

IN THE FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
(Appellate Jurisdiction)

Present

Justice Syed Hasan Azhar Rizvi
Justice Muhammad Karim Khan Agha

F.C.P.L.A. No. 581/2026

*(against the judgment dated
22.12.2025, passed by the High
Court of Sindh, Circuit Court,
Hyderabad in C.P. No. D-
1917/2025)*

Muhammad Yameen

.....Petitioner(s)

Versus

*Government of Sindh through Chief Secretary Sindh
& others*

.....Respondent(s)

For the Petitioner(s) : Mr. Salahuddin Ahmed, ASC
alongwith petitioner, in-person

For the Respondent(s) : Barrister Sandeep Malani, Addl. AG Sindh
Mr. Siraj Ali Khan Chandio, Addl. PG Sindh

Date of Hearing : 09.10.2026

JUDGMENT

Muhammad Karim Khan Agha, J.- Through the present petition for leave to appeal, the petitioner, Muhammad Yameen, seeks to challenge the order dated 22.12.2025 (**“impugned order”**) passed by a Division Bench of the High Court of Sindh, Circuit Court at Hyderabad, whereby Constitutional Petition No. D-1917 of 2025, instituted by respondent No. 4, Ubaidullah Khan, was dismissed along with the application for impleadment filed by the present petitioner. The controversy concerns the applicability of amendments introduced by the Anti-Terrorism (Sindh Amendment) Act 2025 (**“Amending Act”**) to Judges/Presiding Officers of Anti-Terrorism Courts appointed for a fixed tenure under section 14 of the Anti-Terrorism Act 1997 (**“ATA 1997”**) before the amendments came into force.

2. The relevant facts, briefly stated, are that the petitioner, a retired District and Sessions Judge, was appointed as Judge/Presiding Officer of Anti-Terrorism Court-IV, Karachi, by the Government of Sindh under section 14(2) of the ATA 1997, vide notification dated 19.09.2024, for a term of two and a half years, as stipulated in section 14(3) of the ATA 1997. At the time of his appointment, he was approximately seventy years

of age, and his tenure was due to expire in March 2027. Section 14 of the ATA 1997, as it then stood, prescribed no upper age limit for appointment as Judge/Presiding Officer of an Anti-Terrorism Court. Subsequently, the Amending Act, published in the official Gazette on 02.09.2025, amended section 14 by, inter alia, prescribing an upper age limit of sixty-five years for appointment and providing that Judges/Presiding Officers shall cease to hold office upon attaining that age. Pursuant to the amendment, the Government of Sindh issued notification dated 22.10.2025, whereby three Judges/Presiding Officers of Anti-Terrorism Courts, namely, the present petitioner, respondent No. 4 and Syed Zakir Hussain, were to cease to hold office with immediate effect, although their respective terms of appointment had not expired. Aggrieved, respondent No. 4 instituted Constitutional Petition No. D-1917 of 2025 before the High Court of Sindh, Circuit Court at Hyderabad, praying that the notification be set aside and he be allowed to continue in office until completion of his stipulated tenure. The present petitioner and Syed Zakir Hussain, being similarly affected, sought impleadment through M.A. Nos. 8088 and 8087 of 2025, respectively.

3. By the impugned order, the High Court dismissed the constitutional petition, holding that the amended age limit governed not only future appointments but also Judges/Presiding Officers already in office, and that requiring such officers to relinquish office upon attaining the prescribed age neither curtailed their tenure unlawfully nor gave retrospective effect to the amendment. The High Court also dismissed M.A. No. 8088 of 2025, filed by the present petitioner, while disposing of all other pending applications.

4. Aggrieved by the impugned order, the present petitioner has approached this Court through the instant petition for leave to appeal. Since he was not the original petitioner before the High Court and his application for impleadment had been dismissed, he has also filed a miscellaneous application seeking permission to maintain the present petition, relying upon **H.M. Saya & Co, Karachi v Wazir Ali Industries Ltd, Karachi** (PLD 1969 SC 65). In the cited case, it was held that a person who was not a party to the original proceedings may, with the leave of the appellate court, prefer an appeal if adversely affected by the judgment or order. As the petitioner is directly affected by the impugned order, his application seeking permission to maintain the present petition is allowed.

