IN THE HIGH COURT OF SINDH, KARACHI

C. P. NO. D-1293 / 2025
(Mansoor Haque Solangi Vs. Federation of Pakistan & Others)

Present:
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing and order:- 11.08.2026.

M/s. Malik Naeem Iqbal & Imtiaz Mansoor Solangi,
Advocates for Petitioner.
Ms. Wajiha Mehdi, Deputy Attorney General.
Mr. Javed Asghar Awan, Advocate for Respondent.

O R D E R

Adnan-ul-Karim Memon, J. The Petitioner has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan seeking the following reliefs: -

> "a. That this Hon'ble Court may be pleased to direct the respondents to release the pensionary benefits to the petitioner without discrimination, as given to other similarly placed employees/colleagues, w.e.f 15.10.1970 to 21.12.2005. Reliance is placed on PLD 2007 SC 35
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> b. To set aside the impugned decision dated 07.02.2025 passed by the committee in pursuance of the order dated 11.12.2024 in CP No D-3613/2019."

2. The petitioner submits that, pursuant to the directions of this Court dated 05.01.2026/05.03.2026, the Nazir was required to examine his service profile and his contemporaries who received higher service dues and to obtain the claims and counterclaims regarding service benefits/pension for the period from 15.10.1970 to 21.12.2005. However, nothing has been done in this manner.

3. The petitioner states that he was initially appointed in PIDC on 15.10.1970 and subsequently selected for the post of Senior Manager Grade E-IV in Pakistan Automobile Corporation (PACO), where his earlier appointment was restored by the competent authority. Following privatization of the company on 13.01.1993, his request for repatriation was declined, and his services were terminated on 26.01.1995. He challenged the termination, and his appeal was allowed with reinstatement and back benefits; however, the Hon'ble Supreme Court, vide judgment dated 06.05.2004 reported as **2004 SCMR 1308**, maintained his reinstatement while disallowing back benefits for the intervening period. The

petitioner ultimately joined service on 09.01.2005 and retired on 21.12.2005 after approximately 35 years of service, but was paid only Rs.1,685,000/- as retirement dues. He claims that this treatment was discriminatory and contrary to Article 25(1) of the Constitution, particularly when compared with similarly placed employees, namely Ghulam Sarwar Baloch, who received Rs.14,598,346/-, Abdul Bari Khan, who received Rs.19,586,842/-, and Naseem-ul-Haq Satti, who received Rs.25,448,706/-. The petitioner relies upon the seniority list dated 23.02.1992, wherein he was placed at Serial No.1 while Ghulam Sarwar Baloch was at Serial No.25, and contends that despite his superior seniority, Baloch was promoted twice between 1993 and 2005, whereas the petitioner, after reinstatement, was neither granted promotion nor restoration of seniority and was retired in Grade E-V instead of the allegedly due higher grade. He further asserts that, while reinstatement ought to restore his original seniority and consequential benefits, he was deprived of provident fund contribution, earned leave/leave encashment, travelling/native-place fare, Benevolent Fund, Long Service Award, EOBI and vehicle-at-book-value benefits, among others. Relying upon the *I.A. Sherwani* case reported as **1991 SCMR 104**1 and the principles regarding restoration of seniority upon reinstatement, including **2021 SCMR 921** and **2007 SCMR 1769**, the petitioner therefore seeks a complete and comparative calculation of all service and retirement benefits from 15.10.1970 to 21.12.2005, on the same basis as extended to the aforesaid similarly placed employees, after adjusting the amount of Rs.1,685,000/- already received.

4. The petitioner's learned counsel submitted that, in compliance with the order dated 19.05.2026, the petitioner's service status and the amount claimed by him were being reconciled. He placed on record the relevant seniority list dated 13.02.1992, along with the particulars and breakup of pensionary/service benefits of similarly placed employees, in support of the petitioner's claim. He further submitted that the material documents, including the seniority record and statement of service benefits. The documents placed on record include the Ministry of Production's notification dated 23.02.1992 regarding circulation of seniority lists, the corresponding PACO communication dated 08.03.1992, and the seniority list showing the petitioner, amongst other similarly placed officers, with details of their appointments, designations, regular status and promotions. The counsel has also relied upon a statement of service benefits covering the period from October 1970 to December 2005. According to the statement, his total service was approximately 35 years, 2 months and 7 days, and the gratuity, leave salary and salary differential were calculated on the basis of the revised pay scale, resulting in a total amount of Rs.2,406,661. Learned counsel for the petitioner submitted that the petitioner's claim regarding service and retirement

