

# **HIGH COURT OF AZAD JAMMU & KASHMIR**

**(1)**

Writ petition No.3016/2021.  
Date of institution 23.09.2021.  
Date of decision 07.03.2024.

Raja Mohammad Haleem Khan & 102 others  
Vs.  
Azad Govt. & others

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**(2)**

Writ petition No.33007/2021.  
Date of institution 20.09.2021.

Azad Naseem & 28 others  
Vs.  
Azad Govt. & others

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**(3)**

Writ petition No.2653/2021.  
Date of institution 16.08.2021.

Raja Akhtar Hussain & 66 others  
Vs.  
Azad Govt. & others

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**(4)**

Writ petition No.3237/2021.  
Date of institution 06.10.2021.

Mohammad Farooq Khan & 25 others  
Vs.  
Azad Govt. & others

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**(5)**

Writ petition No.3645/2021.  
Date of institution 01.11.2021.

Sardar Khurshid Ahmed Khan & 48 others  
Vs.  
Azad Govt. & others

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**(6)**

Writ petition No.521/2022.  
Date of institution 07.02.2022.

Kh. Mohammad Israil & 22 others  
Vs.

Azad Govt. & others

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**(7)**

Writ petition No.2931/2021.  
Date of institution 13.09.2021.

Shamim Muzaffar  
Vs.  
Azad Govt. & others

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**(8)**

Writ petition No.2286/2022.  
Date of institution 06.06.2022.

Syed Nazir Hussain Naqvi & another  
Vs.  
Azad Govt. & others

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**(9)**

Writ petition No.1477/2021.  
Date of institution 30.04.2021.

Sh. Abdul Qayyum & 27 others  
Vs.  
Azad Govt. & others

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**(10)**

Writ petition No.3861/2021.  
Date of institution 12.11.2021.

Raja Liaqat Hussain Khan & another  
Vs.  
Azad Govt. & others

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**(11)**

Writ petition No.1743/2022.  
Date of institution 26.04.2022.

Abdul Hameed & 22 others  
Vs.  
Azad Govt. & others

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**(12)**

Writ petition No.3144/2021.  
Date of institution 29.09.2021.

Ausar Abu Turab Nazami & another  
Vs.  
Azad Govt. & others

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**(13)**

Writ petition No.1651/2022.  
Date of institution 21.04.2022.

Mohammad Yaqoob Khan & 6 others  
Vs.  
Azad Govt. & others

(14)

Writ petition No.3476/2021.  
Date of institution 21.10.2021.

Mohammad Bashir Khan & 76 others  
Vs.  
Azad Govt. & others

(15)

Writ petition No.1761/2021.  
Date of institution 26.05.2021.

Mohammad Tariq Khawaja  
Vs.  
Azad Govt. & others

(16)

Writ petition No.3744/2021.  
Date of institution 08.11.2021.

Abid Awan & 55 others  
Vs.  
Azad Govt. & others

(17)

Writ petition No.2466/2023.  
Date of institution 10.08.2023.

Ghulam Ghos & 5 others  
Vs.  
Azad Govt. & others

Case Laws referred in a chronological order:-

No.	Title	Citation
1.	Brig. (Rtd) F.B Ali Vs. The State	PLD 1975 SC 506
2.	I.A Sherwani Vs. Govt. of Pakistan	1991 SCMR 1041
3.	Dr. Mobashir Hassan Vs. Fed. Of Pakistan	PLD 2010 SC 265
4.	Shahid Rahim Vs. Board of Trustee	2015 PLC (C.S) 1235
5.	IDPB Vs. Arshad Mehmood	2017 CLD 843
6.	Mohammad Bashir VS. Azad Govt.	2019 SCR 697
7.	Mohammad Ayan Ali Raja Vs. AJ&K LA	PLD 2023 High Court (AJ&K) 55

Supplemental source of reliance:-  
 “Article 26 of the International Covenant on Civil and Political Rights (ICCPR)”.

### **WRIT PETITIONS**

***Before:- Justice Syed Shahid Bahar, J.***  
***Justice Sardar Mohammad Ejaz Khan, J.***  
 (Division Bench)

### **LEARNED COUNSEL WHO GAVE THEIR ABLE ASSISTANCE:**

Raja Mazhar Waheed Khan, Syed Atif Mushtaq Gillani and Sajid Hussain Abbasi, Advocates for Petitioners in writ petition No.3016/21.