5. Mr. Salahuddin Ahmed, learned counsel for the petitioner, contended that the High Court erred in applying the amended provisions of section 14 of the ATA 1997 to Judges/Presiding Officers appointed before the enactment of the Amending Act. He submitted that the amendments, being substantive in nature, could operate only prospectively in the absence of any express legislative intention to the contrary. It was argued that the words “appointed under this section” in the newly inserted proviso to section 14(2) confined its application to appointments made under the amended provision and not to those made under the previous law. Learned counsel further submitted that the petitioner, having been appointed for a fixed tenure of two and a half years, had acquired a vested right and legitimate expectation to continue in office until completion of that tenure, subject to removal in accordance with the prescribed statutory procedure. It was also argued that security of judicial tenure was an essential aspect of the independence of the judiciary guaranteed by the Constitution and that, where two interpretations of a statutory provision were possible, the one preserving such independence ought to be preferred. According to learned counsel, section 14(4), both before and after the amendment, provided safeguards against premature removal by requiring the involvement of the Chief Justice of the High Court, which could not be circumvented through the impugned notification. In support of his submissions, learned counsel relied upon **Badshah Gul Wazir v Government of Khyber Pakhtunkhwa** (2015 SCMR 43). Lastly, it was contended that the petitioner, being directly affected by the notification, was a necessary and proper party to the proceedings before the High Court and that his application for impleadment ought not to have been dismissed without affording him an opportunity of hearing on the merits.

6. Conversely, Barrister Sandeep Malani, learned Additional Advocate General, Sindh, and Mr. Siraj Ali Khan Chandio, learned Additional Prosecutor General, Sindh, opposed the petition and supported the impugned order. It was submitted that the amended provisions of section 14 of the ATA 1997 were applicable to Judges/Presiding Officers already holding office and that the notification dated 22.10.2025 was issued in accordance with the amended law. Learned counsel maintained that the application of the prescribed age limit to existing incumbents did not amount to retrospective application of the Amending Act and that, upon attaining the age of sixty-five years, the concerned Judges/Presiding

Officers were required to cease to hold office notwithstanding their unexpired tenure. In support of their submissions, learned counsel relied upon **Commissioner Inland Revenue v Mekotex (Pvt) Limited** (PLD 2024 SC 1168). It was, lastly, contended that the High Court had rightly dismissed the constitutional petition and the application for impleadment, and that no interference with the impugned order was warranted.

7. We have heard the learned counsel for the petitioner, learned law officers for the Government of Sindh and perused the record.

8. The question before us is whether the amendments introduced in section 14 of the ATA 1997 by the Amending Act, particularly the newly prescribed upper age limit of sixty-five years, apply to Judges/Presiding Officers appointed for a fixed tenure before the amendments came into force, so as to bring their appointments to an end before completion of the stipulated tenure. The answer to this question depends upon the interpretation of the amended provision and the principles governing the application of amending legislation to existing appointments.

9. To resolve the question arising in this petition, it is first necessary to examine the relevant statutory provisions, both **before** and **after** the amendment. Section 14(2) and (3) of the ATA 1997, as they stood **prior** to the Amending Act, provided as follows:

14. Composition and appointment of presiding officers of Anti-terrorism Courts.–

(2) *The Federal Government or the Provincial Government, if directed by the Federal Government to establish a Court under this Act, shall, after consultation with the Chief Justice of the High Court, appoint a Judge of each court.*

(3) *A Judge shall hold office for a period of two and a half years but may be appointed for such further term or part of term as the Government appointing the Judge may determine.*

The Amending Act substituted subsections (2) and (3) of section 14 of the ATA 1997 and introduced, inter alia, an upper age limit of sixty-five years for appointment as a Judge or Presiding Officer. The relevant portion of section 4 of the Amending Act reads as follows:

4. In the said Act, in section 14 –
.....
.....

(b) for sub-section (2), the following new subsection shall be substituted:-

“(2) Notwithstanding anything contained in this Act, the Provincial Government shall appoint a Judge or Presiding Officer of the Court from amongst the panel of three nominees with concurrence of the Chief Justice of High Court, which shall include at least one Advocate as mentioned in clause (iii) of sub-section (1):

Provided that no nominee shall be eligible for appointment if he or she has attained the age of sixty-five (65) years:

Provided further that upon attaining the age of sixty-five (65) years, a Judge or Presiding Officer appointed under this section shall cease to hold office:

.....
.....

