THE FEDERAL CONSTITUTIONAL COURT OF PAKISTAN

(Appellate Jurisdiction)

Present
Justice Syed Hasan Azhar Rizvi
Justice Rozi Khan Barrech
Justice Syed Arshad Hussain Shah

C.P.L.A. No. 4245/2022 & C.M.A. No. 10808/2022
(against the order dated 26.10.2022, passed by the High Court of Sindh, Hyderabad, in C.P. No. D-1850/2011)

Managing Director, Oil and Gas Development Company Limited, Islamabad, and others .....*Petitioner(s)*

Versus

Dr. Capt. (R) Nusrat Hussain through LRs. .....*Respondent(s)*

For the Petitioner(s)	:	Mr. Khurram Mumtaz Hashmi, ASC Syed Rifaqat Hussain Shah, AOR
For the Respondent(s)	:	Mr. Rashad-ul-Musawar, ASC
Date of Hearing	:	10.06.2026

JUDGMENT

Syed Hasan Azhar Rizvi, J.— The petitioners have filed the present petition challenging the order dated 26.10.2022 (‘**impugned order**’) passed by the High Court of Sindh, Circuit Court, Hyderabad (‘**High Court**’), whereby the Constitutional Petition instituted by Dr. Capt. ® Nusrat Hussain (‘**respondent**’), since deceased and now represented through his legal heirs, under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (‘**Constitution**’) was accepted, and the petitioners were directed to grant his service benefits to his family in accordance with his entitlements under Section 9A of the Compulsory Service in the Armed Forces Ordinance, 1971 (‘**Ordinance of 1971**’).

2. The necessary facts, as set out in the petition and relevant for the adjudication of the present controversy, are that the respondent was a qualified doctor and, vide Call-Up Notice dated 04.03.1981, was called upon to serve in the Pakistan Army under the Ordinance of 1971. In compliance therewith, he reported to the Commanding Officer on 22.03.1981. After serving for nine years and twenty-nine days, he was released from the service of the Pakistan Army vide Release Order dated 21.10.1989. Subsequently, he applied for the post of Medical Officer in the

Oil and Gas Development Corporation, now the Oil and Gas Development Company Limited (‘**OGDCL**’), which had been advertised through a publication in 1990. He was issued an offer letter on 15.02.1992 and joined the service of the Corporation on 18.08.1992. Thereafter, through successive applications dated 07.08.1994, 05.07.2000, 01.12.2002, and 27.01.2009, the respondent requested the petitioners to count and/or consider his compulsory service in the Pakistan Army towards his seniority and pay in terms of Section 9A of the Ordinance of 1971. However, except for the grant of two advance increments, his request was declined by the petitioners on each occasion vide office memorandum dated 19.10.1994, 24.08.2000, 31.12.2002, and 27.01.2009, respectively, on the ground that he had been appointed through a competitive selection process pursuant to an advertisement and had accepted the pay, allowances, and other terms and conditions of service offered to him at the time of his appointment. Being dissatisfied, the respondent, on 01.02.2011, filed an application (though styled as an appeal) seeking redressal of his grievance; however, the same was also declined by the OGDCL vide office memorandum dated 29.04.2011. Ultimately, he instituted a constitutional petition, which was allowed by the High Court vide the impugned order, whereby the petitioners were directed to grant his service benefits to his family in accordance with his entitlements under Section 9A of the Ordinance of 1971. Hence, this petition.

3. It is relevant to mention here that this Court was established through the Constitution (Twenty-Seventh Amendment) Act, 2025, with exclusive jurisdiction to hear appeals arising from judgments, decrees, or final orders of the High Courts passed under Article 199 of the Constitution, subject to the grant of leave under Article 175F(1)(c) of the Constitution. Consequently, the Supreme Court ceased to have jurisdiction over such matters, and the present case, being of that nature, automatically stood transferred to this Court by virtue of Article 175F(2) of the Constitution. Whereafter it was fixed before this Bench by the Hon’ble Chief Justice of the Federal Constitutional Court for adjudication in accordance with law.