Raja Mohammad Abbas Khan, Mohammad Mumtaz Khawaja, Advocates for the Petitioners in writ petition No.3007/21 & 3744/2021.

Raja Mohammad Hanif Khan, Syed Manzoor Ahmed and Raja Khayam Waheed, Raja Ayaz Ahmed, Advocates for the Petitioners in writ petition No.2653/2021 & 3476/2021.

Sehrish Naheem, Amir Ali, Advocates for the Petitioners in writ petition No.3237/2021.

Mohammad Dawood Abbasi, Kh. Adeel Sharif, Advocates for the Petitioners in writ petition No.3645/2021.

Raja Waqar Ali Khan, Advocate for the Petitioner in writ petition No.2286/2022.

Kh. Atta-Ullah Chak, Advocate for the Petitioners in writ petition No.1477/2021.

Raja Ayaz Ahmed Khan, Advocate for the Petitioners in writ petition No.3861/2021.

Ch. Mohammad Kaleem Afsar, Advocate for the Petitioners in writ petition No.3144/2021.

Syed Shafqat Hussain Gardezi, Advocate for the Petitioners in writ petition No.1651/2022.

Kh. Junaid Pandit, Advocate for the Petitioner in writ petition No.1761/2021.

Raja Mohammad Arif Rathore, Advocate for the Petitioners in writ petition No.2466/2023.

Raja Mohammad Saeed Khan, Additional Advocate General for the State.

Ch. Shoukat Aziz, Legal Advisor for Board of Trustees AJ&K Employees Benevolent Fund and Group Insurance Trust.

Mir Sajid Ashraf, Legal Advisor for Finance Department.

### **JUDGMENT:**

***(Justice Syed Shahid Bahar J).*** Petitioners in the instant petitions invoke the special original jurisdiction of this Court under

Article 44 of the Azad Jammu & Kashmir Interim Constitution, 1974,

by soliciting the relief in the following manner:-

- (A) The provisions of Section 15 of Act XVI of 1971 as amended vide Act XXXII of 2020 alongwith notification dated 13.04.2021 may kindly be declared discriminatory and a declaration may kindly be granted in petitioners' favour that the provisions of Section 15 amended through Act XXXII of 2020 alongwith the notification dated 13.04.2021 are equally applicable to the petitioners and the petitioners are entitled to receive/refund of the sum assured with regard to the Group Insurance and that the provisions of Section 15 as amended vide Act XXXII alongwith the amendment in the Rules vide notification dated 13.04.2021 are applicable to the petitioners in similar terms and manner to which the same were applied to the employees who retired or died after coming into force of Section 15 *ibid* i.e. 21.12.2020. The respondents may kindly be directed to amend the Section 15 *ibid* alongwith the Rules in a manner so as to make it applicable upon the petitioners and the respondents may kindly be directed to make payment/refund of the sum assured with regard to the "Group Insurance".
- (B) That while declaring ultra-vires the relevant provision of Act XIV of 1971 ultra-vires of fundamental rights, the Government may kindly be directed to refund/payback in favour of each petitioner the amount kept by the Government with him with regard to the Benevolent Fund."

### **FACTUAL BACKGROUND**

2. The claim of the petitioners is that they being State Subjects of the Azad Government of the State of Jammu & Kashmir were enrolled to the various gazetted and non-gazetted posts in the service of Azad Jammu & Kashmir Government and served for the State of Azad Jammu & Kashmir, furthermore, while making monthly payment to them, the Government deducted Benevolent Fund and Group Insurance in accordance with Section 18 of the Act XIV of 1971. It has been stated that the Government in order to extend the

facility of Benevolent Fund and Group Insurance to its Gazetted and Non-Gazetted employees enacted an Act No.XVI of 1971 on 26<sup>th</sup> August 1971 and the provisions of the Act were published in the law books, moreover, in order to give effect to the supra Act, Rules namely Azad Jammu & Kashmir Employees Benevolent Fund, Group Insurance Rules were also framed by the Government. The aforesaid rules with the passage of time were amended by the Government. As per contents of petitions, in view of Section 15 of the Act XVI of 1971, it was provided that in the event of death of an employee during service, the Board shall pay to the family of the deceased a sum as may be prescribed, so, the employees through their different Associations could demand for the premium of the Group Insurance as the same was deducted monthly from their salary, as most of the employees completed their qualifying service post attaining superannuation age including death of the employees and retired employees or families of the deceased employees and that demand was accepted by the Government while amending the provisions of Section 15 *ibid vide* Act XXXII of 2020 and through notification dated 13.04.2021 relevant provisions of the employees Benevolent Fund and Group Insurance were amended and rate of the amount was fixed to be paid to the employees. The provisions of the Act XXXII of 2020 and the rules framed thereunder on 13.04.2021 were given the immediate effect and keeping in view the aforesaid law, only the employees who retire or die after coming into force of the provisions of Act XXXII of 2020 and the Rules framed thereunder i.e. 21.12.2020 are entitled to receive the sum assured to such employees (who were contributors or subscribers) of the Group Insurance Fund but the

