

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No. D-2655 of 2022

[Mst. Shamim v Government of Sindh and Others]

Date	Order with signature of Judge(s)
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Before:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Muhammad Hasan Akbar

Date of hearing and Order: 20.05.2026

M/s. Abdul Samad Khattak & Ghulam Rasool Khatak advocates for the Petitioner.

Mr. Muhammad Nishat Warsi advocate for Intervener

Mr. Sajid Hussain Shar advocate for Respondent No.2 Katchi Abadi

Mr. Abdul Jalil Zubedi, Addl. A.G

ORDER

Adnan-ul-Karim Memon, J. – The petitioner filed this Constitution Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking release of widow pension and allied pensionary benefits withheld by the respondents after the death of her husband, Abdul Khaliq, on 24.03.2010 and the same was disposed of vide order dated 15.09.2022, with directions to the petitioner to file the requisite affidavit, whereafter the respondent authority was directed to expeditiously process and release the pensionary benefits.

2. Learned counsel for the intervener filed applications seeking impleadment as a party to the proceedings as well as an application under Section 12(2), C.P.C., opposing the grant of pensionary benefits to the petitioner on the premise that the petitioner had falsely claimed herself to be the widow of the deceased, Abdul Khaliq, who, according to the intervener, died unmarried. Learned counsel further submitted that the petitioner had misrepresented facts before this Court and had sought the release of the widow's pension without impleading other legal heirs of the deceased. It is urged that the intervener, being the real brother of the deceased, asserted that the pensionary benefits and other related amounts should be deposited with the Nazir of this Court pending adjudication of Civil Suit No. 501/2019 concerning the estate of the deceased. He accordingly prayed that the pending applications be allowed. And the earlier order be recalled obtained based on misrepresentation of facts and fraud.

3. Learned counsel for the petitioner refuted the allegations of the intervener and also denied all allegations of fraud and maintained that sufficient documentary evidence establishing the marital status of the petitioner is already available on record. It was also submitted that the pending SMA filed by the intervener has neither been numbered nor admitted, and no restraining order exists against the release of the widow's pension. He submitted that the petitioner is the legally wedded wife of the deceased, having contracted marriage on 28.07.2006 in

accordance with Muslim Personal Law, duly supported by Nikahnama, CNIC, and Family Registration Certificate. It was contended that despite the submission of all requisite documents, the respondents failed to release her widow's pension, causing severe financial hardship, particularly as she has remained unmarried and has no independent source of income. It was further argued that a widow's pension is exclusively payable to the widow and does not form part of the estate of the deceased. He submitted that the intervener never challenged the Nikahnama, CNIC, and Family Registration Certificate before any court of law; as such, he cannot be impleaded as a party in a disposed of matter and prayed to dismiss the application(s) with costs.

4. In view of the controversy regarding the marital status of the petitioner and entitlement to pensionary benefits, the competent authority of the respondent department was directed to place on record the legal status of the deceased vis-à-vis the petitioner, including details of any nomination or pension-related documents submitted by the deceased during his lifetime.

5. Subsequently, vide order dated 25.03.2026, learned counsel for respondent No.2 placed on record a report submitted by the Director (HR&C), Human Settlement Authority/Katchi Abadi Authority, stating that deceased employee Abdul Khaliq, Ex-Director (BS-19), expired on 24.10.2010 and no nomination in favour of any spouse was found in the official record during his service tenure. It was further reported that after the death of the deceased, his brother and sisters approached the Authority claiming to be the legal heirs, whereas Mst. Shamim also approached the Authority through counsel, claiming herself to be the widow of the deceased, thereby creating a dispute regarding entitlement. The report further disclosed that pursuant to the order passed by this Court on 14.01.2026, the pensionary benefits amounting to Rs. 2,095,794/- were deposited with the Nazir of this Court on 10.02.2026. Regarding monthly pension arrears, it was stated that no succession certificate, proof of heirship, or determination by a competent court has yet been produced by any claimant; therefore, the Authority is unable to release the arrears to any party unless directed by this Court upon determination of lawful entitlement.

6. We have heard the learned counsel for the parties on the listed application(s) and perused the record with their assistance.

7. In view of the rival contentions, the record reveals that the petitioner's claim is based on a duly registered Nikahnama, CNIC, and Family Registration Certificate, which, at present, remain unchallenged and have not been cancelled, declared fake, or set aside by any competent court. The petitioner has consistently denied all allegations of fraud and misrepresentation and maintained that she is the legally wedded wife and, therefore, entitled to a widow's pension and allied benefits as per the applicable rules.

8. The intervener, on the other hand, has sought impleadment and moved an application under Section 12(2), C.P.C., alleging that the petitioner fraudulently projected herself as the widow of the deceased, Abdul Khaliq, who, according to him, died unmarried. However, it is an admitted position that the separate civil suit bearing No. 501/2019 is still pending adjudication, and no final determination has been made therein regarding the status of legal heirs. It is further noted that the document relied upon by the petitioner, including Nikahnama and allied records, has not been challenged in any competent forum by the intervener through declaratory proceedings, nor has any restraining order been brought on record against their validity.

9. It is also evident from the official report that no nomination in favour of any spouse exists in the service record of the deceased, and after his death, competing claims were raised by the brother and sisters on one side and by the petitioner claiming to be widow on the other, thereby creating a dispute which has already led to deposit of the pensionary benefits with the Nazir of this Court. However, such a deposit pertains only to safeguarding the amount pending final adjudication of entitlement and does not, in itself, determine the substantive rights of the parties.

10. Importantly, the intervener's SMA has not yet been numbered or admitted, and no interim or final restraining order exists that could suspend the petitioner's claim arising from her documented marital status. The mere pendency of civil litigation or assertion of rival claim, without any judicial determination discrediting the petitioner's status, is not sufficient to dislodge prima facie documentary entitlement.

11. In these circumstances, until the petitioner's marital status is set aside by a competent court or the documents relied upon are declared invalid, the presumption of validity attaches to the official record produced by her. Consequently, for the limited purpose of release of service benefits, the petitioner's entitlement as a widow cannot be disregarded based on unsubstantiated allegations alone.

12. Accordingly, the applications filed by the intervener seeking impleadment, recall of the main order under Section 12(2), C.P.C., are dismissed for being devoid of merit. The petitioner's entitlement to a widow's pension and service shall be released upon proper verification and identification by the Nazir and the respondent department. However, the Nazir shall obtain an undertaking/bond from the petitioner to the effect that in case of any contrary final determination by a competent court in appropriate proceedings, she shall refund the amount so received.

JUDGE

JUDGE