

FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
BRANCH REGISTRY QUETTA
(Appellate Jurisdiction)

Present:
Justice Rozi Khan Barrech
Justice Syed Arshad Hussain Shah

F.C.P.L.A.833/2025
(Against the Consolidated judgment dated 31.05.2025 of the High Court of Balochistan, Quetta in C.P No.93/2023, C.P No.716, 937 and 976 of 2023)

Suba Khan ...Petitioner(s)

Versus

Superintendent Central Prison Mach ...Respondent(s)
& others

For the Petitioner(s) : Nemo

For the Respondent(s) : Mr. Abdul Latif Khan Kakar, Advocate General Balochistan and Mr. Khalil-ur-Rehman Yousafzai, Additional Advocate General Balochistan.

Date of Hearing : 08.07.2026

ORDER

Rozi Khan Barrech, J.- The instant petition has been filed under Article 175(f)(c) of the Constitution of the Islamic Republic of Pakistan, 1973, (“**Constitution**”) assailing the consolidated judgment (“**impugned judgment**”) dated 31.05.2025 passed by the learned High Court of Balochistan, Quetta, wherein the preceding C.P No.93 of 2023, C.P No.716 of 2023, (the present petitioner) C.P No. 937 of 2023, C.P No. 976 of 2024 were allowed through a consolidated judgment and following directions were issued therein:

- “The declaration is hereby made to the following effect:*
- i. The remission granted to the convicts in the impugned cases is declared to have been illegally awarded, having been granted without adherence to the mandatory procedural requirements under the Pakistan Prisons Rules, 1978, the Code of Criminal Procedure, 1898, and in disregard of the relevant notifications, circulars, and the binding principles of Islamic law as enshrined in the Constitution of the Islamic Republic of Pakistan, 1973. Thus, being null and void, having no legal effect, shall be recalled/withdrawn forthwith.*
 - ii. It is further directed that all convicted prisoners, whether sentenced to suffer life imprisonment or a lesser term of imprisonment, shall be required to serve at least two-third of their substantive sentence, as mandated under Rule 217 of the Pakistan Prison Rules, 1978, unless a lawful and exceptional remission is granted strictly in accordance with law.*

iii. *The Inspector General Prisons, Balochistan, is directed to re-examine the case of the convict/respondent No.4 (Ajab Khan) in Constitutional Petition No. 976/2024 with regard to the assignment or allocation of B-Class facility to him. It is further directed that a comprehensive report shall be compiled by all prisons across the province concerning the cases of convicts who have been granted or are availing B-Class facilities. The said report shall be submitted to the Inspector General Prisons for scrutiny and re- examination, whereafter appropriate orders shall be passed strictly in accordance with the relevant Prison Rules.*

iv. *The issuance of nominal rolls recommending premature release of the convicts, without verifying their eligibility under the applicable legal framework, is held to be arbitrary, discriminatory, and unlawful, violating Articles 4, 9 and 25 of the Constitution.*

v. *The respondents, including the Home Department, Inspector General Prisons, and the Superintendent concerned, are directed to forthwith withdraw any/all remission found to have been granted in contravention of law and to recalculate the sentences of the concerned convicts accordingly.*

vi. *The authorities are further directed to ensure that, henceforth, all future remissions and the issuance of nominal rolls shall be maintained strictly in accordance with law, and no remission shall be granted in qisas/diyat cases except in accordance with the principles laid down by the superior courts and the injunctions of Islam.*

vii. *Disciplinary proceedings, if not already initiated, shall be considered against officials found to have facilitated or authorized unlawful remissions or for maintaining nominal rolls in violation of the applicable legal regime and constitutional provisions."*

2. The pivotal question of law arising for determination by this Court by means of the impugned judgment wherein the above constitutional petitions were decided in a consolidated judgment, as they raise common and interconnected questions of law and fact. The central question of law requiring determination concerns the legality and propriety of the grant of sentence remissions, as well as the preparation and issuance of nominal rolls by the Prison Department, functioning under the supervision of the Inspector General of Prisons and the administrative control of the Provincial Home Department as per the provided laws.