(c) for sub-section (3), the following shall be substituted:-

“(3) A Judge or Presiding Officer shall hold office for a period of two and half years or part of such term, and shall be eligible for reappointment for further one term only or part of such term as the Provincial Government may exclusively determine.”;

(Bold Added)

A comparison of the provisions before and after the amendment shows that, while the statutory tenure of two and a half years has been retained, the Amending Act has introduced an upper age limit of sixty-five years. The first proviso to section 14(2) of the ATA 1997, as introduced by the Amending Act, renders a person who has attained that age ineligible for appointment as a Judge or Presiding Officer, whereas the second proviso provides for cessation of office upon attaining that age. Thus, the first proviso operates at the stage of appointment, while the second concerns continuance in office. The amended subsection (3), while retaining the tenure of two and a half years, also provides for appointment for part of such term and restricts reappointment to one further term or part thereof. The amended provisions, however, do not expressly state whether the age restriction applies to Judges or Presiding Officers appointed for a fixed tenure **before** the amendment came into force, so as to bring their subsisting appointments to an end before completion of the stipulated tenure. It is against this statutory background that the principles governing the prospective and retrospective operation of legislation need to be considered.

10. It is a well-settled principle of statutory interpretation that a statute, including an amending statute, ordinarily operates prospectively **unless** retrospective effect has been given to it by express enactment or

necessary implication. This principle has been consistently recognized by the Supreme Court. In **Sardar Sher Bahadar Khan v Election Commission of Pakistan** (PLD 2018 SC 97), the general rule was stated in the following terms:

9. . . . It is well settled that a statute or any amendment thereto ordinarily operates prospectively unless, by express enactment or necessary intendment, retrospective operation has been given to it. . . .

The application of this principle to amending statutes was explained in **Zila Council Jehlum v Pakistan Tobacco Company Ltd** (PLD 2016 SC 398) in the following words:

*4. Heard. As conceded by the learned counsel for the appellant the foundational question involved in these cases is whether the goods exit tax could be levied and collected retrospectively by virtue of the Amendment Ordinance and Amendment Act. In order to answer this question, we find it necessary to elucidate the law regarding interpretation of fiscal statutes and retrospective operation of laws. Although the Legislature can legislate prospectively and retrospectively, such power is subject to certain constitutional and judicially recognised restrictions. **According to the canons of construction, every statute including amendatory statutes is prima facie prospective, based on the principle of nova constitutio futuris formam imponere debet, non praeteritis (which means 'a new law ought to regulate what is to follow, not the past' as per Osborn: Concise Law Dictionary); unless it is given retrospective effect either expressly or by necessary implication. In other words, a statute is not to be applied retrospectively in the absence of express enactment or necessary intendment, especially where the statute is to affect vested rights, past and closed transactions or facts or events that have already occurred.** This principle(s) is attracted to fiscal statutes which have to be construed strictly, for they tend to impose liability and are therefore burdensome (as opposed to beneficial legislation). Furthermore, it is not only the wording/text of the statute which is to be considered in isolation; we are not to examine simpliciter whether such law has a retrospective effect or not, rather it has to be examined holistically by considering several factors such as, the dominant intention of the legislature which is to be gathered from the language used, the object indicated or the mischief meant to be cured, the nature of rights affected, and the circumstances under which the statute is passed.*

(Bold added)

11. The presumption against retrospective operation assumes particular significance where the legislation affects substantive or vested rights. Although the legislature, subject to constitutional limitations, is

competent to enact laws with retrospective effect, including laws that take away vested rights, such an intention must appear from clear and unambiguous language or arise by necessary implication. This aspect of the principle was explained in **Muhammad Hussain v Muhammad** (2000 SCMR 367) as follows:

It is a well-settled principle of interpretation that there is a strong presumption against the retrospectivity of a legislation which touches or destroys the vested rights of the parties. No doubt the Legislature is competent to give retrospective effect to an Act and can also take away the vested rights of the parties, but to provide for such consequences, the Legislature must use words which are clear, unambiguous and are not capable of any other interpretation or such interpretation follows as a necessary implication from the words used in the enactment. Therefore, while construing a legislation which has been given retrospective effect and interferes with the vested rights of the parties, the words used therein must be construed strictly and no case should be allowed to fall within the letter and spirit of Act which is not covered by the plain language of the legislation.

