enabling courts to remove those who are unqualified or appointed unlawfully. Reliance can be placed on case of "*The University of Mysore and another v. C.D. Govinda Rao*

*and another¹” that “Broadly stated, the quo warranto proceeding affords a judicial enquiry in which any person holding an independent substantive public office, or franchise, or liberty, is called upon to show by what right he holds the said office, franchise or liberty; if the inquiry leads to the finding that the holder of the office has no valid title to it, the issue of the writ of quo warranto ousts him from that office. In other words, the procedure of quo warranto confers jurisdiction and authority on the judiciary to control executive action in the matter of making appointments to public offices against the relevant statutory provisions; it also protects a citizen from being deprived of public office to which he may have a right. It would thus be seen that if these proceedings are adopted subject to the conditions recognized in that behalf, they tend to protect the public from usurpers of public office; in some cases; persons not entitled to public office may be allowed to occupy them and to continue to hold them as a result of the connivance of the executive or with its active help, and in such cases, if the jurisdiction of the Courts to issue writ of quo warranto is properly invoked, the usurper can be ousted and the person entitled to the post allowed to occupy it. It is thus, clear that before a citizen can claim a writ of quo warranto, he must satisfy the Court, inter alia, that the office in question is public office and is held by usurper without legal authority, and that necessarily leads to the enquiry as to whether the appointment of the said alleged usurper has been made in accordance with law or not.” (**emphasis supplied**).*

¹ AIR 1965 SC 491

Therefore, the preliminary objection regarding maintainability is repelled.

12. The admitted factual position emerging from the record is that respondent No.5 had attained the age of superannuation and retired from service on 28th February 2025. Prior thereto, vide Notification dated 06th February 2025, he was allowed to continue/re-employed against the post of Director, BDA, for a further period of three years, and immediately thereafter he was appointed as Chairman, BDA, vide Notification dated 01st March 2025. The principal contention advanced on behalf of the respondents is that such continuation and appointment are protected under Section 5(4) of the Balochistan Development Authority Act, 1974, which provides that:-

“The Directors shall, unless sooner removed, hold office for a term of three years and may be appointed thereafter for a further term or terms of such duration as the Government may determine.”

According to the respondents, the aforesaid provision confers sufficient authority upon the Government to appoint or reappoint a Director for further terms and therefore no legal impediment exists in granting extension or continuation to respondent No.5 even after retirement.

13. We have carefully examined the aforesaid contention in the light of the statutory framework governing appointments within the Balochistan Development Authority. There can be no dispute with the proposition that Section 5(4) of the Act of 1974 empowers

the Government to appoint a Director for further terms. However, the said provision cannot be read in isolation or interpreted in a manner so as to override or nullify the statutory service rules framed under the law regulating the method, mode, and eligibility criteria for appointments against the relevant posts. In this regard, Rule 5 of the BDA Service Rules, 2024 assumes considerable significance. It specifically provides that appointments to the posts in the service shall be made in the manner specified in the Appendix appended to the Rules. The language employed in Rule 5 is mandatory in nature and leaves no discretion to adopt any method of appointment other than the one prescribed therein. A perusal of the Appendix reveals that the method of recruitment for the post of Director (BPS-20) (Finance) has been prescribed as “by transfer from amongst officers of equivalent grade from BCS/BSS cadres.” Likewise, the post of Director (Planning & Admin) (BPS-20) has specifically been prescribed to be filled “by promotion from amongst members of the service holding the post of General Manager (General Cadre) (BPS-19), having passed the Senior Management Course (SMC), with at least seventeen (17) years’ service in BPS-17 and above, on seniority-cum-fitness basis.” (emphasis provided)

Similarly, the post of Chairman, BDA (BPS-21), under the Appendix to the Rules, has been prescribed to be filled “by transfer from amongst officers of equivalent grade from BCS/BSS cadres.” (emphasis provided). The foregoing provisions clearly demonstrate that the Rules of 2024 specifically regulate the field of appointment against the posts in question and lay down a definite mode and

channel of recruitment. Once the rules prescribe a particular method for appointment, the same is required to be followed strictly and cannot be circumvented by resorting to administrative discretion or executive arrangement inconsistent with the statutory rules. It is a settled principle of law that where the law requires a thing to be done in a particular manner, it must be done in that manner alone and not otherwise. Statutory rules framed under lawful authority possess binding force and cannot be overridden through executive instructions, administrative convenience, or discretionary preferences. The executive authority of the Government must remain subservient to the statutory framework and cannot travel beyond the limits prescribed by law.

14. In the present case, although Section 5(4) of the Act of 1974 permits appointment for further terms, the said provision does not authorize the Government to ignore or bypass the recruitment mechanism prescribed through the statutory Rules of 2024. Rather, both provisions are required to be read jointly, but not in isolation. The power of appointment or reappointment under Section 5(4) remains subject to fulfillment of the eligibility criteria, method of recruitment, and procedural requirements prescribed under the Rules governing the service.