employees/petitioners, herein, who were contributors and subscribers who retired before amendment of Section 15 ibid were deprived from such benefit i.e. refunding the assured amount and as per petitioners' stance, the amendment in the Act supra and Rules is discriminatory which is against the fundamental rights of the State Subjects and such discrimination is not allowed by the Interim Constitution as it provides the equal protection of law, so, they are entitled to the same treatment.

### **ENSUING PROCEEDINGS**

3. As all the writ petitions on the same subject matter have already been admitted for regular hearing, therefore, the writ petition titled "Ghulam Ghos Vs. Azad Govt. & others" which was filed on 10.08.2023 having the same subject matter is also admitted for regular hearing, as the written statement in all the other writ petitions has been offered by the respondents, so, the same is treated to be filed in all the writ petitions.

4. In the written statement filed on behalf of respondents, it has been stated that as per amendment in the Act XVI 1971, only those civil servants who retired after 21.12.2020 are entitled to receive the amount of Group Insurance if from their salaries, the amount was deducted at the revised ratio, whereas, the petitioners were retired before the amendment by taking all the benefits, perks and privileges, so, after elapsing long time they filed the writ petitions which are not entertainable. It has further been alleged that as per Article 56-C of the Interim Constitution 1974, the law shall be applicable prospectively not retrospectively, so, the amendment made in the Act and Rules is not discriminatory as the

civil servants who got deducted the amount at old and new ratio cannot be given equal financial benefits. It has further been alleged that the petitioners do not fall in the ambit of aggrieved persons as they got retired before the amendment and availed monetary benefits as per enforced law of the time i.e. got the benefits of benevolent funds and group insurance according to the existing rules and regulations. Finally, it has been requested that the petitions may be dismissed.

5. The learned counsel for the parties submitted their written arguments, whereby, the grounds taken in the pleadings have mostly been reiterated, therefore, the same need not to be repeated.

#### **DETERMINATION**

6. We have taken stock of the record as well as written arguments offered by the learned counsel for the parties with due care and caution.

7. The basic claim of the petitioners is that the Government deducted the Benevolent Fund and Group Insurance from their salaries regularly during their services but they were not given amount of premium as most of them have been retired from their services and in this regard they have also attached the Photostat copies of their salary slips alongwith the petitions which strengthens the claim of petitioners as the regular deduction is shown to have been made from the slips and it also supports their version that they were the regular contributors and subscribers of the Benevolent Fund and Group Insurance. The stance of the petitioners is that due to amended provision, they have not only



been discriminated against but also been divested of their assured amount. For convenience, amended Section 15 is reproduced as under:-

**15. Insurance of Employees.** Subject to the provisions of this Act and the rules made thereunder, the Board shall pay a sum as may be prescribed, on attaining the age of superannuation or on completion of qualifying service or in the case of death, to the retired employee or family of the deceased employees, as the case may be.  
Provided that only such employees will be entitled to receive/refund sum assured who are contributors or subscriber of this fund.”

After the supra amendment in Section 15, notification dated 15.04.2021 was issued, wherein, the rate of monthly contribution and sum assured was given as under:-

1	2	3	4
Sr. No.	Grade	Monthly Deduction (Rs.)	Sum assured on retirement/death
1	BS-16	1,650/-	550,000/-
2	BS-17	2,250/-	650,000/-
3	BS-18	2,650/-	750,000/-
4	BS-19	2,887/-	830,000/-
5	BS-20 and above	3,300/-	950,000/-

In the supra amended Section 15, it has also been mentioned that only those employees will be entitled to receive the premium or sum assured who are the contributors or subscribers of the fund, however, in the notification dated 15.04.2021, it has been written that the above amendments shall take effect from 21.12.2020. A glance perusal of the record and files shows that the petitioners (Gazetted Employees) were the regular subscribers of the Group

Insurance as the amount had continuously been deducted from their salary accounts, so, they completely fulfill the requirement and criteria of above amended Section i.e. Section 15, meaning thereby, that they are also entitled for such assured amount which was regularly deducted by the Board of Trustees. It is quite flabbergasting that the amount had regularly been deducted from their accounts since their appointments but instead of returning the assured amount, the petitioners were deprived by inserting Section 15 through amendment that the same shall take effect from year 2020.