.....

.....

*We have already stated above that **the Legislature is competent to give retrospective effect to a legislation and in that process even it could take away vested rights of the parties but for that it must use clear words in the statute, or such a consequence must arise as a necessary implication from the language of the legislation.***

(Bold added)

The same principle was reaffirmed in **Rajby Industries Karachi v Federation of Pakistan** (2023 SCMR 1407).

12. In **Taisei Corporation v A.M. Construction Company (Pvt) Ltd** (2024 SCMR 640), the Court explained the distinction between laws affecting substantive rights and those dealing only with procedure, and clarified that, in the absence of express enactment or necessary intendment providing for retrospective effect, the proper approach is to examine whether retrospective application of the statute would impair existing rights and obligations, rather than merely classifying it as substantive or procedural. The relevant observations are reproduced below:

20. The well-settled principle in our jurisdiction is that a new law that only deals with the procedure and does not in any way affect the substantive rights of the parties applies both prospectively to future proceedings as well as retrospectively to

pending proceedings. However, a law that takes away or abridges the substantive rights of the parties only applies prospectively unless either by express enactment or by necessary intendment the legislature gives to it the retrospective effect. The notable point is that even a procedural law that affects, though indirectly, the substantive rights of the parties is to be applied only prospectively, in the absence of any contrary provision therein, such as the right to institute an action for the enforcement of a substantive right or the right to appeal arising from that action as an appeal is considered a continuation of the original action. Denial of the remedy, it is said, is destruction of the right. Without remedy, there is no right; it is the remedy that makes the right real. **The proper approach, therefore, to the construction of a statute as to its prospective or retrospective applicability, in the absence of legislature's express enactment or necessary intendment, 'is not to decide what label to apply to it, procedural or otherwise, but to see whether the statute if applied retrospectively to a particular type of case would impair existing rights and obligations.'** Such an examination, however, is needed only where the legislature has not, by express enactment or necessary intendment, provided for retrospective effect; as the legislature can by express enactment or necessary intendment also affect the existing rights and obligations. The legislature which is competent to make a law also has the power to legislate it retrospectively and can by legislative fiat take away even the vested rights. Our Constitution only bars retrospective legislation on criminal liabilities, not on civil rights and obligations.

(Bold added)

13. Applying these principles to the present case, we find that the Amending Act contains no express provision making the newly prescribed age limit applicable to appointments made before it came into force. The language of the amended provision also does not unequivocally indicate such an intention. In particular, the expression "appointed under this section" does not, by itself, necessarily indicate a legislative intention to curtail the fixed tenure of Judges or Presiding Officers appointed before the amendment came into force. Although the expression could be construed to include persons already appointed under section 14, it is also reasonably capable of being construed to refer to appointments made under that section after its amendment. The mere fact that the cessation of office would take effect after the commencement of the Amending Act does not, by itself, resolve the question whether the legislature intended to affect rights already accrued under appointments made before its commencement. That question must be determined in the light of the statutory language and the principles governing the protection of vested rights.

14. In this context, it is necessary to consider whether the petitioner, having been appointed for a fixed tenure under the law then in force, had acquired a vested right to continue in office for that period. The distinction between a vested right and a mere expectation was explained in **Mekotex (supra)** in the following terms:

14. . . . A right vests when all the facts required by law to establish that right have occurred. In other words, when all the facts necessary to create a right have occurred, the right is said to be "vested". A right remains inchoate and contingent when some, but not all, of the investitive facts have occurred. A "vested right" is, therefore, one that is absolute, complete and unconditional, with no obstacles to its exercise. It is immediate and perfect in itself, not dependent upon any contingency. . . .