3. Before advertng to the legal question, it would be advantageous to briefly recapitulate the relevant facts of the case to the extent of Petitioner. The Petitioner *Suba Khan* was convicted by the learned Additional Sessions Judge Loralai (**trial Court**) vide judgment dated 26th of May 2015 under section 302(2) of the Pakistan Penal Code 1860 (hereinafter called **P.P.C.**), for life imprisonment with fine Rupees 200,000/- and six months simple imprisonment in default thereof. Additionally, benefit of section 382 (b) of the Code of Criminal Procedure 1898 (hereinafter called **Cr.P.C.**) was also granted to the convict (Petitioner). It transpires from the record that the said judgment remained intact until the Supreme Court of Pakistan. However, the Petitioner, on several occasions obtained general and special Remissions and Nominal

Rolls from Respondent No.2 and 3. Consequently, the Respondent No.4 (*Zareef Khan*) instituted *C.P 716 of 2023* and challenged the nominal rolls issued by the Prison Authorities alleging therein that the Petitioner has been granted excessive and unlawful remissions resulting in premature reduction of sentence contrary to the Pakistan Prison Rules 1978, (hereinafter called **Rules, 1978**) and law. It is relevant to note that Petitioner Suba Khan was confined in Central Prison Mach, and his sentence computation and remission record were maintained by the prison authorities under the supervision of the Inspector General Prisons, Balochistan. Further, the nominal roll of Suba Khan, which became the subject matter of challenge in C.P. No. 716 of 2023, (decided in a consolidated judgment) was filed before the High Court on 17th August 2023 by the prison authorities. According to the said nominal roll, as on the date of its filing, Suba Khan had, undergone imprisonment: 9 years, 4 months and 19 days; Earned remission (ordinary and special): 15 years, 7 months and 18 days. Moreover, based on the said remission calculation, the nominal roll reflected that Suba Khan was required to undergo only an unexpired portion of 5 months and 23 days, subject to payment of compensation at the time of institution of the Constitution Petition. It is important to mention here, the Respondent No.4 namely *Zareef Khan* (Complainant in FIR No.77/2010 registered at Police Station Saddar Lorlai U/S 302, 337 (ADF), 147 and 149 PPC) challenged the said nominal roll on the grounds that: remission had been granted in excess of the statutory ceiling; Suba Khan had not completed what was asserted to be the mandatory minimum period of incarceration for life convicts; and the prison authorities had acted contrary to Rule 217 of the Pakistan Prison Rules, 1978. Resultantly, the learned High Court recorded a findings and dismissed the C.P NO.716 in a consolidated judgment and reasoned that Suba Khan, despite having actually undergone imprisonment for 9 years, 4 months and 19 days, had been granted remission exceeding the permissible limit as prescribed in the law and rules, which, according to the Court, resulted in reduction of his sentence below the threshold of fifteen years.

4. We have perused the record at length.

5. In view of the foregoing, the principal question for adjudication is the legality and propriety of the grant of sentence remissions, resulted in reduction

of his sentence below the threshold of fifteen years as well as the preparation and issuance of nominal rolls on different occasions by the Prison Department, functioning under the supervision of the Inspector General of Prisons and the administrative control of the Provincial Home Department as per the provided laws

6. It is relevant to mention here that remission denotes a lawful reduction in the period of imprisonment imposed upon a convicted person. It neither nullifies the conviction nor sets aside the sentence awarded by a court; rather, it shortens the duration of incarceration in accordance with law. Such remission may be granted on account of good conduct, national or public occasions, or pursuant to special orders issued by the competent authority, including the President or the Government, as the case may be. Section 2(5) of the *Prisons Act, 1894* defines the "remission system" as "*the Rules for the time being in force regulating the award of marks to, and the consequent shortening of sentences of prisoners in jails.*" The legal framework governing remission, however, extends beyond the Prisons Act. The entitlement to, or denial of, remission is regulated through the relevant Prison Rules and various statutory enactments, while Article 45¹ of the Constitution vests the President with the constitutional power to grant pardon, reprieve, respite, remit, suspend, or commute sentences. Broadly speaking, the law relating to remission may therefore be understood under three distinct sources: (i) constitutional remission under Article 45 of the Constitution; (ii) statutory remission conferred by Acts of Parliament or Provincial Legislatures; and (iii) administrative remission governed by the Prison Rules and the remission system applicable within prisons under the relevant law.