benefits is supported by the record and that the documents placed on record demonstrate the manner in which similarly placed officers were dealt with and paid their service dues. In particular, the record contains payment vouchers and supporting documents showing the payment of gratuity and provident fund benefits to officers who had served in PACO/PIDC. It was further submitted that the petitioner, joined PACO on 30.06.1986 and retired on 21.12.2005 while serving as Senior Manager in Grade E-V. According to the comparative statement placed on record, he received Rs.1,685,000/- towards gratuity for more than 35 years of service, leave encashment and LFA. The petitioner seeks comparison of these benefits with those received by other management-grade officers who retired from PACO/PIDC. Learned counsel particularly relied upon the case of Mr. Ghulam Sarwar Baloch, who retired from PACO on 30.10.2010 after serving for more than 30 years and received Rs.14,598,346/- on account of gratuity, provident fund, LFA and leave encashment. Reference was also made to Abdul Bari Khan, who served in PACO before being transferred to PIDC, and to Naseem-ul-Haq Satti, whose service dues included gratuity and provident fund benefits. The comparative statement records service dues of Rs.25,448,706/- in respect of Mr. Satti. On this basis, learned counsel submitted that the petitioner's service dues require reconsideration in the light of the treatment accorded to similarly placed officers and the relevant service record. He prayed to allow this petition.

5. Learned counsel for the respondent-PACO submitted that primarily, the petitioner seeks entitlement to back benefits in comparison with other retired 3 officers of PACO. Learned counsel provided a chequered history of the litigation initiated by the petitioner and submitted that following his rejoining in January 2005, his salary was paid on an ad hoc basis and later regularized; he added that all arrears for 11 months and 21 days were cleared, with a final settlement of Rs.1,685,000/-, including gratuity and unavailed leave. He emphasized that prior claims for back benefits had been disallowed by the Supreme Court, and subsequent petitions were repeatedly dismissed by this Court on the aforesaid analogy. However, on intervention by this Court in earlier litigation, the committee, after examining records and judgments, concluded that the petitioner had received full and final settlement in accordance with the law, and any claims of discrimination were unfounded since other officers cited by the petitioner belonged to different grades or separate organizations. He added that his period of service with private companies and transferred entities was also considered, and his claim was rejected. He submitted that earlier petitions, including CP No.688 of 2005, CP No.5608 of 2014, CP No.3613 of 2019, CP No.1617 of 2025, and a civil suit resulting in a Rs.255 million decree in his favour, demonstrated the

petitioner's history of re-litigating settled matters; thus his present claims fall within the doctrine of res judicata. He emphasized that this Court consistently held that back benefits were not payable for periods already adjudicated, and PACO voluntarily paid all dues to the petitioner beyond what was legally required. He submitted that in CP No.1617 of 2025, this Court dismissed his service benefit claim on the grounds of prior adjudication and res judicata, while the petitioner submitted for reconsideration of the period counted for back benefits; however, this Court held that Supreme Court rulings disallowing such benefits could not be contradicted, and it was his responsibility to provide new evidence in the proper forum. However, the matter was further taken to the Supreme Court in CPLA No.967-K of 2025 against the decision taken in CP No.1617 of 2025 by this Court, where the petitioner's counsel contended that the period from his restoration to the Supreme Court's decision should not be counted for back benefits. The Supreme Court observed that this contention required consideration and directed notice to respondents, indicating that the case be placed before a three-member bench and still sub judice. Learned counsel also contended that the petitioner has once again surreptitiously challenged the same decision dated 07.02.2025, despite earlier proceedings, showing no deference to the orders of this Court. It was argued that the petitioner, after several years, has incorporated similar relief regarding pensionary benefits in the present petition, thereby frustrating the due process of law. According to the respondents, the petition is not maintainable under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, as the respondents are corporate entities without statutory service rules, and the matter is governed by the principle of master-servant relationship. It was further submitted that the petition is barred by the principle of Res Judicata in terms of Section 11 of the Code of Civil Procedure, as the issues have already been litigated in earlier constitutional petitions and civil proceedings. Learned counsel, therefore, prayed that the present petition be dismissed with punitive costs.

6. Learned counsel for the petitioner opposed the objections and submitted that the present petition has been filed only to seek lawful service benefits and for directions to the respondents to calculate and release the entire service dues without discrimination.

7. The controversy is confined to the petitioner's claim of service dues for his entire service from 15.10.1970 to retirement on 21.12.2005, therefore, we refer the matter to the Nazir of this Court to summon the petitioner and respondents and upon receipt of claims and counterclaims by the parties, the Nazir shall calculate the petitioner's entire service dues from the date of initial appointment till retirement, adjusting amounts already received by the petitioner. However, the

Nazir shall also secure the amount of service dues of the petitioner for final say of this Court by examining the service profile of all contemporaries of the petitioner, who retired by receiving higher service dues than the petitioner. This exercise was directed to be completed within one month, and a report shall be submitted to this Court.

