

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-1056 of 2024
(*Syed Zahid Hussain versus Province of Sindh & others*)

Date	Order with signature of Judge
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Before:-
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Hasan (Akber)

Date of hearing and order: 18.5.2026

Mr. Muhammad Aqil advocate for the petitioner
Mr. Abdul Jalil Zubedi, Additional AG alongwith
Syed Ali Ahmed Zaidi, Additional AG
M/s Rehmat-un-Nisa and
Mr. Naseer Ahmed advocates for the respondent / KDA

ORDER

Adnan-ul-Karim Memon, J. Petitioner Syed Zahid Hussain has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking directions to respondents No.4 and 5 to release his payment of retirement / pensionary benefits with leave encashment of BS-18.

2. Learned counsel for the Petitioner submitted that the Petitioner was appointed as Junior Clerk in 1974 and during the course of service was promoted from time to time up to BPS-18. He argued that the Petitioner served honestly and efficiently and even after devolution remained posted in various offices of CDGK/Commissioner Karachi. He further submitted that the Petitioner was promoted in BPS-17 in 2005 and later recommended/promoted in BPS-18 vide notification dated 16.08.2013 with effect from 28.09.2011, though the notification was issued after his retirement. Learned counsel contended that despite retirement on 15.04.2013, the Petitioner has not been paid pensionary and retirement benefits, including leave encashment. He submitted that numerous representations were submitted by the Petitioner from 2017 onward, but no response was received from the authorities. He maintained that withholding pensionary benefits for such a long period is illegal, unconstitutional, and violative of the settled law laid down by the Honourable Supreme Court in *Prof. Ghazi Jakhrani v. Province of Sindh (PLD 2007 SC 35)*, wherein directions were issued for expeditious settlement of pension cases. He therefore prayed that the Respondents be directed to release all retirement and pensionary benefits along with leave encashment according to BPS-18.

3. On the other hand, the learned Additional Advocate General appearing for Respondent No.3/Commissioner Karachi submitted that although certain factual aspects regarding the Petitioner's service record are admitted, the Petitioner had

drawn salary against posts borne on the KDA Wing/CDGK establishment. It was argued that the Revenue Department and KDA/CDGK had separate administrative and financial structures, and since the Petitioner continuously drew salary from the KDA Wing and also retired from that establishment, liability for pensionary benefits rests upon Karachi Development Authority and not upon the office of the Commissioner Karachi. It was further submitted that upon receipt of the Petitioner's application, the Commissioner Karachi had already written to the Director General KDA on 05.04.2024 for redressal of the grievance in accordance with law. Respondent No.2/Board of Revenue also adopted a similar stance and submitted that the Petitioner was not born on the strength of the Board of Revenue. It is submitted that matters relating to pension, leave encashment, and other retirement benefits fall within the domain of Karachi Development Authority, as the Petitioner remained a permanent employee of KDA Wing/CDGK and continuously drew salary from that budgetary head. It was therefore prayed that the matter be disposed of by directing the competent authority/KDA to settle the Petitioner's pensionary claims in accordance with law.

4. Learned counsel for Respondent No.4/Karachi Development Authority submitted that the Petitioner was never an employee of KDA and, therefore, no liability regarding pensionary or retirement benefits could be fastened upon KDA. He argued that although the salary of the Petitioner was adjusted against a vacant post in KDA Wing/CDGK as a stop-gap arrangement, the Petitioner continued to serve under the administrative control of the Commissioner Karachi/Board of Revenue, Government of Sindh. Learned counsel further contended that the Petitioner retired from the office of Commissioner Karachi on 15.04.2013, and his entire service record was maintained by the Board of Revenue and not by KDA. It was submitted that the averments made in the petition, particularly regarding service matters and retirement benefits, do not relate to or concern KDA. On these grounds, learned counsel prayed that the petition, insofar as it relates to Respondent No.4/KDA, is not maintainable and is liable to be dismissed.