15. In the present case, the petitioner was appointed under the law then in force for a specified tenure of two and a half years. Upon his appointment, all the legal requirements for acquiring the right to hold office for the stipulated period stood fulfilled. His entitlement to that tenure was, therefore, not a mere expectation dependent upon a future appointment or any further act. It was a vested right arising from an appointment already made, subject, of course, to the conditions governing its lawful continuation or premature termination.

16. The view that an appointment made for a fixed tenure under the law then in force cannot ordinarily be curtailed by a subsequent amendment, in the absence of a sufficiently clear legislative intention, finds direct support in the decision of the Supreme Court in **Badshah Gul Wazir (supra)**. In that case, the appellant had been appointed as Provincial Ombudsman for a fixed tenure of four years under the Khyber Pakhtunkhwa Provincial Ombudsman Act 2010. During his tenure, the law was amended to provide that the Provincial Ombudsman would hold office for four years or until attaining the age of sixty-two years, whichever was earlier. On attaining that age, the appellant was de-notified before completion of his stipulated tenure. The Supreme Court held that the amendment, having no retrospective effect, could not curtail the tenure fixed at the time of his appointment. The Court also distinguished the case of **Lt Gen (Retd) Jamshaid Gulzar v Federation of Pakistan** (2014 SCMR 1504) for the reason that the amendment considered in that case contained both a deeming provision and a specific non obstante provision, through which the legislature had consciously given retrospective effect to the

amendment, whereas the amendment under consideration contained neither. The relevant observations are reproduced below:

9. *That the Act as it originally stood provided for a person to hold the office of the Provincial Ombudsman for a period of four years whereas the Amendment Act curtailed such period in case of those persons who had attained the age of 62 years, i.e. the tenure of a person holding office for a period of four years was repealed and or substituted, and henceforth the term of office of the person holding the office of Ombudsman would be four years provided he had not attained the age of 62. The appellant was appointed for a period of four years pursuant to section 4 and the said four years had not expired when the first impugned Notification was issued de-notifying him. We, therefore, need to examine the effect of such repeal and particularly whether section 4 (as amended pursuant to the Amendment Act) would also apply to the appellant, in other words whether the effect of the amendment is retrospective. The provincial General Clauses Act, 1956 was promulgated as stated, "to facilitate the interpretation of provincial statutes"; clauses (b) and (c) of subsection (1) of section 4 whereof respectively stipulate that, the repeal "shall not affect the previous operation of any enactment so repealed" or "affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed." The judgment of this Hon'ble Court in the case of Lt. Gen. (Retd.) Jamshaid Gulzar, which was followed in the case of Gulzar Khan, had considered a federal law and held that section 6 of the General Clauses Act, 1897 (which section is similar to the provincial General Clauses Act) was not applicable as **Parliament had consciously given the amendment retrospective effect and had incorporated a non obstante clause commencing with the word "notwithstanding". However, in the Amendment Act the Provincial legislature did not give section 4 of the Act retrospective effect nor contained a non obstante clause, therefore, the cases of Lt. Gen. (Retd.) Jamshaid Gulzar and Gulzar Khan are clearly distinguishable.***

10. *. The learned Bench also erred in law by holding that, "a substituted section in an Act introduced by an amending Act is to be treated having retroactive operation as the function of a substituted section in an Act is to obliterate the rights of the parties as if they never existed." With respect to the learned judges the proposition formulated by them does not accord with the law and settled precedents. **A substituted section, and particularly one curtailing substantive rights, does not have "retroactive operation" unless the legislature elects to give it retrospective effect. Nor does a substituted section obliterate accrued rights; section 6 and section 4 respectively of the Federal and Provincial General Clauses Act specifically preserves such vested rights as mentioned therein. The courts have interpreted laws and notifications in the light of the General Clause Acts to save rather than obliterate vested rights.***

11. The appellant was appointed as the Provincial Ombudsman for a period of four years and no step for removal of the appellant was taken pursuant to subsection (2) of section 6, therefore, he must be allowed to continue to hold the office till the expiry of such term. The amendment made to section 4 does not contain any element whereby the appointment of the appellant as a Provincial Ombudsman was revoked, repealed, withdrawn or cancelled; **the silence of the legislature in this regard is significant. Therefore, in the absence of legislation, the tenure of the appellant cannot be curtailed in the exercise of administrative powers**, but, unfortunately, the same was purported to be done by the first impugned Notification. The Act grants security of tenure to the office of the Ombudsman and it cannot be undone by the Government as such power the legislature in its wisdom has not conferred upon the Government.