15. There is yet another important aspect of the matter which further renders the impugned re-employment of respondent No.5 legally unsustainable. Rule 18 of the Balochistan Development Authority (BPS-16 and Above) Service Rules, 2024 specifically governs the subject of re-employment of retired employees of the

Authority. The said Rule clearly stipulates that a retired employee of the Authority shall not ordinarily be re-employed under the Authority unless such re-employment is necessary in the interest of the Authority and is made with the prior approval of the Board. The language employed in Rule 18 is mandatory and restrictive in nature. The Rule discourages re-employment in a normal course, but also prescribes two essential preconditions before any such re-employment can lawfully be made: firstly, the existence of necessity in the interest of the Authority; and secondly, prior approval of the Board. Both these conditions are cumulative and mandatory in nature. In the present case, neither of the aforesaid requirements appears to have been fulfilled. The respondents have failed to place on record any material demonstrating that the re-employment of respondent No.5 was necessitated in the interest of the Authority or that any exceptional administrative circumstances existed warranting such continuation after retirement. The impugned Notification dated 06th February 2025 is conspicuously silent regarding any compelling necessity or public interest justifying departure from the ordinary rule against re-employment. The Hon'ble Supreme Court in case "SUO MOTU CASE NO.16 OF 2011 ALONG WITH CMAs²" has laid down the criteria for appointment of a civil servant after his retirement, that *'This Court in Suo Motu Case No.24 of 2010 (PLD 2011 SC 277), has held that re-employment of such persons in services on their retirement must be made in public interest because re-employment against a sanctioned post is likely to affect the junior*

² PLD 2013 Supreme Court 443

officers, who are waiting for promotion to the next higher rank as their right of promotion is blocked. And they have to wait till such re-employed officer completes his contract. In the meanwhile, they have to face difficulties in maintaining their seniority etc. It is a settled principle of law that the promotion of an employee is not to be blocked to accommodate a retired officer, however, if the right of promotion is not blocked by re-employment, then such powers can be exercised, that too in an exceptional case. Surprisingly, the Government of Sindh had not supported re-employment of the police officers and it is stated that whatever order is passed by this Court, same shall be implemented. It is to be noted that it is the prerogative of the Government to look into all such cases, applying relevant provisions of law noted hereinabove and the observations made by this Court from time to time. For ready reference reliance can be placed on *Suo Motu Case No.24 of 2010 (ibid)*, a judgment, which has been delivered by an 8-Member Bench of this Court. Relevant para therefrom is reproduced herein below:--

"5. Learned Attorney General has also placed on record summary of some of the Police Officers who are re-employed on contract basis. A perusal whereof indicates that prima facie while they were re-employed, the provisions of law i.e. section 14 of the Civil Servants Act, 1973 as well as instructions contained in *Esta Code in Volume-1, Edition 2007* under the heading "Re-Employment" and the judgments of the superior courts on the subject were not considered/adhered to. It is to be noted that for establishing rule of law and Constitutionalism, it is necessary that the relevant provisions should be followed strictly in letter and spirit otherwise it would not be possible to provide an effective machinery in law particularly in Police Department to ensure law and order, so the peace in the country, at the same time to avoid violation of the relevant provisions of law noted hereinbefore, which is tantamount to blocking the promotion of the Officers who have also

served in the Forces and are waiting for their promotion but they are not getting chance because of the re-employment/contract awarded to the retired Officers. This is not only in the Police Department but for the purpose of achieving good governance; the same principle should be followed and strictly applied in other Departments as well. Be that as it may, we are adjourning this case and in the meanwhile learned Attorney- General shall take up the matter with the Government/Competent Authority so it may take necessary steps to rectify if any omission has been committed, before the next date of hearing. Similarly, the learned Attorney-General shall convey this order to the Secretary, Establishment Division and the Chief Secretaries of the Provinces to ensure that if any Civil Servant or other person who has been re-employed, his case be also examined in terms of the provisions of law and both Federal and Provincial Governments should take necessary steps to ensure that re-employment or employment on contract basis are not made in violation of the relevant law."

