

FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:
Justice AAMER FAROOQ
Justice ROZI KHAN BARRECH

CPLA No.217-Q-2023
(Against judgment dated 29.05.2023, passed by the High Court of Balochistan,
Quetta in C.P. No.390/2023)

The Chief Secretary, Government of Balochistan, Quetta etc. ...Petitioner(s)

Versus

Bayazid Khan Kharooti ...Respondent(s)

For the Petitioner(s) : Mr. Ayaz Khan Swati, Additional
Advocate General, Balochistan
For the Respondent(s) : N.R.
Date of Hearing : 05.03.2026

ORDER OF THE COURT

JUSTICE AAMER FAROOQ:

1. Any action, of whatever nature, must be firmly rooted in law and must be traceable to a legal source from which it derives its authority. This principle constitutes the fundamental affirmation of the constitutionality of our system of governance.

I

2. Brief facts of the case, in a nutshell, are that Respondent challenged the Notification No.13-25(5)/2019/SO-1(S&GAD) pertaining to the extension of facilities to retired Chief Secretaries of Balochistan and their widows for life time before the Balochistan High Court. The referred writ petition was allowed and the High Court formed the opinion that “[the] entitlement to perks and privileges for a retired Chief Secretary, or any other public servant, is determined by the laws and regulations of the specific jurisdiction” and “claiming of additional perks and privileges that too without backing of Law, Rules, Regulations, is

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not permissible because the specific perks and privileges granted to retired Chief Secretaries are always outlined in the relevant legislation, rules, or policies of the Provincial Government and these provisions may differ from one jurisdiction to another”.

II

3. At the very outset, learned Additional Advocate General was also enquired by us as to the powers, under which the impugned notification was issued; in response, he argued that Rules of Business do provide the power to issue such notification.

4. We have heard the learned counsel and perused the record available.

III

5. A careful review of the Balochistan Rules of Business, 2012 does not support the contention advanced by the learned Additional Advocate General that these perks and privileges may lawfully be extended to the Chief Secretary under the said Rules. On the contrary, Rule 3(4) delineates the structure and composition of the Government of Balochistan by distributing its business among various departments, as specified in Schedule-I (Section B). The rule makes it clear that each department is to exercise only those functions that are expressly assigned to it therein. In this context, Schedule-I (Section B) specifically entrusts the Finance Department with the authority to frame civil service rules relating to pension, leave, pay revision, and their interpretation for all government servants. This allocation indicates that any matters concerning pensionary benefits, including those of the Chief Secretary, fall within the exclusive domain of the Finance Department, rather than the Chief Secretary himself or even the Chief Minister. However, in the present case, the impugned perks and privileges were granted through a notification issued by the Services

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and General Administration Department, with the approval of the Chief Minister as the competent authority. Such authority is neither contemplated nor supported by the Rules of Business, the action appears to have been taken without proper legal basis. Consequently, the notification, having been issued without the requisite competence, was appropriately struck down by the learned High Court.

6. We also advert to Balochistan Civil Servants Act, 1974 which provides that “on retirement from service, a civil servant shall be entitled to receive such pension, or gratuity, as may be prescribed”, See section 19 of the Balochistan Civil Servants Act, 1974. So, this provision of the Act makes civil servants of the Balochistan government, which includes the chief secretary as well, to be subject to such pension or gratuity as may be prescribed. So, pension of civil servant is structured and is not beyond the bounds of the law. One is only entitled to such a sum that is permissible by the law. Now, the pension so prescribed is also governed under Balochistan Civil Servants Pension Rules, 1989 which provides for the rules relating to Civil Servants and their pension. The perks and privileges granted to the Chief Secretary find no mention in the Rules either and thus, has no basis in law.

7. “If this is law it would be found in our books, but no such law ever existed in this country”; See, *Entick v. Carrington*, (1765) EWHC KB J98 (Per Lord Camden). These words continue to resonate even today. They reaffirm the fundamental principle that all executive actions must be firmly grounded in law and must derive their validity from legal authority. In the context of Pakistan, no action, whether taken by an individual or any state authority, can be justified unless it is sanctioned by law. Constitution of Pakistan, 1973 through Article 4 (the “due process clause”), encapsulates this understanding of positive law. It guarantees that individuals are free to undertake all actions permitted

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by law, while simultaneously ensuring that no one is restrained from doing what the law does not prohibit, nor compelled to do what the law does not require. This clearly underscores that all actions revolve around the authority of law. Thus, the fundamental tenet of our constitutional governance remains that every exercise of power must be rooted in, and justified by, law.

8. In the impugned notification, the petitioners sought to grant facilities to the retired Chief Secretaries of Balochistan and their widows for life time. It is important to observe that the referred incumbents have remained civil servants, whose terms and conditions of service are governed under civil servant laws. The pension, being one of the post-retirement benefits, are also governed under the same and their pensionary benefits are worked out accordingly. The notification(s) issued by the petitioners, granting extraordinary facilities to the retired Chief Secretaries of the Government of Balochistan, are over and above the pensionary benefits granted to them. The Rules of Business do not empower the government of Balochistan to issue such directions by way of notification, especially when, there is no backing of law.

9. The reasoning of the learned High Court does not suffer from any legal or jurisdictional defect warranting our interference.

IV

10. For the above reasons, instant petition is dismissed. We refuse leave to appeal.

The Order is hereby made.

JUDGE

JUDGE

Islamabad
05.03.2026

Zawar/

APPROVED FOR REPORTING