As per Article 4 clause (4) right No. (15) of the Azad Jammu & Kashmir Interim Constitution, all the State Subjects are equal before law and are entitled to equal protection of law and no discrimination against any State Subjects shall be made. Right No.15 is divided into two parts i.e. (a) equal before law; and (b) equal protection of law. The word 'law' in the phrase "equal before law" is used in a philosophical sense whereas the word 'law' in the phrase "equal protection of law" denotes specific laws in force. The former implies the absence of any special privileges in favour of any individual and the equal subjection of all classes to the ordinary law while the latter is a more positive concept implying equality of treatment in equal circumstances <sup>1</sup>. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other

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<sup>1</sup>. Mohammad Ayan Ali Raja Vs. AJ&K Legislative Assembly [PLD 2023 High Court (AJ&K 55)].

status<sup>2</sup>. Article 4 of the Constitution has given the protection of the fundamental rights by clearly enunciating that any law or any custom or usage having the force of law, in so far as it is inconsistent with the Fundamental Rights, shall, to the extent of such inconsistency, be void and no law shall be made which takes away or abridges the rights so conferred and any law made in contravention of Fundamental Rights shall be void and abyss. The deducted amount is basically the amount of the subscribers/contributors which is used by the Government and as per policy of the Government, the said deducted amount is returned to the employees at the time of their retirement or in case of death whatsoever but refusal of the said assured amount to the subscribers is unjust and at odds with their fundamental rights. At one hand, while fixing the sum assured, it has been mentioned that the same shall be effected prospectively (at the time of giving benefits to the public at large) however, at the time of receiving amount from the State Subjects, the same is ordered to be effected retrospectively, this is the discrimination meted out against the people or employees of the Government, so, to blow hot and cold in the same breath is not warranted by law. **The State is like a mother who gives equal protection to all the State Subjects and division or distribution of the financial benefits on the basis of pick and choose is not only at odds with the fundamental rights of the people but it also amounts to carry out discriminatory treatment with them.** The petitioners, herein, are not making any illegal demand but they simply by knocking the door of this Court are asking

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<sup>2</sup>. Article 26 of the International Covenant on Civil and Political Rights (ICCPR).

for their assured amount which was deducted by the Government regularly from their salaries that the same be returned back with all the benefits as per policy notification laid down thereunder. If they themselves had deposited their amount into their personal accounts or invested the same at the very first month of their appointments, they might have received the huge amount or earn a lot of money from their passive investment but as per Government policy, they could not do so, hence, as per Insurance Policy, their personal amount had regularly been deducted by the Government, so, its benefits should have been returned to them as per law and Policy notification. In our Interim Constitution, their all rights including Security of Person, Freedom of Movement, Protection against Punishment, Freedom of Speech, Trade, Business or Profession, Property, Education, Equality of State Subjects and Safeguard against Discrimination in Services have been protected and no discrimination or intervention shall be made in this regard, so, this basic law upon which the Government is established must be implemented and obeyed in letter and spirit and any mistake in this regard shall not be ignored. It was enjoined upon the policy makers to make the beneficial policies for public at large and not for the specific group of the people but in our considered view, the administrative justice is not seen anywhere and the people feeling aggrieved from the said policies, notifications and orders are knocking the doors of the Courts resultant of which the Courts while making interference protect their fundamental and precious rights as well. All the civil servants who are the subscribers or contributors of the Group Insurance and Benevolent Fund are entitled to receive

the said assured amount without any discrimination. If a person or a group of persons was denied an equal right being extended to and enjoyed by others positioned in the similar situation, it would be discrimination. Discrimination could not be without an element of unfavorable bias which had to be proved through concrete and solid evidence. Mere assertions that an authority had not exercised discretion fairly, justly and equitably without placing incriminating material on record would not bring the act of discretion to be counted discrimination. Discretion would become an act of discrimination only when it was improbable, vacillating or erratic exercise or abuse of discretionary authority. Differentiation and inequality of treatment per se would not tantamount to discrimination unless it was shown to be based on no reason or it was proved to be capricious or arbitrary<sup>3</sup>.