4. Learned counsel for the petitioners contends that the impugned order passed by the High Court is contrary to law and the facts available on the record. The High Court failed to appreciate that the

legislature has not included the service in OGDCL, i.e., 'employment of corporation,' in the provision of Section 9A of the Ordinance of 1971; however, the High Court, under the doctrine of *Casus Omissus*, cannot read the words 'employment of corporation' into the said provision. The reliance of the High Court on the judgment of the Supreme Court in the case of *Capt. (Retd.) Abdul Qayyum vs. Government of Punjab* (**2003 PLC (C.S) 1008**) is misplaced as the said case deals with a person who was in the employment of the Communication and Works Department of the Government of Punjab. The said case did not discuss the cases of persons employed in a Public Sector Company, i.e., OGDCL, etc. It is also argued that the petitioners had already extended substantial concessions to the respondent by granting him two advance increments, and no further benefit was legally permissible under the relevant rules. Learned counsel further contends that the respondent remained in service for several years without challenging the terms of his appointment and repeatedly submitted applications seeking the said benefits, which were duly considered and declined by the competent authority. Despite rejection of his claims on multiple occasions, the respondent approached the High Court after an inordinate and unexplained delay, and the constitutional petition was, therefore, hopelessly barred by *laches*. Learned counsel maintains that the High Court exceeded its constitutional jurisdiction by directing the grant of service benefits in the absence of any statutory entitlement and without properly examining the service structure applicable to OGDCL employees. He, therefore, prays that the impugned order be set aside and the constitutional petition filed by the respondent be dismissed.

5. Conversely, the learned counsel for the respondents supports the impugned order and submits that the same is fully in accordance with law and based upon a correct interpretation of Section 9A of the Ordinance of 1971. He contends that the respondent was compelled by law to serve in the Pakistan Army pursuant to the Call-Up Notice dated 04.03.1981 and rendered service therein for more than nine years before being released on 21.10.1989. According to the learned counsel, the very object of Section 9A of the Ordinance of 1971 is to ensure that persons who are mandatorily inducted into the Armed Forces are not prejudiced in their subsequent civil careers on account of such compulsory national service. It is argued that the benefit contemplated under Section 9A of the

Ordinance of 1971 is statutory in nature and cannot be denied merely because the respondent later joined the OGDCL through a regular recruitment process. Learned counsel submits that the provision expressly protects the service rights of released personnel and entitles them to appropriate consideration of their military service towards seniority, pay, and other allied benefits. He contends that the petitioners misinterpreted the law while repeatedly declining the respondent's lawful claim through the office memorandums issued from time to time. The learned counsel maintains that the High Court rightly exercised its constitutional jurisdiction to rectify the illegality committed by the petitioners and correctly directed the grant of service benefits to the respondent's family in accordance with his lawful entitlements under the Ordinance of 1971. Finally, the impugned order does not suffer from any legal infirmity warranting interference by this Court.

6. Heard. Record perused.

7. The service under the Ordinance of 1971 is compulsory in nature, as a person called up under the said Ordinance is liable to serve in any of the Armed Forces for so long as his services are required. However, this requirement, under Section 3 of the Ordinance, has been relaxed in the case of a medical practitioner, whose liability to serve in the Armed Forces ceases upon completion of two years of service. Initially, for the benefit of medical practitioners only, Section 9A was inserted into the Ordinance of 1971 through the Compulsory Service in the Armed Forces (Amendment) Ordinance, 1978, promulgated on 28 January 1978. The provision contemplated that any service rendered by a medical practitioner under the Ordinance would be counted towards his seniority and pay if, after his release from the Armed Forces, he entered the service of the Federal Government, a Provincial Government, an organization controlled by the Federal Government or a Provincial Government, or any statutory or local body, as the case may be. The amendment was given retrospective effect from 3 December 1971, the date on which the original Ordinance of 1971 was promulgated. Subsequently, with a view to extending the aforesaid benefit to other essential persons, Section 9A was amended on two occasions: first, through the Compulsory Service in the Armed Forces (Amendment) Ordinance, 1984, promulgated on 4 October 1984, and thereafter through the Compulsory Service in the Armed Forces