8. In compliance, the matter was referred to the Deputy Nazir (Accounts) on 06.04.2026. The petitioner and Respondent No.2 submitted their respective claim and counter-claim. The petitioner initially submitted a statement without a quantified claim and subsequently furnished a revised claim. Respondent No.2 was also directed to clarify certain queries, which were duly answered. Upon examination of the record and supporting documents, substantial differences were found between the respective calculations. Accordingly, a comparative calculation sheet was prepared. According to the petitioner’s revised claim, gratuity was calculated at Rs.2,739,934/- on the basis of a basic salary of Rs.38,935/-. He further claimed Rs.2,300,000/- as interest and Rs.8,013,495/- as dividend on gratuity, making the total gratuity claim Rs.11,368,429/-, after which the amount already received, i.e. Rs.1,685,000/-, is to be adjusted. A further amount of Rs.4,425,129/- was claimed towards Provident Fund, resulting in a total claim of Rs.15,793,558/- under these two heads. The basis for the claimed interest and dividend could not, however, be substantiated despite being specifically asked for. The petitioner also claimed other benefits, including leave fare assistance, leave encashment, travelling/transfer fare to native place, Benevolent Fund, Long Service Award, EOBI and a 1300cc vehicle at book value. The petitioner relied upon the service benefits received by three other employees, namely Ghulam Rasool Baloch (Rs.14,598,346/-), Abdul Bari Khan (Rs.19,586,842/-), and Naseem-ul-Haq Satti (Rs.25,448,706/-), as a basis for comparison. Respondent No.2, on the other hand, calculated the petitioner’s service benefits at Rs.2,406,661/- on the basis of a basic salary of Rs.30,915/-. After adjustment of Rs.721,592/- settled with PIDC, the net amount payable was Rs.1,685,000/-, which had already been paid to the petitioner. Respondent No.2 further explained that the three employees relied upon by the petitioner belonged to a superior cadre and had received enhanced benefits pursuant to Board-approved seniority-based entitlements. According to Respondent No.2, the petitioner retired in a lower cadre and was therefore not entitled to comparison with those employees or to the additional benefits claimed. The respondent also relied upon the applicable rules and policies in support of its position. In conclusion, the substantial difference between the claim and counter-claim cannot be reconciled without first determining the petitioner’s exact post, cadre and corresponding entitlement under the applicable rules and policies.

9. The principal controversy, therefore, is not merely the arithmetical calculation of his retirement dues but the grade/cadre in which the petitioner was legally entitled to be treated at the time of his retirement and the consequential benefits flowing from such status in terms of his reinstatement in service. The petitioner asserts that, notwithstanding his seniority and reinstatement, he was denied restoration of seniority and consequential promotion and was ultimately retired in Grade E-V, whereas the employees relied upon by him had received substantially higher service benefits. On the other hand, Respondent No.2 maintains that those employees belonged to a superior cadre and that the petitioner, having retired in a lower cadre, cannot claim parity with them.

10. The Nazir's comparative calculation accordingly demonstrates that the petitioner's claim cannot be finally determined merely by comparing the amounts received by the three contemporaries and returned the matter for the aforesaid purposes.

11. In view of the foregoing discussion, the petitioner cannot be granted any back benefits or consequential monetary benefits for the intervening period in view of the binding judgment of the Hon'ble Supreme Court reported as 2004 SCMR 1308, whereby such benefits were expressly declined. Likewise, mere comparison with the amounts received by Ghulam Sarwar Baloch, Abdul Bari Khan and Naseem-ul-Haq Satti does not establish a violation of Article 25 of the Constitution unless the petitioner first establishes that he was similarly placed in terms of cadre, grade, designation, seniority, service status and applicable terms and conditions before the Committee.

12. Accordingly, the impugned decision dated 07.02.2025 cannot be sustained to the extent that it finally rejects the petitioner's surviving claim without undertaking a proper determination of his lawful cadre, grade, seniority and each component of his retirement dues. The respondents shall, from the original service record and the applicable rules, policies and terms of employment, establish the petitioner's legally admissible status at the time of retirement and calculate all retirement/service benefits accordingly. Such determination shall be undertaken by a Committee constituted by the Nazir of this Court, co-opted by a representative of the Accountant General Office, after affording the petitioner and the respondents due opportunity of producing the relevant record and making submissions. The amount of Rs.1,685,000/- already paid shall be duly adjusted, and if, upon such determination, any statutory, contractual or otherwise legally enforceable amount is found payable over and above the amount already received, the same shall be released to the petitioner in accordance with law. The petition is, therefore, disposed of in the above terms, without granting any back benefits or

any relief inconsistent with the binding judgment of the Hon'ble Supreme Court. The aforesaid exercise shall be undertaken within two months, and a report be furnished to this Court through the MIT-II of this Court.

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