

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

**C.P No.D-6312 of 2020**

*[Zubaida Bibi v. Federation of Pakistan and others]*

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Before:

*Mr. Justice Yousuf Ali Sayeed;*

*Mr. Justice Abdul Hamid Bhurgri.*

1. For orders on office objections.
2. For hearing of main case.

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**Date of hearing:- 22.09.2025**

Mr. Qaim Ali Memon, Advocate for the petitioner.

Mr. Sanaullah Noor Ghouri, Advocate for respondents No.2&3.

Ms. Zahrah Sehr Vayani, D.A.G.

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***Abdul Hamid Bhurgri, J.-*** The petitioner seeks direction for the release of the pensionary benefits of her deceased husband.

2. It is the petitioner's case that her late husband, Lazar Masih, was employed by the Civil Aviation Authority in the capacity of G.S. Attendant (Head Staff), Grade SG-4, and retired from service in the year 2017. Upon his retirement, a cheque in the sum of Rs. 3,468,408/- was handed over to him, purportedly for the purpose of family support. The petitioner contends that her husband never executed any written authorization that could indicate that the said amount constituted a full and final settlement of his pension entitlement, as is now being claimed by the respondents. She further asserts that her husband was induced into signing an agreement under the so-called "Golden Handshake Scheme", wherein he was assured of receiving a lump sum commensurate with his over 30 years of service-his initial appointment having been made on 29.09.1986. Based on his then monthly salary of approximately Rs. 68,000/-, the petitioner states that her husband was led to believe he would receive an amount in the region of Rs. 2 Crore. However, he was instead handed the aforementioned cheque. Following her husband's death on 6 March 2018, the petitioner approached the respondents seeking disbursement of pension benefits. At that time, she was allegedly required to place her thumb impression on a blank paper and, at the respondents' direction, opened a bank account at the National Bank. Despite these steps, the respondents declined to

release any pension, contending that the deceased had opted into the Golden Handshake Scheme and had thereby relinquished his entitlement to a monthly pension. The present petition has thus been filed to contest that decision.

3. In their respective para-wise comments, Respondents Nos. 2 and 3 have asserted that upon superannuation, the deceased was presented with three options: (i) 65% Pension and 35% Commutation; (ii) 100% Pension; or (iii) 100% Commutation with Medical Benefits. It is stated that the deceased chose the third option and submitted a written undertaking to that effect. He is said to have executed the requisite pension documents and, pursuant thereto, received a lump sum payment in full and final settlement of his service benefits, as per the terms of the third option. The respondents further submit that, under the applicable pension rules, there is no provision for reopening such cases once finalized. It is also stated that the deceased received a further sum of Rs. 62,497/- on account of General Provident Fund (G.P. Fund), and therefore, the petitioner has no surviving entitlement to monthly pension. Additionally, the respondents argue that the petition is liable to be dismissed on the ground of laches.

4. We have heard learned counsel for the petitioner and have perused the record with care.

5. From the material placed before this Court, it is evident that the petitioner's husband, during his lifetime, never challenged the disbursement made to him upon retirement, nor did he raise any objection to the execution of documents under the Golden Handshake Scheme. The records reflect that he opted for the third retirement option, i.e., 100% commutation along with medical benefits, and received the lump sum settlement accordingly. No contemporaneous protest, objection, or legal recourse was undertaken by the deceased during his lifetime to dispute the nature or adequacy of the settlement amount.

6. The assertions made by the petitioner, including allegations of inducement, misrepresentation, or lack of informed consent, are purely oral and unsupported by any documentary evidence. In contrast, the respondents have produced on record signed documents and forms which, on their face, demonstrate the deceased's voluntary exercise of the third option, thereby forgoing the right to a monthly pension. The dispute as framed by the petitioner

thus involves questions of fact, which cannot be satisfactorily adjudicated in constitutional jurisdiction without recording evidence.

7. It is a settled principle that where a petitioner's claim rests on disputed facts requiring a factual inquiry and determination of credibility, particularly where one party relies on oral assertions and the other on documentary evidence, the appropriate course lies before a competent civil forum. Reliance is placed on the case of **Jameel Qadir and another v. Government of Balochistan, Local Government Rural Development and Agroviles Department, Quetta through Secretary and others (2023 SCMR 1919)**, wherein the Honourable Supreme Court has held as under:-

*“13. The writ jurisdiction of the High Court cannot be worn out as a solitary way out or remedy for aerating all sufferings and deprivations. The doctrine of exhaustion of remedies stops a litigant from pursuing a remedy in a new court or jurisdiction until the remedy already provided under the law is exhausted. The underlying principle accentuated in this doctrine is that the litigant should not be encouraged to circumvent or bypass the provisions assimilated in the relevant statute. The extraordinary jurisdiction of the High Court under Article 199 of the Constitution cannot be reduced to an ordinary jurisdiction of the High Court. It is a well settled exposition of law that disputed questions of facts cannot be entertained and adjudicated in the writ jurisdiction. The expression "adequate remedy" signifies an effectual, accessible, advantageous and expeditious remedy.”*

8. As far as, controversial question is concerned, this Court relied upon in the case of **Mst. Kaniz Fatima through legal heirs v. Muhammad Salim and others (2001 SCMR 1493)**, has held as under:-

*“Even otherwise such controversial question could not be decided by High Court in exercise of powers as conferred upon it under Article 199 of the Constitution of Islamic Republic of Pakistan.”*

Similarly in case of **Anjuman Fruit Arhtian and others v. Deputy Commissioner, Faisalabad and others reported in 2011 SCMR 279** following observation were made.

*“The upshot of the above discussion is that learned single Judge in chambers as rightly declined to exercise his constitutional jurisdiction in view of various controversial questions of law and facts which can only be resolved on the basis of evidence which cannot recorded in exercise of constitutional jurisdiction. The petition being devoid of merit is dismissed and leave refused.”*

9. In view of above discussion, this Court, in exercise of its constitutional jurisdiction, is not equipped to undertake a detailed factual probe or test the veracity of contested facts through cross-examination or trial.

10. For the foregoing reasons, the petition is found to be devoid of merits and accordingly is dismissed. The petitioner, however, shall remain at liberty to avail appropriate remedies in accordance with law, if so advised.

JUDGE

JUDGE

Ayaz Gul