7. Moreover, upon examining the statutory framework and the Rules, 1978 governing the grant of remission, it becomes evident that, in practice, remission is broadly classified into two principal categories, namely General (Ordinary) Remission and Special Remission. Although both operate to reduce the period of imprisonment lawfully required to be undergone by a convict, they differ in their source, purpose, conditions, and the authority competent to grant them. General or Ordinary Remission is an earned reduction in sentence

¹**45. President's power to grant pardon, etc.** The President shall have power to grant pardon, reprieve and respite, and to remit, suspend or commute any sentence passed by any court, tribunal or other authority.

awarded to a prisoner on account of continued good conduct, discipline, industry, and participation in reformatory and rehabilitative activities during incarceration. It is regulated by the Pakistan Prison Rules, 1978, particularly Chapter XVIII, where Rules 215² to 218 prescribe the remission system, the award of remission marks, and the conditions governing their grant or forfeiture. The grant of ordinary remission is an administrative function exercised by the prison authorities under the supervision and control of the Inspector General (Prisons). It is ordinarily earned through sustained good behaviour, participation in prison labour, educational and literacy programmes, vocational training, and other activities conducive to the reformation of the prisoner.

8. Special Remission, on the other hand, is an extraordinary reduction in sentence granted on specified occasions or in pursuance of executive or constitutional policy. It is commonly awarded on national days, religious festivals, or other occasions of public importance, or pursuant to a special policy decision of the Federal or Provincial Government or in the exercise of the constitutional powers of the President under Article 45 of the Constitution. The legal basis for such remission is traceable to Article 45 of the Constitution, Sections 401³ and 402⁴ of the Code of Criminal Procedure,

²**Rule 215.** (i) A convicted prisoner, who has not already passed an examination specified in the table below may appear in any one of the said examinations in an academic year and shall on passing such examination be entitled to earn remission according to the scale given in sub-rule (II), provided that he is certified by the Superintendent to be of good] character.

³**401. Power to suspend or remit sentences.** __ (1) When any person has been sentenced to punishment for an offence, [* * *] the 1[Provincial Government] may at any time without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced [:]

[Provided that the Provincial Government shall have no power to suspend or remit any sentence awarded to an offender under chapter XVI of the Pakistan Penal code if an offence has been committed by him in the name or on the pretext of *karo kari*, *siyah kari* or similar other customs or practices].

(2) Whenever an application is made to [* * *] the [Provincial Government] for the suspension or remission of a sentence, [* * *] the [Provincial Government] .[* * *], may require the presiding Judge of the Court before or by which the conviction was had or confirmed to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion [and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists].

(3) If any condition on which a sentence has been suspended or remitted is, in the [opinion of] the [Provincial Government], [* * *], not fulfilled, [* * *] the [Provincial Government] may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police-officer without warrant and remanded to undergo the unexpired portion of the sentence

(4) The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.

(4A) The provisions of the above sub-sections shall also apply to any order passed by a Criminal Court under any section of this Code or of any other law, which restricts the liberty of any person or imposes any liability upon him or his property.]

(5) Nothing herein contained shall be deemed to interfere with the right of [the President] or of the [Federal Government] when such right is delegated to [it] to grant pardons, reprieves, respites or remissions of punishment.

1898 (where applicable), the relevant provisions of the Prison Rules, including Rule 216, and executive notifications issued from time to time by the Government. Unlike ordinary remission, special remission is not earned as of right through prison conduct; rather, it is conferred by virtue of a specific executive or constitutional order and is ordinarily subject to the terms and conditions stipulated therein. Such notifications frequently prescribe eligibility criteria, including the minimum portion of the sentence required to have been undergone, and may expressly exclude specified categories of convicts, such as those convicted of offences under anti-terrorism laws and those offenses specifically excluded in the law. Other offences specifically exempted by law or by the relevant notification. Consequently, the benefit of special remission accrues only to those prisoners who satisfy the prescribed conditions and fall within the class of persons and the minimum threshold of the sentence covered by the law or order granting such remission.