While the same view was approvingly reiterated by the Hon'ble Supreme Court in "*CONTEMPT PROCEEDINGS AGAINST CHIEF SECRETARY, SINDH AND OTHERS*³" that '*The post-retirement re-employment is major problem in the smooth service of career officers in terms of promotions and postings instilling a sense of injustice*'. The same view was also discussed in detailed by this Court in case of '*Sara Atta v. Govt. of Balochistan through Chief Secretary & others*'.⁴

16. More importantly, no resolution, recommendation, or prior approval of the Board has been placed before this Court authorizing the re-employment of respondent No.5 as Director, as mandatorily required under Rule 18. It has not been demonstrated that the matter originated from the Board of the Authority or that prior approval of the Board was obtained before issuance of the impugned Notification dated 06th February 2025. The absence of

³ "2013 SCMR 1752"

⁴ (PLC 2022 CS 1326.)

prior approval of the Board initially for the extension of service as Director goes to the root of the matter and vitiates the entire process. Consequently, the re-employment of respondent No.5, having been made in violation of Rule 18 of the Rules, 2024, is patently without lawful authority and liable to be struck down on this ground alone.

17. Apart from the illegality attached to the extension/re-employment of respondent No.5, there exists another independent and equally significant legal infirmity in his subsequent appointment as Chairman BDA, vide Notification dated 01st March 2025. Although Section 5(3) of the BDA Act, 1974 provides "*the Government shall appoint one of the Directors to be the Chairman of the Board, who shall be the Chief Executive of the Authority,*" and Section 5(4) further stipulates that the Directors may be appointed for further terms as may be determined by the Government, the said provisions cannot be interpreted in isolation so as to override or dispense with the mandatory eligibility criteria and method of recruitment subsequently prescribed under the statutory Rules of 2024, as specified in the Appendix appended thereto, whereby, it prescribes that the post of Chairman, BDA (BPS-21), is to be filled "*by transfer from amongst officers of equivalent grade from BCS/BSS cadres.*" In the present case, respondent No.5 admittedly stood retired from service at the relevant time and was no longer serving as an officer in BCS/BSS cadre of equivalent grade so as to fulfill the mandatory requirement prescribed for appointment against the post of Chairman, BDA. Thus, when his continuation/re-employment as

Director itself was contrary to Rule 5 and Rule 18 of the Rules, 2024 and therefore lacked lawful foundation.

18. There is yet another aspect of the matter which further casts serious doubt upon the legality and transparency of the entire process. On 09th April 2026, learned counsel for the petitioners filed an application under Section 151, C.P.C., for placing certain documents on record, including the minutes of a meeting of the Board of Directors allegedly held on 13th April 2025, wherein the Board purportedly unanimously endorsed the appointment of respondent No.05 (*Capt. (R) Javed Khan*) as Chairman BDA, as approved by the Provincial Cabinet of Balochistan. Surprisingly, however, the said meeting was chaired by respondent No.5 himself, and the endorsement regarding appointment as Chairman was accorded in a meeting presided over by the very person whose appointment was under consideration. Thus, respondent No.5 not only participated in the proceedings relating to his own appointment, but also chaired the meeting in which the said endorsement was made. Such a course is wholly inconsistent with the settled principles of fairness, transparency, and institutional propriety. It is a foundational principle of law that no person can be a judge in his own cause, and any process tainted by personal interest or participation of an interested person stands vitiated on the touchstone of bias and procedural impropriety. Even otherwise, the said minutes do not materially improve the case of the respondents. The record reveals that these minutes were never produced before this Court at any earlier stage of the proceedings. They were neither appended

with the comments/reply filed on behalf of respondent No.5, nor placed on record at the time of passing of the interim order by this Court. Likewise, the said document was not produced during the proceedings before the Hon'ble Federal Constitutional Court, nor during the substantial period before this Court. The minutes surfaced for the first time on 09th April 2026, almost one year after the alleged meeting had taken place. The unexplained withholding of such an allegedly crucial document throughout the proceedings materially diminishes its evidentiary worth and raises serious reservations regarding the bona fides of the process adopted by the respondents. Had the endorsement of the Board genuinely formed part of the lawful decision-making process, there was no reason for the respondents to withhold the same from the record at every earlier stage of litigation. The belated production of the said minutes, therefore, appears to be nothing more than an afterthought intended to subsequently validate an appointment process which was otherwise legally defective from its inception.

19. The record further reveals that respondent No.5 had already retired from service and was no longer holding a position within the regular service structure envisaged under the Rules of 2024. The respondents have not been able to point out any provision in the Rules which authorizes extension or re-employment of a retired officer against the post of Director in the manner adopted in the present case. On the contrary, the Rules specifically reserve the post of Director (Planning & Admin) for promotion from amongst serving General Managers (BPS-19) fulfilling the prescribed

qualifications and experience. Likewise, *'the post of Chairman is reserved for appointment by transfer from amongst officers of equivalent grade from BCS/BSS cadres.'* The impugned notifications, therefore, effectively bypassed the statutory channel of appointment and deprived eligible officers of their lawful right of consideration in accordance with the Rules.

