

**ORDER SHEET**  
**IN THE LAHORE HIGH COURT,**  
**MULTAN BENCH MULTAN**  
**JUDICIAL DEPARTMENT**

**I.C.A.No.160 of 2021**

Muhammad Irshad.

**Vs.** Government of Punjab, etc.

<i>Sr. No. of order/ proceedings</i>	<i>Date of order/ Proceeding</i>	<i>Order with signature of Judge, and that of Parties' counsel, where necessary</i>
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**06.04.2021.**

Mr. Mujahid Bashir Gurmani, Advocate for appellant.

Through this Intra Court Appeal filed under Section 3 of the Law Reforms Ordinance 1972, the appellant has called in question order dated 17.03.2021 passed by learned Single Judge in Chambers, whereby constitutional petition filed by the appellant seeking modification of his retirement order dated 06.12.2019 issued on the basis of superannuation to order for retirement on medical invalidation basis was dismissed.

2. It is contended by the learned counsel for the appellant that the appellant was declared as medically invalid and unable to perform his duties vide medical invalidation certificate dated 31.07.2019 and he should have been retired on the ground of invalidation instead of waiting for his superannuation for passing order of his retirement, consequently, the said order is liable to be modified, accordingly.

3. Heard. Record perused.

4. The appellant stood retired on 07.12.2019 on attaining the age of superannuation, however, previous to his retirement, he had filed an application seeking retirement on medical grounds and process for his medical assessment had been initiated and his

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medical invalidation certificate dated 31.07.2019 was issued, however, the said certificate was countersigned by the Director General, Health Services, Punjab, Lahore much later and sent vide letter dated 21.12.2019 by the Medical Superintendent, District Headquarters Hospital, Layyah to the Executive Engineer, Layyah Canal Division, Layyah, whereas in the meantime on 06.12.2019 order was passed by Executive District Officer, Canal Division, Layyah, that the appellant shall stand retired from government service w.e.f. 07.12.2019 (A.N) after putting in 39-years of qualifying service on attaining the age of superannuation, which order had attained finality and had become past and closed transaction before invalidation certificate was countersigned. It is settled position of law that once an order of retirement from service of a civil servant is issued, the same cannot be re-opened in ordinary circumstances being past and closed transaction to which finality is attached. Reliance may be placed on judgment reported as **2004 SCMR 1654** (*MUHAMMAD YOUSAF BUTT Versus CENTRAL BOARD OF REVENUE and another*) wherein the request of civil servant for recall of his retirement order on medical grounds after its issuance was not entertained with by the Hon'ble Supreme Court of Pakistan by treating the same as having attained finality being a past and closed transaction despite the ground raised by the civil servant that he had withdrawn his request for such retirement one day prior to passing of order of his retirement, which ground was not found to be correct.

The claim of the appellant is that as he had been declared as medically invalid prior to his date of superannuation, therefore, instead of issuing

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retirement order on the basis of superannuation, the same should have been issued on medical grounds. It is observed that for retirement of the appellant on medical ground basis, order to that effect by the competent authority was required to be passed by application of mind to the facts and circumstances of the case, which order had not been passed till the date of superannuation as the report of Medical Superintendent to provide information of countersign/confirming it by Director General, Health Services, Punjab, Lahore, was awaited and same was received on 21.12.2019 after appellant already stood retired on superannuation. By the said time, the competent authority had also become functus officio. In these circumstances, retirement order with retrospective effect could not be passed on the basis of medical invalidation when the appellant earlier stood retired on the basis of superannuation.

Furthermore, the appellant after having received emoluments in consequence of order dated 06.12.2019 cannot seek re-opening or modification of the matter of his retirement. Reliance in this regard may be placed on **2016 SCMR 14** (*Pakistan International Airlines Corporation Vs. Aziz ur Rehman Chaudhary and another*) and **2004 SCMR 1654** mentioned *supra*.

5. For what has been discussed above, no ground to interfere in the order passed by the learned Single Judge in Chambers is made out. Resultantly, this I.C.A being devoid of any merit stands **dismissed**.

(JAWAD HASSAN)  
JUDGE

(MUZAMIL AKHTAR SHABIR)  
JUDGE