8. Group life insurance policies are generally written as term insurance and offered to employees who meet eligibility requirements, such as being a permanent employee who has been with the company for at least 30 days. Employers typically pay most or all of the premiums for basic coverage and additional amounts ordinarily in multiples of the employee's annual salary, may be offered for an extra premium paid by the employers. Insurance Company is liable to pay compensation, this is an obligation, therefore, it was always their bounden duty that in case they hear or receive any information with regard to death of any employee by legal heirs, friends, family member or concerned department, they

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<sup>3</sup>. Shahid Rahim Vs. Board of Trustees of Karachi [2015 PLC (C.S) 1235].

should immediately probe into the matter, verify the death and ensure that amount is paid to the legal heirs at their home with cross cheque without much delay. For discharge of such obligation, they can competently get approval from the department as required under the MOU. The government shall ensure that whether the deducted amount of the subscriber is utilized or invested in profitable scheme; whether the same being trust money, is deposited as endowment fund or is there a provision to utilize that amount by the government in other heads and such report or planning shall be included the breakup of the amount as well?

9. Contributors or subscribers of the group insurance fund are equally entitled to be benefited from the fruits of Amendment in the Section 15 of ACT XVI of 1971 by way of amended Act XXXII of 2020. Petitioners have contributed toward the benevolent fund establishment under Section II of Act XIV of 1971, thus, in this perspective of the matter, the petitioners are eligible to be paid from the benevolent fund at the eve of retirement in accordance with the provisions of the Act and the rules made thereunder, thus, instead of giving immediate effect to the amended law i.e. Act XXII of 2020, qua extending the benefit of same to all the deserving employees who had contributed and subscribed the same, prospective operation and execution was adopted, which obviously militates against the constitutionally fundamental guaranteed rights especially rights No.1 and 15. Equal protection of law is right of every individual, thus, a slightest and remote discrimination cannot be allowed to hold the field among equals. Act of respondents to declass the petitioners from the equal class of employees offends the Article

4 (4)(15) of the Constitution. The petitioners being employees/civil servants are entitled to the same protection which was granted to the employees/civil servants who retired after coming into force of Act XXXII of 2020 and rules made thereunder. No intelligible differentia<sup>4</sup> is disclosed by declassing the petitioners from the same class of employees, provisions of Section 15 amended through Act XXXII of 2020 alongwith the notification dated 13.04.2021 to the extent of denial/embargo qua rights of similarly situated employees are violative of fundamental rights enshrined in the Article 4 of the Constitution, thus, simply ignored and require to be brought in conformity with the fundamental rights No. 4(1) and 4 (15).

10. All citizens are equal before law and entitled to equal protection of law, state, however, is not prohibited to treat its citizens on the basis of a reasonable classification<sup>5</sup>. Equal protection of law does not mean that every citizen no matter what his condition must be treated in the same manner. The phrase equal protection of law means that no person or class of persons shall be denied the same protection of law which is enjoyed by other persons or other class of persons in like circumstances in respect of their life, liberty, property or pursuit of happiness. This only means that person similarly situated or in similar circumstances will be treated in the same manner besides this all law implies classification, for when it

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<sup>4</sup>. "Intelligible differentia" means differentiating between two sets of people or objects by distinguishing persons or things from the other persons or things, who have been left out. See Dr. Mobashir Hassan Vs. Federation of Pakistan [PLD 1975 SC 506].

<sup>5</sup>. I.A Sherwani Vs. Government of Pakistan [1991 SCMR 1041].

applies to a set of circumstances, it creates thereby a class and equal protection means that this classification should be reasonable <sup>6</sup>.

11. Seemingly the Government has taken an unhelpful stand in the matter. The stand with which it comes out is both unrealistic and impracticable. It is pertinent to highlight the stance projected by the respondents, thus, relevant portion from written statement is reproduced as infra:-

” (v) یہ کہ اعلیٰ عدلیہ میں 2010 سے قبل صرف معزز رج صاحبان کو three time جوڈیشل الاؤنس دیا جاتا تھا لیکن 2010 کے بعد اعلیٰ عدلیہ کے رجسٹرار صاحبان اور دیگر ملازمین کو بھی حقدار قرار دیا گیا جبکہ اسکامفادر بیٹائزڈ ملازمین اعلیٰ عدلیہ کو نہیں دیا گیا۔