(Amendment) Ordinance, 2000, promulgated on 6 December 2000, which was also given retrospective effect from 4 October 1984. The provision, as it presently stands, reads as follows:

> '***9A. Concessions to medical practitioner released from service with the Armed Forces***.*—Notwithstanding anything contained in any other law for the time being in force, a medical practitioner or other essential person who, following his release from service with the Armed Forces after having rendered satisfactory service under this Ordinance for a period of not less than two years, enters employment of the Federal Government or a Provincial Government, or an organization controlled by the Federal Government or a Provincial Government or any statutory or local body shall be entitled to count towards his seniority in such employment the period of service rendered by him under this Ordinance and to his pay in such employment being fixed after giving him credit for the service so rendered.*'

References are omitted.

8. The plain reading of the above provision reveals that it is essentially beneficial and compensatory in nature, intended to mitigate the hardship suffered by medical practitioners and other essential persons who are compulsorily inducted into service with the Armed Forces in discharge of national obligations. The object of the provision is to ensure that such compulsory service does not operate to their prejudice in their subsequent careers, if any, and that the period so spent is appropriately recognized for the purposes of seniority, pay, and allied service benefits upon their entry into civil employment. To fulfil the object underlying the above provision, a *non-obstante* clause, '*notwithstanding anything contained in any other law for the time being in force*,' has been incorporated therein. By virtue of this expression, the provision is intended to override any other law for the time being in force and to have primacy over any other law relating to the subject covered under this provision. At the same time, however, the provision is not without its consequential impact upon the rights and expectations of other civil servants already in the employment of the Federal Government or a Provincial Government, or an organization controlled by the Federal Government or a Provincial Government or any statutory or local body. The grant of retrospective seniority or other service benefits to a subsequently appointed employee, on the basis of his prior compulsory service, may have the effect of unsettling the seniority of those existing employees and, in certain cases, may adversely affect their legitimate service progression. Viewed in this perspective, the provision of 9A *supra* operates in a delicate balance

between extending relief to a class of persons subjected to compulsory service and safeguarding the stability and certainty of civil service structures. Therefore, the benefit under Section 9A of the Ordinance of 1971 is neither automatic nor absolute. A person seeking to avail himself of such a benefit is required to strictly satisfy the essential statutory conditions prescribed therein. The claim must fall squarely within the scope and framework of the provision, and cannot be extended by implication or liberal construction so as to prejudice the rights of other serving employees or disturb the law, rules, regulations, or other established principles governing seniority within the said service structure.

9. In the present case, the petitioners have not disputed either the fact or the duration of the compulsory service rendered by the respondent in the Armed Forces pursuant to the Call-Up Notice issued under the Ordinance of 1971. Their objection, however, is founded on the premise that the original Corporation, after its incorporation as a public limited company, i.e., OGDCL, ceased to be a statutory body and, therefore, no longer falls within the ambit of Section 9A of the Ordinance of 1971. Consequently, according to the petitioners, the respondent is not entitled to the relief claimed. On the other hand, learned counsel for the respondent acknowledged the altered legal status of the original Corporation but maintained that the respondent's entitlement had crystallized long before such incorporation, at a time when the original Corporation admittedly fell within the purview of Section 9A, and that the benefit was unlawfully denied and withheld by the petitioners. He further contended that, in view of the protection afforded under Section 5 of the Oil and Gas Development Corporation (Re-organization) Ordinance, 2001 ('**Ordinance of 2001**'), the respondent is entitled to retrospective seniority and consequential pay benefits. Having considered the respective submissions, one thing is abundantly clear, namely, that the OGDCL, in its present corporate form as a public limited company, does not, *prima facie*, owe any statutory obligation under Section 9A of the Ordinance of 1971. It is not even the case of the respondent that the OGDCL falls within the category of the Federal Government or a Provincial Government, or that it is controlled by either of them by virtue of having majority shareholding, or is it a local body. In any event, a statutory body, upon its incorporation as a public limited company, loses its earlier legal character,

as rightly observed by the Supreme Court of Pakistan in the case of *Maqsood Ahmed Toor and others v. Federation of Pakistan through the Secretary to the Government of Pakistan and others* (**2000 SCMR 928**).