9. Thus, while both General (Ordinary) Remission and Special Remission operate to shorten the period of imprisonment, the former is an earned administrative remission founded upon the prisoner's conduct and reformation, whereas the latter is an exceptional executive or constitutional concession granted pursuant to law, public policy, or a specific governmental or presidential order, subject to such limitations, minimum threshold of sentences as prescribed by law and exclusions as may be provided therein.

10. The remission system is defined in Rule 199 of the Pakistan Prison Rules, 1978, which provides as follows:

“Rule 199. Remission system is an arrangement by which a prisoner sentenced to imprisonment, whether by one sentence or by consecutive sentences, for a period of four months or more may, by good conduct and industry, become eligible for release when a portion of his sentence, ordinarily not exceeding one-third of the whole sentence, has yet to run.”

[(5A) Where a conditional pardon is granted by [the President] or, in virtue of any powers delegated to [it], by the [Federal Government], any condition thereby imposed, of whatever nature, shall be deemed to have been imposed by a sentence of a competent Court under this Code and shall be enforceable accordingly].

(6) The [* * *] [Provincial Government] may, by general rules or special orders, give directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with

⁴402. Power to commute punishment.

[(1)] The [* * *] [Provincial Government] may, without the consent of the person sentenced, commute any one of the following sentences for any other mentioned after it:

death, [imprisonment for life] [* *], rigorous imprisonment for a term not exceeding that to which he might have been sentenced, simple imprisonment for a like term, fine.

[(2) Nothing in this section shall affect the provisions of section 54 or section 55 of the Pakistan Penal Code (XLV of 1860).]

The above provision manifests that remission is fundamentally conceived as a reformative mechanism intended to reward a prisoner's good conduct, discipline, and industry during incarceration. The object of the remission system is not to alter the sentence imposed by a court of competent jurisdiction, but to provide a lawful incentive for reformation by permitting the prisoner to earn an earlier release in accordance with the prescribed legal framework.

11. The present case, petitioner *Suba Khan* stands convicted of an offence punishable under Section 302(b) of the Pakistan Penal Code, 1860, (“**P.P.C.**”) and has been sentenced to imprisonment for life with fine Rupees 200,000/- and simple imprisonment of six months in default therein. For the purposes of calculating fractions of a sentence, Section 57 of the **P.P.C.** provides that:

“Section.57. In calculating fractions of terms of punishment, imprisonment for life shall be reckoned as equivalent to imprisonment for twenty-five years.”

A perusal of the nominal roll of the petitioner reveals that he has been awarded both ordinary (general) and special remission against his sentence. However, upon scrutiny of the nominal rolls, it appears, prima facie, that the aggregate remissions granted to the petitioner exceed the extent permissible under the applicable legal framework, resulting in a remission beyond the substantial portion of the sentence lawfully reckonable for such purpose. Whereas Rule 217 of the Pakistan Prison Rules 1978, clearly defines the extent of total remission stipulating that the total remission shall not exceed one third of his conviction. The Rule 217 stipulates as under:

“Rule217. (i) The total remission, both ordinary and special awarded to a prisoner under these rules (other than remission for donating blood awarded under rule 212, surgical sterilisation under rule 213 and for passing an examination under rule 215) shall not exceed one third of his sentence; Provided that Government may, on the recommendations of the Inspector-General, grant remission beyond the one-third limit in very exceptional and deserving cases.

(ii) Remission, both ordinary and special, earned by a lifer shall be so much that a sentence of imprisonment for life is not shortened to a period of imprisonment less than fifteen years.”

Emphasis applied

Rule 217 of the Pakistan Prison Rules, 1978, prescribes the statutory limits within which remissions may be earned and granted by a prisoner. Under Rule 217(i), the aggregate of ordinary and special remissions ordinarily

cannot exceed one-third of the sentence awarded, except where the Government, on the recommendation of the Inspector-General (Prisons), grants remission beyond that limit in exceptionally deserving cases. In the case of a prisoner undergoing imprisonment for life, Rule 217(ii) imposes a further statutory restriction by mandating that the remissions earned shall not have the effect of reducing the actual period of imprisonment to less than fifteen years. Likewise, Rule 140 of the Rules, 1978 provides as follows:

“Rule 140. (i) Imprisonment for life will mean twenty-five years rigorous imprisonment and every lifer prisoner shall undergo a minimum of fifteen years substantive imprisonment.