(2) پیشتر نے تقریباً 30 سال یا اس سے زائد سروس کی ہے، دوران سروس پیشتر کو کسی مرحلہ پر بھی یہ بات یاد نہ آئی کہ بہبود فنڈ اور گروپ انشورنس مد میں انکی کٹوتی ہو رہی ہے اور اپنی جمع شدہ رقم انہوں نے حاصل کرنی ہے، نیز بوقت ریٹائرمنٹ بھی پیشتر کو یاد نہ آیا کہ حکومت کے ذمہ ان کا کوئی حق باقی ہے۔ اس پر بھی کئی سال گزر گئے پیشتر کو یاد نہ آیا حالانکہ پیشتر کی ریٹائرمنٹ کے بعد نوٹیفکیشن پر بالصراحت درج تھا کہ انکو جملہ مراعات کے ساتھ ملازمت سے ریٹائر کیا جاتا ہے۔ اس وقت بھی پیشتر کو یاد نہ آیا کہ ان کو جملہ مراعات دی گئی ہیں یا کچھ باقی ہیں۔ ملازمین کی تنخواہوں سے ریوائز شرح سے پہلے کیسے زیادہ ماہانہ کٹوتی ہوئی۔ جبکہ پیشتر کی پنشن سے اس نوع کی کٹوتی نہیں ہو رہی بدیں وجہ پیشتر اس رقم کے کسی طور پر حقدار نہیں ہو سکتے نہ ہی اتنی رقم جمع شدہ ہے جبکہ پیشتر دوران سروس اسکامفادہ بچوں کی اسکالرشپ کی صورت میں اٹھاتے رہے۔“

Following guidelines are chalked out in order to take up the matter for consideration:-

- I. Case of each and every petitioner and similarly situated civil servants shall be dealt with in view of case to case criteria;
- II. Only contributors and subscribers of the fund are eligible and deserving to be benefited from the Group Insurance Fund;
- III. Benefit already taken by a civil servant from the fund in any shape is also to be counted from his account pertaining to the relevant fund;
- IV. Employees who have not contributed to the fund or are not regular subscribers of the same cannot be entitled to take any benefit, unless provided in relevant law;

<sup>6</sup>. Brig (Retd) F.B Ali Vs. The State [PLD 1975 SC 506] and Mohammad Bashir Vs. Azad Government [2019 SCR 697].



- V. Subscription and contribution to the fund is *sine qua non* for getting benefit under the said fund. Those who are not contributors or subscribers are not entitled to take advantage of the said benefit;
- VI. So far as the amount deducted from the account and salary of the employees in the head of Group Insurance/Welfare Fund is concerned, all the contributors and subscribers are equally entitled to get fruit of the same, as it is not a bounty or allowance but money contributed by them, however, percentage of the deposited amount in this regard be taken into consideration at the time of allowing the amount in favour of relevant employees in accordance with law;
- VII. No classification can be made among the similarly situated employees whose case are at par and identical for the purpose of allowing the fruits of aforesaid fund/insurance policy in the guise of logic that they have not demanded the said benefit at the eve of retirement. In the case of similarly situated employees who are subscribers and contributors of the said fund no discriminatory treatment can be meted out. Any embargo in this regard qua giving prospective effect to the law in this regard expressly offends the constitutionally fundamental guaranteed rights especially right No. 1 and 15, thus, ignored for the purpose of granting the above relief. When the law or rule becomes an impediment in dispensation of justice, the Supreme Court and the High Court exercising the powers under Sections 42, 44 or 45 of the Constitution as

the case may be will ignore the law made by law making agency or strike it down <sup>7</sup>;

VIII. All the benefits permissible under the law qua insurance are equally liable to be extended in favour of the similarly situated employees irrespective of fact whether they have claimed the benefit at the eve of retirement or not.

For the above discussed reasons, the writ petitions at hand are disposed of in the above indicated manner. Respondents are directed to take up the cases of the petitioners in the light of guidelines (chalked out above) on case to case basis qua extending the relief prayed for.

Muzaffarabad.

07.03.2024 (Saleem)

JUDGE

JUDGE

**Note:-** Judgment is written and duly signed. The office is directed to intimate the parties or their counsel accordingly.

JUDGE

JUDGE

**APPROVED FOR REPORTING**

JUDGE

JUDGE

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<sup>7</sup>. Industrial Development Bank of Pakistan Vs. Arshad Mehmood [2017 CLD 843].