5. We have heard the learned counsel for the parties and perused the available record.

6. Article 260 (1) of the Constitution of the Islamic Republic of Pakistan, 1973, the term "pension" is broadly defined to include any kind of pension or gratuity payable to or in respect of any person, including retired pay and provident fund benefits. Pension is a recurring post-retirement payment made under statutory rules to a retired employee in recognition of past service. The amount is usually calculated based on qualifying service and the last pay drawn. Besides, a pension is a continuing statutory right, whereas gratuity is a one-time lump-sum

terminal benefit payable upon retirement. Both are retirement benefits earned through service, differing only in their nature and mode of payment.

7. Under the service laws and pension rules, a pension ordinarily includes a superannuation pension, retiring pension, compensation pension, invalid pension, family pension, and gratuity and commutation benefits where applicable.

8. It is an admitted position that the Petitioner initially entered Government service in KDA in the year 1974 and served in different capacities in the respondent departments till attaining the age of superannuation on 15.04.2013. It is also not disputed that the Petitioner was promoted to BPS-17 and subsequently promoted/notified in BPS-18 vide notification dated 16.08.2013 with effect from 28.09.2011.

9. We are surprised, rather shocked to know that despite a lapse of more than a decade after retirement, the Petitioner has neither been issued a formal retirement notification nor paid pensionary/retiral benefits, including leave encashment. The stance adopted by the Respondents reflects that instead of resolving the grievance of a retired Government servant, the departments have been shifting responsibility among themselves on technical and administrative grounds.

10. This Court is of the considered view that pensionary benefits are not a bounty or favour; they are vested and accrued rights of a retired civil/public servant earned after rendering long years of service to the State. The failure of the concerned authorities to finalize the pension case of the Petitioner since 2013 depicts sheer negligence, inaction, and administrative apathy on the part of the concerned officials. The conduct of the Respondents is also in clear violation of the law laid down by the Honourable Supreme Court of Pakistan in *Prof. Ghazi Jakhriani*, wherein it was categorically held that pensionary and retirement benefits must be settled expeditiously and unnecessary delay amounts to dereliction of official duty and criminal negligence. The Honourable Supreme Court held that pension and retirement benefits are vested legal rights of a retired government servant and not a bounty or favour. The Supreme Court observed that unnecessary delay in the release of pensionary benefits due to administrative negligence, bureaucratic lethargy, or inter-departmental disputes is unconstitutional and violative of the fundamental rights guaranteed under Articles 9 and 14 of the Constitution. It was further held that retired employees, after rendering lifelong service to the State, cannot be made to suffer because of the inefficiency of public officials. The Supreme Court directed all concerned authorities, including Chief Secretaries and Accountant Generals, to ensure expeditious settlement of pension cases within the prescribed period and warned that delay in such matters would amount to dereliction of duty and criminal

negligence, for which responsible officers may be proceeded against in accordance with law. In such circumstances, the excuses advanced by the Respondents regarding inter-departmental liability cannot deprive the Petitioner of his lawful constitutional and statutory rights.

11. In these circumstances, the refusal of the respondents to grant service benefits to the petitioner, which action is found to be without lawful authority and not sustainable in law. This petition is disposed of with the directions that the Chief Secretary, Sindh, shall personally constitute a committee comprising senior officers of the concerned departments, including the Board of Revenue, Commissioner Karachi, Karachi Development Authority, and Accountant General Sindh, for immediate resolution of the matter. The said committee shall determine, within a period of thirty (30) days, the department legally responsible for settlement of the Petitioner's pensionary and retiral benefits and shall ensure issuance of retirement notification, finalization of pension papers, release of pension, gratuity, leave encashment and all other admissible retiral benefits of the Petitioner strictly in accordance with law within a further period of thirty (30) days thereafter.

12. The Chief Secretary, Sindh, is further directed to conduct an inquiry and fix responsibility upon the delinquent officials/officers whose lethargic, negligent, and indifferent conduct caused extraordinary delay and immense hardship to the Petitioner since his retirement in the year 2013. Appropriate departmental action shall be initiated against such responsible officials in accordance with the law. The compliance report shall be submitted to the Nazir of this Court within the stipulated period.

13. Meanwhile, the office shall issue a show-cause notice to the respondents No.3 and 4 in terms of the decision of the Supreme Court in the case of *Prof. Ghazi Jakhrani*. For further proceedings in the matter on the subject point. They shall appear in person to explain the delay in releasing the service benefits of the petitioner.

14. To come up after one week.

JUDGE

JUDGE