10. Nevertheless, the controversy does not end there. A more fundamental question still remains, namely, whether the OGDCL, being the *successor-in-interest* of the erstwhile statutory Corporation, can evade liabilities or obligations that had allegedly accrued during the existence of its predecessor and which, according to the respondent, had already vested in his favour prior to the change in its legal character. Equally important is the ancillary question whether the subsequent restructuring and corporatization of the OGDCL could extinguish rights, *if any*, which had accrued under a beneficial statute and which were enforceable against the predecessor organization. These questions cannot be effectively or satisfactorily answered without examining the historical evolution of the OGDCL, beginning with the establishment of the erstwhile corporation, its statutory framework, the process of its reorganization and corporatization, and the legal consequences flowing therefrom. Such an exercise is indispensable for determining whether the liabilities and obligations of the predecessor entity were transferred to its successor and, if so, to what extent. We, therefore, proceed to undertake an examination of the historical background and the present legal framework governing the OGDCL.

11. The journey of OGDCL commenced with the efforts of the Government of Pakistan to revive exploration in the energy sector. On 4 March 1961, a long-term loan agreement was concluded with the Union of Soviet Socialist Republics (USSR), under which Pakistan obtained 27 million Rubles[1] to finance the procurement of equipment and the services of Soviet experts for exploration purposes. Pursuant thereto, the Oil and Gas Development Corporation ('**Corporation**') was established under the Oil and Gas Development Corporation Ordinance, 1961 ('**Ordinance of 1961**'), promulgated on 20 September 1961, with the mandate of undertaking a systematic exploration programme and promoting the country's oil and gas prospects. Owing to significant discoveries made during the 1980s, the Corporation achieved considerable success, which

[1] https://www.ogdcl.com/corporate-information

prompted the Government, in July 1989, to delink it from the Federal Budget and allow it to manage its operations through self-generated funds[2]. Subsequently, the Corporation ceased to be a statutory corporation and, on 23 October 1997, was incorporated as a public limited company under the Companies Ordinance, 1984. Thereafter, the transformation of the Corporation from a statutory body into a public limited company was accorded legal recognition and protection through the promulgation of the Ordinance of 2001 (the Oil and Gas Development Corporation (Re-organization) Ordinance, 2001), which was given retrospective effect from 23.10.1997, the date on which the OGDCL had originally been incorporated as a public limited company. And, the Ordinance of 1961 stood repealed by virtue of Section 7 of the Ordinance of 2001. Among the other provisions, Section 5 of the Ordinance of 2001 is particularly relevant, as it safeguards the rights and privileges of the officers, workmen, and employees of the *erstwhile* Corporation upon their transfer to the OGDCL. It unequivocally contemplates that all officers, workmen, and other employees of the Corporation shall be deemed to be employees of the OGDCL on the same terms and conditions. The said provision is reproduced hereunder for ease of reference:

> ***'5. Transfer of employees from the Corporation to the Company.***--*(1) All officers, workmen or other employees of the Corporation (hereinafter referred to as the employees) shall, as on the date of incorporation of the Company, <u>be deemed to be employees of the Company on the same remuneration and other conditions of service, rights and privileges including, but not limited to, provisions as to the pension, provident fund and gratuity, if any, and other matters as were applicable to them before the conversion of the Corporation into Company</u>.*
>
> *(2) Notwithstanding anything in any law, contract, terms and conditions of service, or any other instrument, no person transferred to the Company under sub-section (1) shall be entitled to any compensation as a consequence of transfer to the Company.'*