(Bold added)

17. The decision in **Badshah Gul Wazir (supra)** bears a close resemblance to the present case in material respects. Here too, the petitioner was appointed for a fixed tenure under the law then in force, and a subsequent amendment introduced an upper age limit which, if applied to his existing appointment, would bring it to an end before completion of the stipulated tenure. As in **Badshah Gul Wazir (supra)**, the Amending Act contains no express provision or necessary implication requiring such a consequence. The reasoning adopted in **Badshah Gul Wazir (supra)**, therefore, provides direct support for the interpretation that the newly prescribed age limit does not affect appointments made for a fixed tenure before the amendment came into force.

18. We have also considered the case of **Lt Gen (Retd) Jamshaid Gulzar (supra)**, where the amending legislation expressly provided that the substituted provision would be deemed always to have been so substituted and, through a separate non obstante provision, further ensured the applicability of the amendment with retrospective effect to the serving Chairman and Members of the Federal Public Service Commission. It was in view of these provisions that the Court found a clear legislative intendment to give the amendment retrospective effect so as to cover the serving Chairman and Members. In the present case, however, the Amending Act contains no deeming provision giving retrospective effect to the amendment. Further, although the substituted section 14(2) also opens with a non obstante clause, the provision starting with a non obstante clause considered in **Jamshaid Gulzar (supra)** was materially different in its language and effect. It expressly overrode any contract, agreement or

instrument containing terms and conditions of service and provided for cessation of office upon commencement of the amending law by members who had completed their tenure or attained the prescribed upper age limit. The non obstante provision in the present case, on the other hand, contains no comparable stipulation expressly extending the newly prescribed age limit to appointments already made under the previous law. The present case, therefore, bears a closer resemblance to **Badshah Gul Wazir (supra)**, where the absence of clear legislative intention was held to preserve the tenure already conferred under the previous law.

19. Another principle of statutory interpretation, equally relevant to the present controversy, is that where two interpretations of a statutory provision are reasonably possible, the one which preserves existing vested rights is to be preferred over the one which takes them away. This principle has been expressly recognized in **Mekotex (supra)** in the following terms:

*10. Therefore, in our jurisdiction, the established principles for interpreting laws that have or appear to have retrospective effect are as follows. Every statute that relates to substantive rights and obligations should be deemed prospective unless, by express provision or necessary implication, it has been given retrospective effect. Courts must lean against giving a statute retrospective effect that affects vested rights and/or past and closed transactions by adhering to two rules: **first, if two interpretations are reasonably possible, the one that saves vested rights and/or past and closed transactions should be adopted; and second, no statute should be construed to have retrospective effect to a greater extent than its language necessarily requires.** Although vested rights may be affected and taken away by express provision or necessary implication, past and closed transactions can be disturbed and reopened only by express provision. This is because, as noted above, the greater the unfairness, the more explicit the legislature's intent must be.*

(Bold added)

20. Applying these principles to the present case, the amended provision admits of two possible interpretations. Under the first, the newly prescribed upper age limit applies to appointments made after the commencement of the Amending Act, leaving undisturbed the fixed tenure of Judges or Presiding Officers appointed under the law previously in force. Under the second, the age limit extends to existing appointments and brings them to an end before completion of the stipulated tenure. The latter interpretation would take away vested rights arising from appointments already made by subjecting their continued existence to a statutory

condition introduced after those rights had accrued. Such a consequence cannot be presumed where the language of the amendment does not necessarily require it. In such circumstances, the principles laid down in **Mekotex (supra)** require the adoption of the interpretation which saves existing vested rights and does not extend the retrospective operation of the amendment beyond what its language necessarily requires. The former interpretation is, therefore, to be preferred.