(ii) The case of all prisoners sentenced to imprisonment for life shall be referred to Government, through the Inspector General, after they have served fifteen years substantive imprisonment for consideration with reference to section 401 of the Code of Criminal Procedure.

(iii) The cases of all prisoners sentenced to cumulative periods of imprisonment aggregating twenty-five years or more shall also be submitted to Government, through the Inspector General, when they have served fifteen years substantive sentence for orders of the Government.”

Emphasis Applied

Keeping in view of the above stated provisions of Rules 1978 and the given circumstances of the present case, respondent Suba Khan has been convicted under Section 302 of the Pakistan Penal Code, 1860, and sentenced to imprisonment for life. Section 57 of the Pakistan Penal Code provides that, for the limited purpose of calculating fractions of punishment, imprisonment for life shall be reckoned as equivalent to twenty-five years. Consequently, for the purpose of computing the maximum remission ordinarily admissible under Rule 217(i), the life sentence is treated as equivalent to twenty-five years, thereby permitting remission up to one-third of twenty-five years, subject to the overriding restriction contained in Rule 217(ii) that the sentence shall, in no event, stand reduced to a period of imprisonment of less than fifteen years. Importantly, the proviso to Rule 217 permits the grant of remission beyond the ordinary one-third ceiling only in exceptional and deserving cases, and that too upon the recommendation of the Inspector-General (Prisons) and with the approval of the Government and same is regulated by the prescribed guidelines and Prison Rules. This carefully structured mechanism serves as a statutory safeguard against arbitrary or indiscriminate exercise of executive discretion in the grant of remissions. Furthermore, Rule 217(ii) prescribes a mandatory minimum

threshold for prisoners sentenced to imprisonment for life by providing that the cumulative effect of all remissions shall not reduce the actual period of imprisonment to less than fifteen years. The legislative intent underlying this restriction is to preserve the substantive penal character of a sentence of life imprisonment, ensuring that it retains its deterrent and retributive significance and is not rendered merely nominal or illusory through the excessive grant of remissions.

12. Further, we have noted, with considerable concern, that the case of the petitioner serving a sentence of imprisonment for life does not conform to the statutory limitations governing the grant of remissions. Even after earning the maximum remission permissible under the Pakistan Prison Rules, 1978, a life convict is legally required to undergo a substantial portion of the sentence, and in no event can the actual period of incarceration be reduced to less than fifteen years, as expressly mandated by Rule 217(ii). The record, however, reveals a departure from this statutory requirement. The nominal roll of petitioner convict Suba Khan, submitted on 17 August 2023, discloses that he had actually undergone only 9 years, 4 months, and 19 days of imprisonment as mentioned in the impugned judgment, whereas remissions amounting to 15 years, 7 months, and 18 days had been credited to his account. Consequently, at the time the nominal roll was prepared, only an unexpired period of 5 months and 23 days, together with the payment of compensation, remained to be served. This computation, prima facie, appears inconsistent with the mandatory prescription of Rule 217(ii), which unequivocally prohibits the application of remissions in a manner that would reduce a sentence of imprisonment for life to an actual period of imprisonment of less than fifteen years.

13. It is relevant to mention here that the grant of remission to convicted prisoners is governed by a comprehensive statutory framework and must be exercised strictly within the limits prescribed by law and regulated rules. It is neither an unfettered executive discretion nor a concession capable of being extended in disregard of the governing legal provisions. The scheme embodied in the Pakistan Prison Rules, 1978, read with Section 401 of the Code of Criminal Procedure, 1898, and the relevant executive notifications regulating remissions, makes it abundantly clear that the remission earned or

granted to a prisoner must conform to the conditions and limitations prescribed therein. In the case of a prisoner undergoing imprisonment for life, Rule 217(ii) unequivocally mandates that the cumulative effect of all remissions shall not reduce the actual period of imprisonment to less than fifteen years, unless the sentence is otherwise lawfully commuted, remitted, or modified in the exercise of constitutional or statutory powers vested in the competent authority same is in consonance with the Prison Rules 1978.