<u>Underlining is for emphasis.</u>

12. The above provision is, *in essence*, a saving and continuity provision. It embodies the principle that the conversion of the *erstwhile* Corporation into the OGDCL as a public limited company was merely a change in its juristic form and not a termination or novation of the service relationship with its existing employees. Sub-section (1) *supra* creates a

[2] https://www.ogdcl.com/corporate-information

legal fiction whereby all officers, workmen, and other employees of the Corporation, as on the date of incorporation, are deemed to have become employees of the OGDCL without any interruption in service and on the same remuneration, conditions of service, rights and privileges, including pension, provident fund, gratuity, and other attendant benefits. Sub-section (2), by way of abundant caution, further provides that no employee so transferred shall be entitled to any compensation on account of such transfer, thereby reinforcing the concept that the conversion was intended to secure continuity rather than create a fresh contract of service. To our understanding, the object of the above provision is merely to ensure continuity of service and to preserve the remuneration, conditions of service, rights, and privileges that were actually available to the officers, workmen, and employees of the *erstwhile* Corporation immediately before its conversion into the OGDCL. The provision creates a legal fiction only to the extent of treating such employees of the Corporation as the employees of the OGDCL on the same terms and conditions as were applicable to them on the date of incorporation. It neither creates new rights nor enlarges existing rights. More importantly, it does not revive claims that had either not accrued or had already been declined and allowed to become stale.

13. Undisputedly, the respondent joined the service of the original Corporation on 18.08.1992 and remained in service on 23.10.1997, the date of its incorporation as the OGDCL, a public limited company. However, the benefit now claimed by him under Section 9A of the Ordinance of 1971 was neither recognized nor part of his service conditions at the time of such conversion. Rather, his claim in that regard was expressly rejected by the Corporation vide office memorandum dated 19.10.1994. Thus, as on the date of incorporation, no vested or crystallized right in favor of the respondent existed that could be said to have been preserved or carried forward by virtue of Section 5 of the Ordinance of 2001. Section 5 merely protects rights and privileges that were actually subsisting and available to the employees immediately before the conversion of the Corporation into the OGDCL. It cannot be construed to mean that the OGDCL, as a successor entity, inherited liabilities in respect of disputed, unrecognized, or stale claims that had not matured into enforceable rights. To hold otherwise would amount to enlarging the scope of Section 5 beyond its plain language and legislative intent and would

result in imposing obligations upon the OGDCL that never formed part of the respondent's terms and conditions of service prior to corporatization. The rights preserved under Section 5 are confined to those rights and privileges that were actually enjoyed and available to an employee immediately before the conversion, and not to claims that were disputed, rejected, or otherwise remained inchoate. Consequently, the respondent cannot derive any assistance from Section 5 of the Ordinance of 2001.

14. However, the High Court lost sight of the afore-noted facts as well as the legal position and erroneously placed reliance upon the judgment of the Supreme Court of Pakistan Court in *Capt. (Retd.) Abdul Qayyum v. Government of Punjab through Chief Secretary and others* (**2003 PLC (C.S.) 1008**), arising out of C.A. No. 1895 of 2000 decided on 16.12.2002. In that case, the appellant, Capt. (Retd.) Abdul Qayyum, after his release from the Pakistan Army in 1975, was appointed in the same year as an Assistant Engineer in the Communication and Works Department, Government of Punjab. Consequently, his previous service in the Armed Forces was taken into account for the purpose of fixation of seniority and allied financial benefits under Section 9A of the Ordinance of 1971. The High Court, with respect, failed to appreciate that the subsequent employment in the said case was in a Provincial Government department, which squarely fell within the ambit of Section 9A, and that there was hardly any break between the appellant's release from military service and his appointment in the civil department. In the present case, however, the factual and legal matrix is entirely different. As discussed above, the OGDCL, in its present corporate form, does not fall within any of the entities enumerated in Section 9A of the Ordinance of 1971. Moreover, there exists a gap of almost three years between the respondent's release from the Armed Forces and his joining the OGDCL. During the intervening period, the respondent, as is evident from his own letters addressed to petitioner No. 2 and available on the record, had joined Cadet College Petaro. Thus, there was neither continuity of service nor an immediate transition from military service to employment in an entity covered by Section 9A of the Ordinance of 1971. Furthermore, the *ratio decidendi* of a judgment is to be understood in the backdrop of its own facts, and a precedent cannot be applied divorced from the factual context in which it was rendered. A slight variation in facts may make a world of difference in the precedential value of a decision. Since the subsequent

