

THE FEDERAL CONSTITUTIONAL COURT OF PAKISTAN

(Review Jurisdiction)

Present

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

F.C.R.P. No. 12/2025 in C.P.L.A. No. 5882/2021

*(for review of the order dated 17.10.2025, passed by the
Supreme Court of Pakistan in CPLA No. 5882/2021)*

Pakistan International Airlines through ChiefPetitioner(s)
Executive PIA, Karachi

Versus

Javed Iqbal and anotherRespondent(s)

For the Petitioner(s) : Mr. Muhammad Waqar Rana, ASC

For the Respondent(s) : N.R.

Date of Hearing : 10.06.2026

O R D E R

Syed Hasan Azhar Rizvi, J.- At the very outset, the learned counsel for the petitioner argued that although he had made a request before a Bench of the Supreme Court for withdrawal of the main petition, i.e., Petition No. 5882 of 2021, the said request was conditional upon an observation by the Court hearing that petition to the effect that the impugned judgment dated 12.10.2021 passed by the High Court of Sindh would not operate as a precedent in other cases of a similar nature involving the employees of the petitioner. One of the learned members of that Bench assured that the said observation would be incorporated accordingly. However, according to the learned counsel, the Bench hearing the matter misconstrued the said request and dismissed the main petition simpliciter as withdrawn vide order dated 17.10.2025, which is now sought to be reviewed. In support of his submissions, learned counsel filed an affidavit and also relied upon the judgment of the Supreme Court of India in the case of Moran Mar Basselios Catholicos and others v. The Most Rev. Mar Poulouse Athanasius and others (**AIR 1954 SC 526**).

2. Heard. Record perused.

3. If indeed the order ultimately passed did not reflect what, according to the petitioner, had been announced in open Court, the petitioner was expected to act with due diligence and promptitude by immediately bringing the matter to the notice of the Bench, or at least to the concerned learned member thereof, through the office of the Court. No

such effort appears to have been made. On the contrary, the petitioner remained silent and waited for more than a month before filing the present review petition. Such conduct does not inspire confidence and militates against the *bona fide* exercise of the discretionary jurisdiction of review. The review is not a routine procedure nor an appeal in disguise. The review jurisdiction is extremely limited in scope and may be exercised only where there is a patent and manifest error apparent on the face of the record, an omission of material significance, or a circumstance resulting in a miscarriage of justice. No error apparent on the face of the record has been pointed out, nor has any sufficient ground been made out warranting interference in the review jurisdiction of this Court. Rather, the observation sought to be incorporated in the order under review was itself not legally warranted. Without hearing the parties on the merits of the controversy and without adjudicating upon the issues involved, this Court could not have rendered any declaration or observation regarding the precedential value or future applicability of the impugned judgment in other cases of a similar nature. Any such observation, made without proper adjudication, would not only travel beyond the scope of the proceedings but may also prejudice the rights of parties who are not before the Court.

4. As far the above judgment of the Supreme Court of India is concerned, in that judgment, the Court, while referring to a judgment of the Privy Council, observed that *‘when the error complained of is that the Court assumed that a concession had been made when none had in fact been made or that the Court misconceived the terms of the concession or the scope and extent of it, it will not generally appear on the record but will have to be brought before the Court by way of an affidavit as suggested by the Privy Council as well as by this Court and this can only be done by way of review.’* Relying upon the said principle, the learned counsel for the petitioner has filed an affidavit and requested that the present review petition be decided in light thereof. The reliance placed upon the aforesaid judgment, however, is wholly misconceived and distinguishable on facts as well as in law. In the present case, the matter does not pertain to any concession made before the Court regarding the rights or liabilities of the parties, nor does it involve any misstatement or misunderstanding concerning the scope of such concession. A request made by learned counsel for withdrawal of a petition cannot, by any stretch of imagination, be equated with a concession on a question of law or fact, particularly when the respondents were not even present before the Court to contest the matter. Rather, it is the petitioner’s own case that when he sensed that

the Bench was not inclined to grant leave, he opted to seek withdrawal of the petition. Therefore, the facts and circumstances of the present case are materially different from those involved in the judgment relied upon by the petitioner, and the same is of no assistance to him.

5. Even otherwise, the affidavit subsequently filed by the learned counsel for the petitioner cannot be permitted to override, vary, or supplement the judicial order formally passed by the Court. The Superior Courts of the country have consistently deprecated the practice of advocates filing affidavits concerning facts of cases in which they are professionally engaged, as the same is not in consonance with the established principles of professional ethics and propriety. Reference may be made to the case of Barkat Ali v. Muhammad Nawaz (PLD 2004 SC 489), wherein the Supreme Court of Pakistan has observed as under:

'5.We are of the view that such affidavit should have not been filed by the, learned Advocates in relation to facts of the case in which he engaged which is not in consonance with the principle of ethics which are binding upon the learned Advocates being officers of the Court. If any authority is needed on this point reference can be made to case titled Sutharsana v. Samarapuri (AIR 1928 Madras 690).'

6. Foregoing in view, the petitioner has failed to bring his case within the parameters envisaged under Rule 1 of Order XXVIII of the Supreme Court Rules, 2025 (as adopted by this Court), read with Order XLVII of the Code of Civil Procedure, 1908. Resultantly, the review petition is found meritless and is, therefore, dismissed. No order as to costs.

Judge

Judge

Judge

Islamabad, the
10th June, 2026.

APPROVED FOR REPORTING
Ghulam Raza/*