20. We also find considerable substance in the contention of the petitioners that no exceptional circumstances or compelling administrative necessity have been disclosed by the respondents warranting continuation of respondent No.5 after retirement. The law relating to extension or re-employment after retirement is fairly well settled that such recourse is permissible only in rare and exceptional circumstances where the Government demonstrates compelling necessity, scarcity of expertise, or existence of extraordinary qualifications not otherwise available within the department. Even the reply submitted on behalf of the respondent Nos. 2 to 4 and the summary initiated by the Secretary (Planning) Department are not in line with each other, as the reply states that the respondent No.5 has vast experience of the Balochistan Development Authority coupled with the running major projects, while the summary shows that he was competent and experienced and his leadership and administrative acumen make him strong candidate for the said position, but no such material has been placed before this Court. Mere previous experience or familiarity with departmental affairs cannot, by itself, justify departure from the statutory rules or denial of promotional rights of serving officers. If such considerations are permitted to override the

recruitment rules, the entire statutory structure governing service appointments would become redundant and arbitrary discretion would replace rule-based governance.

21. Equally important is the fact that the impugned extension has directly prejudiced the promotional prospects and vested right of consideration of eligible officers serving within the Authority. The Rules specifically envisage promotion of officers holding the post of General Manager (BPS-19), subject to fulfillment of the prescribed qualifications and seniority-cum-fitness criteria. By allowing continuation of a retired officer against the said post, the statutory rights of eligible officers awaiting promotion have effectively been frustrated. The superior courts have consistently discouraged extensions and re-employments where the same adversely affect the legitimate career progression of serving officers or are made in disregard of the governing statutory framework. Public offices cannot be treated as personal appointments dependent upon individual preference; rather, appointments thereto must conform strictly to the principles of transparency, legality, and equal opportunity embodied in the constitutional scheme.

22. The argument advanced on behalf of the respondents that the impugned action was subsequently approved by the Provincial Cabinet also does not advance their case. Approval by the Cabinet cannot cure an action otherwise inconsistent with statutory rules. Executive approval, even if accorded at the highest level, cannot validate an appointment made contrary to law. The competence of the authority and adherence to the prescribed method of appointment are

foundational requirements which cannot be dispensed with merely on the basis of administrative approval. Similarly, the contention that the process was initiated on the direction of the Chief Minister also raises serious concerns regarding adherence to the constitutional framework contemplated under Article 129 of the Constitution. The executive authority of the Province is required to be exercised in accordance with the Rules of Business and through lawful institutional mechanisms, not on the basis of individual desire or administrative preference. Although the matter may subsequently have been placed before the Cabinet, the initial process itself demonstrates that the impugned action was not undertaken in the manner contemplated by law.

23. For the foregoing reasons, we are of the considered view that the extension/re-employment granted to respondent No.5 vide Notification dated 06th February 2025 against the post of Director, Balochistan Development Authority (BDA), as well as his subsequent appointment as Chairman, BDA, vide Notification dated 01st March 2025, are contrary to the Balochistan Development Authority Act, 1974 and the Balochistan Development Authority (BPS-16 and Above) Service Rules, 2024, and therefore cannot be sustained in the eyes of law. The respondents have failed to adhere the prescribed method of recruitment and appointment provided under Rule 5 read with the Appendix appended thereto, besides violating the mandatory requirements of Rule 18 governing re-employment of retired employees. The impugned actions have thus

been taken in excess of lawful authority and in disregard of the mandatory statutory framework governing such appointments.

A relief sought in Constitutional petition No. 535 of 2025 to the extent of declaring the impugned Notifications are already declared null and void, therefore, to this extent the petition has become infructuous, while to the extent of Relief “c & d” the assignment of charge is an administrative matter, which may be dealt before the department, thus, the petition is disposed of accordingly.

Thus, for the foregoing, discussion, reasons and law of precedent laid down by the Apex Court, a declaration to the following effect is passed:

(i). The Constitutional petition No. 339 of 2025, is accepted. The impugned Notification bearing No.P&D/-SOA.I(137.1)/2025/626 dated 06th February 2025, whereby respondent No.5 was granted extension/re-employment against the post of Director in BDA, and Notification bearing No.S-II-2(1)/1/2025-S&GAD, dated 01st March, 2025, whereby, he was appointed as Chairman BDA, are hereby declared as illegal, without lawful authority, and of no legal effect, therefore, are accordingly set aside.

(ii). The Government of Balochistan is directed to appoint a regular Chairman of the Balochistan Development Authority strictly in accordance with law without any further delay, while the present incumbent is directed to leave the charge within twenty-four (24) hours.

(iii). The official respondents are directed to fill the posts in question strictly in accordance with the Balochistan Development Authority Act, 1974 and the Balochistan Development Authority (BPS-16 and Above) Service Rules, 2024, through the prescribed method and procedure, expeditiously without any delay.

These are the detailed reasons of our short order announced earlier.

CHIEF JUSTICE

JUDGE