21. In this context, the reliance placed by the learned law officers upon **Mekotex (supra)** is entirely misplaced. As discussed above, that decision, far from supporting their contention, reiterates that every statute relating to substantive rights and obligations should be deemed prospective unless, by express provision or necessary implication, it has been given retrospective effect. It further lays down that where two interpretations are reasonably possible, the one that saves vested rights should be adopted, and that no statute should be construed to have retrospective effect to a greater extent than its language necessarily requires. Since the Amending Act neither expressly provides for the curtailment of existing fixed-tenure appointments nor does its language necessarily require such a consequence, the principles laid down in **Mekotex (supra)** support, rather than undermine, the interpretation advanced on behalf of the petitioner.

22. The foregoing discussion establishes that the Amending Act contains neither an express provision nor any necessary implication making the newly prescribed age limit applicable to appointments made for a fixed tenure before its commencement; that the petitioner, having been appointed for a specified tenure under the law then in force, had acquired a vested right to hold office for that period, subject to the conditions governing its lawful continuation or premature termination; and that, where the amended provision admits of two reasonably possible interpretations, the one preserving that right is to be preferred. These conclusions lead us to hold that the newly prescribed age limit does not apply to existing fixed-tenure appointments so as to curtail their subsisting tenure.

23. In view of the above, we are unable to sustain the interpretation adopted by the High Court. The High Court proceeded on the premise that appointment to, and continuation in, a statutory office is governed by the law as it exists from time to time, and that a fixed tenure remains subject

to statutory qualifications and disqualifications, including an upper age limit. It held that, upon attaining the prescribed age, the incumbent ceased to hold office automatically by operation of law, and that the impugned notification did not operate retrospectively or take away any finalized or completed act, but merely gave effect to the law governing discontinuation in office after attaining that age. The error in this approach lies in treating the amended age limit as necessarily applicable to existing appointments, without giving due effect to the presumption against retrospective operation of legislation affecting vested rights. Whether cessation of office under the amended provision occurs automatically by operation of law is a question distinct from, and subsequent to, the question whether that provision applies to appointments already made under the previous law. The former cannot be assumed without first determining the latter. The question was not whether the legislature was competent to prescribe an upper age limit, but whether the amended provision was intended to apply to appointments already made for a fixed tenure under the previous law so as to curtail their subsisting tenure. The High Court failed to appreciate that the application of the newly prescribed age limit to such appointments would impair the vested right arising from an appointment already made for a fixed tenure. As discussed above, the Amending Act contains neither an express provision nor any necessary implication requiring such a consequence. The interpretation adopted by the High Court, therefore, cannot be sustained.

24. Another important aspect of this petition is the requirement that there must be **certainty** in the law so that citizens can know what the law is at any particular time, without such certainty adherence to law becomes somewhat problematic and to a certain extent, in its application, might be unfair. Hence, when the legislature enacts retrospective legislation, it is generally the exception rather than the rule and is expressly stated to be the case in the relevant law.

25. The question of statutory interpretation having been resolved in favour of the petitioner, the case can be disposed of on that basis alone. We, therefore, do not consider it necessary to examine the remaining contentions raised on his behalf, which are accordingly left open, since a Court should not decide more than is necessary for the disposal of the case before it.

26. For the foregoing reasons, this petition is converted into an appeal and allowed. The impugned order dated 22.12.2025 passed by the High Court is set aside. M.A. No. 8088 of 2025, filed by the present petitioner seeking impleadment in Constitutional Petition No. D-1917 of 2025, is allowed. The notification dated 22.10.2025 is declared to be without lawful authority and of no legal effect. The petitioner shall be deemed to have continued in office notwithstanding the issuance of the said notification and shall be entitled to continue as Judge/Presiding Officer of Anti-Terrorism Court-IV, Karachi, until completion of his stipulated tenure of two and a half years, subject to the conditions governing his appointment under the law. Consequently, Constitutional Petition No. D-1917 of 2025 is also allowed in the above terms.

27. These are the reasons for our short order of even date.

Judge

Judge

Karachi
09.10.2026
APPROVED FOR REPORTING
Muhammad Ahmad