

FCC Clarifies Section 8 IRA 2012: Up to 25% of a Trade Union Executive May Be Non-Workmen

The Federal Constitutional Court held that Section 8(1)(d) of the Industrial Relations Act, 2012 requires at least 75% of a trade union executive to be workmen from the relevant establishment or industry, but permits the remaining up to 25% to include non-workmen.

Federal Constitutional Court judgment analysis
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Case: C.P.L.A. No. 1285-K of 2023

Court and date: Federal Constitutional Court of Pakistan | 25 September 2026

Bench: Justice Syed Hasan Azhar Rizvi and Justice Muhammad Karim Khan Agha

Result: Appeal allowed; Sindh High Court judgment set aside; non-workmen permitted within the remaining up to 25%, subject to union constitution and other law

What the Federal Constitutional Court held

The Federal Constitutional Court of Pakistan has held that the remaining twenty-five percent of a trade union executive contemplated by the proviso to Section 8(1)(d) of the Industrial Relations Act, 2012 need not be workmen. That permitted portion may include people who are not workmen and who are not employed in the establishment or industry for which the union was formed.

The controlling rule has two parts. At least seventy-five percent of the executive must be workmen actually engaged or employed in the relevant establishment, establishments or industry. The remaining portion—up to twenty-five percent—may be drawn from outside that category.

The outside component is optional, not compulsory. A union may choose an executive composed entirely of workmen from the relevant establishment or industry, or it may use some or all of the permitted twenty-five percent for outsiders.

Any outsider's eligibility is still subject to the trade union's constitution and every other applicable provision of law. The Court therefore did not declare that Muhammad Akhlaq Khan was automatically eligible in every respect. It directed that his individual eligibility be determined according to the interpretation it had declared.

Leave to appeal was granted, the appeal was allowed, the Sindh High Court judgment dated 29 August 2023 was set aside, and the petitioner's constitutional petition was allowed in those terms.

The dispute over the KESC Labour Union election

Muhammad Akhlaq Khan had worked for Karachi Electric Supply Company, now K-Electric, and had previously been elected Chairman of the KESC Labour Union. After his retirement, objections were raised to his continued eligibility to contest union elections. The objections relied on his no longer being an employee or workman of K-Electric and on his status as an advocate.

The litigation passed through the Registrar of Trade Unions, a Single Member and the Full Bench of the National Industrial Relations Commission, and the Sindh High Court. A Single Member of the NIRC had found no material showing him to be ineligible, but the Full Bench later set aside that order in the course of election proceedings.

The Sindh High Court held that because the petitioner was no longer a K-Electric employee or workman, he could not contest even within the remaining twenty-five percent of the union executive. The central question

before the Federal Constitutional Court was whether that reading of Section 8(1)(d) was correct.

The statutory question under Section 8(1)(d)

Section 8(1)(d) requires a trade union's constitution to provide for an executive that includes not less than seventy-five percent from among workmen actually engaged or employed in the establishment, establishments or industry for which the union has been formed.

Its proviso states that the condition of being employed in such establishment or industry does not apply to the remaining twenty-five percent of the executive.

The competing interpretations were:

- the remaining members must still be workmen, although they need not work in the particular establishment or industry; or
- the remaining members may also be non-workmen and outsiders.

The Court adopted the second interpretation. It held that the phrase describing the compulsory seventy-five percent is a composite expression identifying one class: workmen actually engaged or employed in the relevant establishment or industry. It should not be broken into two independent qualifications so that the proviso removes only employment in the particular establishment while preserving a separate requirement that every executive member must remain a workman.

Why the proviso has real legal effect

The Court treated the proviso as clarificatory. It makes explicit that the employment condition governing the minimum seventy-five percent does not govern the remaining part of the executive.

The Court rejected a construction that would deprive the proviso of practical purpose. A statutory addition must ordinarily be given meaning rather than treated as redundant. If every member of the executive still had to be a workman, the carefully maintained distinction between the mandatory seventy-five percent and the remaining twenty-five percent would be substantially emptied of effect.

The statutory wording also uses “not less than” seventy-five percent. This sets a minimum rather than prescribing two compulsory blocks. The executive may therefore contain more than seventy-five percent relevant workmen, including one hundred percent. Outsiders can occupy only the balance that remains within the maximum twenty-five percent.

Legislative history of the 75/25 structure

The Court traced the statutory scheme from the Trade Unions Act, 1926 through later amendments and industrial-relations laws.

The original 1926 Act required at least half of the officers to be persons engaged or employed in the relevant industry. The 1960 amendment shifted the balance in substance to seventy-five/twenty-five by limiting people outside the industry to twenty-five percent. The 1961 amendment retained that structure and required outsiders to be paid full-time trade union workers. The West Pakistan Trade Unions Ordinance, 1968 followed a similar model.

The Industrial Relations Ordinance, 1969 retained the requirement that seventy-five percent come from relevant workers but did not reproduce the former qualification that outsiders must be paid full-time trade union workers. The 2002 Ordinance and 2008 Act substantially continued that formulation.

The Industrial Relations Ordinance, 2011 then added an express proviso exempting the remaining twenty-five percent from the employment condition. Section 8(1)(d) of the 2012 Act reproduced that proviso. The Court considered this express addition significant and refused to treat it as purposeless.

Earlier restrictive cases were not followed

The Sindh High Court had relied on *Habib Sugar Mills Ltd v Registrar of Trade Unions* (2001 PLC 441). The Federal Constitutional Court found its reasoning unpersuasive. That case had interpreted the Industrial Relations Ordinance, 1969, which did not contain the express proviso now found in the 2012 Act.