employer in the *Capt. (Retd.) Abdul Qayyum* was admittedly a Provincial Government department, and the continuity between the two services remained substantially intact, whereas neither of these essential features is present in the case at hand; the analogy drawn by the High Court was wholly misconceived. The facts of the precedent case and those of the present case are clearly distinguishable, and, therefore, the said judgment is of no assistance to the respondent.

15. Having dealt with the merits of the controversy, we now turn to another equally important aspect of the matter, which, in our view, goes to the very maintainability of the present proceedings. We have noted that the learned counsel for the petitioners had specifically raised an objection that the respondent was guilty of delay and *laches*; however, the High Court neither adverted to this objection nor returned any finding on this important legal issue. Thus, it is pertinent to observe that *laches* is a doctrine under which a party, though possessed of an otherwise enforceable right, may lose the remedy for its enforcement if a court of law finds that the claim is hit by delay and acquiescence. The right itself may subsist, but its enforcement may be denied due to the party's inaction. At the same time, *laches per se* is not an absolute bar to the exercise of constitutional jurisdiction, and the question of delay in invoking such jurisdiction has to be examined in the light of the facts and circumstances of each case. Delay extending over several years may, in appropriate cases, be overlooked if the facts and the dictates of justice so warrant. In contrast, even a delay of a few months may prove fatal. Therefore, the question of delay and *laches* in the institution of a constitutional petition deserves serious consideration, and unless a satisfactory and plausible explanation for such delay is forthcoming, the same cannot be overlooked or ignored, subject always to the peculiar facts and circumstances of each case. There is a long and consistent line of authority wherein the Supreme Court of Pakistan has vigilantly examined the question of delay and *laches* in invoking constitutional jurisdiction and has rendered somewhat similar observations. Although the jurisprudence on the subject is extensive, for the sake of convenience, reference may be made to the cases of *Jawad Mir Muhammadi and others v. Haroon Mirza and others* (**PLD 2007 SC 472**) and *State Bank of Pakistan through Governor and another v. Imtiaz Ali Khan and others* (**2012 PLC (C.S.) 218**).

16. It is further added that there is a marked distinction between delay in the institution of legal proceedings within the period prescribed under the Limitation Act, 1908, and the undue lapse of time on the part of a litigant in invoking the constitutional jurisdiction, for which no statutory period of limitation is prescribed. In the former case, each day's delay is required to be explained by showing sufficient cause for the enlargement of time and condonation of delay within the contemplation of Section 5 of the Limitation Act, 1908. In the latter case, however, the lapse of time or the question of *laches* has to be examined on equitable principles, for the reason that the exercise of constitutional jurisdiction is always discretionary with the Court and the relief granted thereunder is equitable in nature. Accordingly, if the Court finds that the party invoking the writ jurisdiction of the High Court is guilty of contumacious lethargy, inaction, laxity, or gross negligence in the prosecution of a cause or the enforcement of a right, it would be justified in non-suiting such party on the ground of *laches*. Reference in this regard may be made to the case of <u>*S.A. Jameel v. Secretary to the Government of the Punjab, Cooperative Department and others*</u> (**2005 SCMR 126**). At this juncture, it would be advantageous to refer to the judgment in <u>*John Ojobo Agbeyegbe v. Festus Makene Ikomi and another*</u> (**PLD 1953 Privy Council 19**), wherein Lord Oaksey, speaking for the Panel, while elucidating the contours of the doctrine of *laches*, approvingly adverted to the celebrated exposition of Sir Barnes Peacock in <u>*Lindsay Petroleum Company v. Hurd*</u> (**L.R. 5 P.C. 221**), and reproduced the following oft-quoted passage:

> *'the doctrine of laches in Courts of Equity is not an arbitrary or a technical doctrine, <u>Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by this conduct and neglect he has though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material.</u> But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as relates to the remedy.'*

<u>**Underlining is for emphasis**</u>.