14. The extraordinary remissions reflected in the case of Suba Khan raise serious concerns regarding their compatibility with the statutory framework governing the execution of sentences and the object of the punishments. Such a course not only appears to travel beyond the authority conferred by the Prison Rules 1978 but also calls into question the legality and propriety of the administrative process by which the remissions were computed and sanctioned.

15. Keeping in view the modern reformatory approaches of punishment, it is equally important to state here that the law of punishment serves multiple and complementary objectives as well, including retribution, deterrence, denunciation, rehabilitation, and the protection of society. A sentence imposed by a court represents a considered judicial determination of the gravity of the offence and the culpability of the offender, while the statutory scheme relating to remission reflects the Legislature's calibrated balance between incentivising good conduct in prison and preserving the integrity of judicially imposed punishment. Where remissions are granted in excess of the limits prescribed by law or are computed in a manner that effectively nullifies the minimum period of imprisonment mandated for life convicts, the penal consequences determined by the sentencing court are substantially diluted and the balance get disturbed. Such an outcome undermines the deterrent and retributive purposes of criminal punishment, diminishes public confidence in the administration of criminal justice, and frustrates the legislative intent underlying Rule 217 of Rules 1978 and other enabling rules.

16. In a constitutional democracy governed by the rule of law, executive clemency and remission are intended to temper justice with mercy, not to supplant judicial sentences or render them illusory. It is, therefore, incumbent upon the authorities entrusted with the administration of prisons to ensure that

remissions are granted strictly within the bounds of law, so that the objectives of punishment, the wisdom of reward for good conduct, the authority of judicial decisions, the due compliance of statutory provisions and the confidence of the public in the criminal justice system remain fully preserved. Hence, the remissions granted to the petitioner (*Suba Khan*) in excess does not meet the minimum threshold of fifteen years of imprisonment as provided in Rule 140 and 217 (ii) of the Rules 1978.

17. Moreover, at the apex of the remission hierarchy stands the constitutional power of clemency vested in the President under Article 45 of the **Constitution**. The Supreme Court, in *Nazar Hussain v. The State* (PLD 2010 SC 1021), characterized the President's power under Article 45 as a constitutional authority "*not subject to any limitations or conditions that may be found in the Pakistan Penal Code or the Code of Criminal Procedure.*" The initial exercise of this power is undoubtedly an act of grace and, in that sense, constitutes an administrative facility. As observed by the Supreme Court in *Bhai Khan v. The State* (PLD 1992 SC 14), the object of the constitutional power of clemency is to "*afford relief against undue harshness... or miscarriage in the judicial process.*" The constitutional power under Article 45, therefore, remains distinct and in order to bring uniformity and consistency in the grant of remissions under Article 45 of the Constitution, the Federal Government introduced Policy Guidelines in 2009 pursuant to the direction issued by the Supreme Court in the case titled *Shah Hussain V The State* (PLD 2009 SC 460).

18. It is relevant to mention although the power of clemency conferred upon the President under Article 45 of the Constitution is constitutional in nature and enjoys supremacy over ordinary statutory provisions, however, its exercise is not self-executory. Rather, the implementation of presidential remissions requires an established administrative and legal framework to ensure transparency, uniformity, and consistency. In furtherance of this objective, the remission regime is operationalized through the Pakistan Prison Rules, 1978, which regulate the computation, recording, and execution of remissions, while the Policy Guidelines, 2009, formulated by the Federal Government pursuant to the directions of the Honourable Supreme Court in *Shah Hussain v. The State* (PLD 2009 SC 460), prescribe the principles governing the exercise of

clemency under Article 45. These Guidelines identify the categories of prisoners eligible for special remissions, expressly exclude convicts involved in specified heinous offences, and provide objective standards to prevent arbitrary or indiscriminate exercise of the constitutional power. Thus, while the source of the President's power remains Article 45 of the Constitution, its practical implementation is channelled through the statutory prison framework and the policy guidelines framed in compliance with the directions of the Supreme Court, thereby ensuring that constitutional clemency is exercised in a structured, uniform, and legally regulated manner.