The Court also disagreed with *Muhammad Munir v Registrar, Industry-Wise Trade Unions, NIRC* (2014 PLC 159), which had treated “workman” and employment in the relevant establishment as two independent

qualifications. The Federal Constitutional Court held that the statutory phrase must be read as a whole, together with the proviso and the wider scheme.

Raja Muhammad Mumtaz v NIRC (2010 TD (Labour) 113) did not alter that conclusion because it substantially followed Habib Sugar Mills. The later refusal of leave to appeal in Raja Muhammad Mumtaz did not itself examine or decide the interpretive issue.

The Court instead found support in authorities recognizing that the permitted portion of a union executive may be drawn from outsiders, including Fauji Sugar Mills v Registrar of Trade Unions (2000 PLC 616), Standard Printing Press v Workers' Union (1974 PLC 275), Crescent Textile Mills Workers' Union v Punjab Labour Appellate Tribunal (2000 PLC 453), and Coca Cola Beverage Pakistan Ltd v Registrar Trade Unions (2010 PLC 48).

Why limited outside leadership is permitted

The Court identified a practical purpose behind the rule. A union executive may have to negotiate legal, financial, technical and other specialized questions with management. Subject to the union constitution and applicable law, workers may consider it useful to choose lawyers, accountants, academics, retired executives, or people with relevant industry experience for part of the executive.

An outsider may also be less exposed than serving employees to workplace pressure or retaliation. At the same time, the statutory minimum preserves control predominantly in the hands of workmen actually employed in the relevant establishment or industry.

Section 8(1)(d) therefore balances two interests: workforce control through the compulsory seventy-five percent and freedom to obtain limited independent assistance through the remaining up to twenty-five percent.

Freedom of association and ILO standards

The Court read the provision against Article 17 of the Constitution, Section 3(c) of the 2012 Act, and Pakistan's ratification of ILO Conventions Nos. 87 and 98. Section 3(c) recognizes the right of workers' and employers' organizations to elect representatives in full freedom.

The Court referred to principles developed by the ILO Committee on Freedom of Association. Those principles favour leaving eligibility for union office to union constitutions and caution against blanket occupational requirements that allow dismissal or departure from employment to end a person's union role automatically.

The judgment carefully limited the status of that material. ILO committee conclusions are persuasive aids, not judgments of a court, and they cannot override clear legislation. International standards may help resolve ambiguity where domestic wording permits, but clear municipal law must still be applied.

This interpretive approach also reflected the beneficial character of the Industrial Relations Act. The Court declined to import a qualification that Parliament had not written and that would unnecessarily restrict workers' choice within the statutory limit.

Outsiders are permitted, not guaranteed office

The decision does not create an independent statutory right for any outsider to occupy a union position. It creates legal space within which the union may choose eligible outsiders.

Three limits remain important:

- no more than the available twenty-five percent may fall outside the compulsory class;
- the union constitution may regulate or restrict who can hold office; and
- every other applicable legal disqualification continues to operate.

The Court's ruling therefore answers the category question but does not eliminate the need to examine the candidate, the union constitution, the office contested, the executive's full composition and any other governing law.

The ruling on Muhammad Akhlaq Khan's eligibility

The Court held that being a non-workman could not by itself exclude Muhammad Akhlaq Khan from the remaining twenty-five percent. His eligibility had to be reconsidered under the correct construction of Section 8(1)(d).

The judgment should not be overstated as a finding that every disputed document concerning his employment or professional status was proved, or that no other lawful objection could be raised. The operative declaration was that the permitted twenty-five percent need not consist of workmen; individual eligibility remains a separate inquiry under the union constitution and other law.

No judicially created maximum age

The Court noted that the Industrial Relations Act, 2012 does not prescribe a maximum age for a person seeking election within the permitted outside component.

It declined to create an age limit judicially because that is a matter for the legislature under the separation of powers. The Court nevertheless recommended that Parliament consider a maximum age in the range of sixty-five to seventy years, together with an appropriate physical and mental fitness requirement.

That observation is a legislative recommendation, not a presently enforceable age restriction. Until legislation is enacted, it should not be presented as if the Court itself imposed a retirement age on union office-bearers.

Practical effect for trade unions and election authorities

Trade unions covered by the Industrial Relations Act, 2012 should review their constitutions and election procedures against the judgment. The composition test is numerical and legal: at least seventy-five percent must come from the protected statutory class, while the balance may include outsiders only if the union's own constitution and other law allow them.

Election officers, the Registrar of Trade Unions and the NIRC should not reject a candidate solely because that person is not a workman where the candidacy falls within the available outside portion. They must examine the complete executive composition and the union's governing documents.

Unions are equally free not to use the outside allowance. The judgment protects choice; it does not require a quota to be filled by lawyers, former employees or any other external category.

Final order and precedential value

In Muhammad Akhlaq Khan v National Industrial Relation Commission and others, C.P.L.A. No. 1285-K of 2023, the Federal Constitutional Court granted leave, allowed the appeal, set aside the Sindh High Court judgment dated 29 August 2023 and allowed the constitutional petition.

The Court declared that the remaining twenty-five percent contemplated by the proviso to Section 8(1)(d) are not necessarily required to be workmen and may include non-workmen. The petitioner's individual eligibility must be determined accordingly, subject to the union constitution and other applicable law.

The case was heard on 1 September 2026, announced in open court at Islamabad on 25 September 2026, and approved for reporting. The judgment was authored by Justice Muhammad Karim Khan Agha on a bench with Justice Syed Hasan Azhar Rizvi.

This commentary is independent legal analysis for research and general information. The complete judgment, the relevant union constitution, the numerical composition of the executive, other applicable law and any later judicial treatment should be checked before reliance in proceedings.