17. When confronted, the learned counsel for the respondent attempted to justify the delay in filing the constitutional petition by contending that each rejection of the respondent's application gave rise to a fresh cause of action. According to him, following the rejection of his last application (though styled as an appeal) on 29.04.2011, the respondent promptly instituted the constitutional petition on 21.11.2011; therefore, the question of *laches* did not arise. We are not impressed by this submission. The respondent, after joining the service of the Corporation on 18.08.1992, initially claimed the benefit of Section 9A of the Ordinance of 1971 through an application dated 07.08.1994. The said claim was rejected by the Corporation vide office memorandum dated 19.10.1994. Thus, the cause of action, if any, accrued to the respondent in 1994. However, instead of availing the appropriate legal remedy at that stage, the respondent chose to submit successive applications dated 05.07.2000, 01.12.2002, 27.01.2009, and 01.02.2011, all of which met the same fate and were rejected by the competent authority from time to time. The crude attempt made by the learned counsel for the respondent to explain the inordinate delay cannot entitle the respondent to seek redress of a grievance over which he had slept for decades. Moreover, the subsequent applications submitted by the respondent from time to time were not contemplated by any law or rules, and the replies thereto did not give rise to any fresh cause of action. Therefore, once the respondent's claim had been finally rejected in 1994, the subsequent applications and their rejection neither had the effect of extending the period of limitation nor of reviving a cause of action that had long since become stale. Almost identical observations have been made by the Lahore High Court in *Premier Cloth Mills Ltd., Lyallpur and others v. Pakistan through Secretary, Ministry of Finance and others* (**PLD 1976 Lahore 1553**). Moreover, permitting a litigant to overcome the bar of delay and *laches* through repeated applications on the same subject would render the above doctrine nugatory and would enable an indolent person to resurrect a dead claim at his convenience.

18. To sum up, despite the accrual of the cause of action in 1994, the respondent invoked the constitutional jurisdiction only at the end of 2011, after a lapse of about seventeen years. No plausible explanation for such an enormous delay has been brought on the record. The High Court, while passing the impugned order, failed to advert to this material aspect

of the case and proceeded to entertain a claim which had become hopelessly stale. The constitutional jurisdiction being discretionary and equitable in nature, a person invoking the same is required to approach the Court with reasonable promptitude. A litigant who sleeps over his rights for an inordinate period cannot seek equitable relief as a matter of course. We find that the constitutional petition filed by the respondent suffered from gross and unexplained delay and ought not to have been entertained by the High Court in the exercise of its constitutional jurisdiction. Therefore, on the ground of delay and *laches* alone, the constitutional petition was liable to be dismissed.

19. In view of the foregoing discussion and upon a comprehensive reappraisal of the peculiar facts and circumstances of the case, the petition is converted into an appeal and is allowed. Consequently, the impugned order dated 26.10.2022 passed by the High Court is set aside, and the writ petition filed by the respondent stands dismissed. No order as to costs.

20. Above are the reasons for our short order dated 10.06.2026, which is as follows:

> '*C.P.L.A. No. 4245/2022: Heard the learned counsel for the parties and perused the material available on record. For reasons to be recorded separately, this petition is converted into an appeal and allowed and the impugned judgment dated 26.10.2022, passed by the High Court of Sindh is set aside by majority of 2 to 1 (Syed Arshad Hussain Shah, J. dissenting).*'

Judge

Judge

Judge

I will give my dissenting note separately

<u>Islamabad, the</u>
10th June, 2026.
<u>APPROVED FOR REPORTING</u>
*Ghulam Raza/**