19. We are aware of the fact that the modern criminal jurisprudence consistently seeks to maintain a delicate equilibrium between deterrence and rehabilitation. The seven-member bench of the Supreme Court in *Nazar Hussain* (supra) settled this purpose authoritatively, holding that the Remissions Rules are "*primarily based on the reformatory principle*". Reformation seeks to bring about a change in the offender's character to reclaim them as a useful member of society. A correctional system that neglects rehabilitation may succeed in exacting punishment yet fail in preparing individuals for lawful and productive reintegration. A prisoner who perceives himself permanently excluded from every reformatory benefit may gradually cease to regard educational advancement, vocational development, institutional discipline, or personal transformation as meaningful pursuits. Once the perception takes root that reform carries no legal significance, the incentive-based structure upon which correctional administration depends risks substantial erosion. The resulting sense of hopelessness and alienation may ultimately undermine not only prison discipline but the broader objective of rehabilitation itself.

20. It is in this context that the *Nelson Mandela Rules* (*The United Nations Standard Minimum Rules for the Treatment of Prisoners*) assume significance. Of particular significance is Rule 4, which acknowledges that the protection of society and the reduction of recidivism are most effectively achieved when the period of incarceration is utilized, so far as practicable, to facilitate the successful reintegration of prisoners into the community upon release. The Rule thus reflects a sophisticated understanding that public safety is not served merely by confinement, but by the cultivation of conditions capable of

reducing future criminality. To tell an entire class of prisoners that their efforts at self-improvement are legally worthless signifies a resolve by society to be "harsh and unforgiving," negating the very idea of rewarding good conduct. The international community, in renaming these Rules in honour of Nelson Mandela, sought to affirm a universal truth: that the deprivation of liberty does not entail the forfeiture of humanity.

21. Keeping in view the comparative jurisprudence from India and the United Kingdom further reaffirms that correctional administration functions most effectively when punishment is accompanied by incentives for reform and same is balanced with principles of retributive and reformative approaches. The Indian framework, sharing a common legal heritage with Pakistan, has consistently sought to maintain an equilibrium between societal protection and reformative aspirations. In *Joseph v. State of Kerala* (2023 INSC 843), the Supreme Court of India condemned blanket exclusions from remission as arbitrary, holding that they turn the ideals of reformation "on their head" and leave long-term convicts feeling hopeless. The Court highlighted the importance of fairness and reasonableness in the exercise of executive discretion, noting that while the state does have discretion in matters of sentencing and remission, this discretion must be exercised judiciously and in a manner that is not arbitrary. Though the Supreme Court ordered the immediate release of the petitioner, emphasizing the need for a more humane and rehabilitative approach in the criminal justice system yet it speaks about an equilibrium between societal protection and reformative aspirations. The modern penological thought is further illuminated by the recent judgment in the matter of an application for Judicial Review by JR123 (Northern Ireland) [2025 UKSC 8] While the Court in that case acknowledged the State's power to adopt "general measures" and "bright-line rules" for the sake of legal certainty, it simultaneously reaffirmed the "essence of modern correctional thought": that punishment serves its highest purpose when is capable not merely of restraining misconduct but of fostering responsible citizenship. Crucially, the *JR 123* judgment reflects a broader constitutional recognition that society's interests are best served through calibrated mechanisms permit rehabilitation alongside safeguards for public protection.

22. Likewise, the European Court of Human Rights (ECHR) provided a seminal articulation of these principles in the landmark case of *Vinter and Others v. the United Kingdom* ([GCI, nos. 66069/09, 130/10 and 3896/10, ECHR 2013). The Grand Chamber held that for a life sentence to remain compatible with the prohibition of inhuman and degrading treatment, it must be reducible de jure and de facto, meaning there must be both a "prospect of release" and a "possibility of review". The Court reasoned that it would be "capricious" to expect a prisoner to work toward their own rehabilitation without knowing whether a mechanism exists to eventually consider them for release based on that reform. At the very heart of this jurisprudence is the "right to hope," a recognition that to deny a human being the possibility of atonement and change is to deny a fundamental aspect of their humanity. Moreover, this human-rights-based approach is further rooted in the logic of the England & Wales Court of Appeal's decision in *R v. Bieber* [2009] 1 WLR 223, which was extensively analysed and reproduced within the *Vinter* judgment. In *Bieber*, the Court authoritatively defined the constitutional boundaries of incarceration:

"40. The legitimate objects of imprisonment are punishment, deterrence, rehabilitation and protection of the public. Where a mandatory life sentence is imposed in respect of a crime, the possibility exists that all the objects of imprisonment may be achieved during the lifetime of the prisoner. He may have served a sufficient term to meet the requirements of punishment and deterrence and rehabilitation may have transformed him into a person who no longer poses any threat to a public. If, despite this, he will remain imprisoned for the rest of his life it is at least arguable that is inhuman treatment."

23. Having examined the constitutional scheme, the statutory framework governing remissions, the comparative jurisprudence, and the factual matrix of the present case, we are of the considered view that the petitioner has failed to establish any legal entitlement to the relief sought and violation of fundamental rights as provided in the Constitution. There can be no cavil with the proposition that the modern philosophy of punishment recognises reformation and rehabilitation as important objectives of the criminal justice system. The remission regime embodied in the Pakistan Prison Rules, 1978, reflects this reformatory approach by creating an incentive-based mechanism through which prisoners may earn reductions in sentence on account of good conduct, industry, and educational advancement. Equally, however, the law maintains a careful balance between the rehabilitative interests of the prisoner and the

societal interest in ensuring that judicially imposed sentences retain their deterrent, retributive, and denunciatory force. The Comparative jurisprudence and authorities relied upon affirm that the executive clemency and remission must operate within the framework prescribed by law and that the objectives of punishment and public protection must remain paramount. These decisions reinforce the principle that reformation should be encouraged, but not at the expense of the statutory limits enacted by the Legislature.

24. Under the Pakistani legal framework, the remission system is neither absolute nor unregulated. While Rule 199 and Rule 212, 213, 215, 216 of the Pakistan Prison Rules, 1978, enables prisoners to become eligible for remission through good conduct, industry and appearance in the enlisted examinations, Rule 217 expressly circumscribes the extent to which such remissions may operate. In the case of a prisoner sentenced to imprisonment for life, Rule 217(ii) unequivocally mandates that the cumulative effect of all remissions shall not reduce the actual period of imprisonment to less than fifteen years. This statutory restriction is mandatory in nature and admits of no exception save where the sentence is lawfully altered in the exercise of constitutional or statutory powers by the competent authority. Applying the above principles to the facts of the present case, it is evident that the computation reflected in the nominal roll of petitioner *Suba Khan* is prima facie inconsistent with the governing statutory scheme. The record demonstrates that, at the time of preparation of the nominal roll, the petitioner had actually undergone only 9 years, 4 months, and 19 days of imprisonment, yet remissions amounting to 15 years, 7 months, and 18 days had been credited to his account, thereby leaving only 5 months and 23 days of imprisonment to be served. Such computation has the practical effect of reducing the petitioner's actual period of incarceration to substantially below the statutory minimum prescribed by Rule 217(ii), and Rule 140 of the Rules 1978 thereby defeating the legislative intent underlying the remission framework. A remission granted or computed in derogation of the express provisions of the Prison **Rules** cannot confer an enforceable legal right, nor can this Court lend its imprimatur to an administrative action that travels beyond the authority conferred by law. The rule of law demands that executive authorities administer remissions faithfully within the limits prescribed by the Legislature.

Judicial sympathy cannot be permitted to override statutory commands, particularly where the sentence relates to an offence punishable with heinous crimes and the Legislature has consciously prescribed safeguards to ensure that a sentence of imprisonment for life retains its substantive penal content. To hold otherwise would not only undermine the integrity of the sentencing process but would also erode public confidence in the fair and lawful administration of criminal justice.

25. Consequently, for the reasons recorded hereinabove, the instant petition is found to be without merit and is hereby dismissed.

Judge

Judge

Islamabad
Announced on: _____
Zahid Hussain/Ihtaram Ul Haq*
Approved for Reporting