

ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI  
C.P. No.D-5884 of 2025  
(Muhammad Saleem v Federation of Pakistan & others)

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Date Order with signature of Judge

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Before:-

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order:- 10.02.2026

Mr. Muhammad Ashique Raza advocate for the petitioner.

Ms. Aneeka, associate of Mr. Jawed Ahmed advocate for the respondent.

Ms. Wajiha Mehdi DAG

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**ORDER**

**Adnan-ul-Karim Memon, J.** – The petitioner has filed the captioned Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer: -

- a) To direct the Respondent No.2 to restore the family pension, which is for life for the disabled/special child of the employee of the Respondent No.2, in accordance with the Office Memorandum dated 10.09.2024, as enunciated in Regulation-II.*
- b) To direct the Respondent No.2 to compensate the petitioner for the unpaid family pensionary benefits from 01.07.2023 to date, which is outstanding with a markup 14% till the final disposal of this petition.*
- c) Grant any other relief deemed just and proper in the circumstances.*

2. The case of the Petitioner is that he is the real brother and lawful guardian of Muhammad Asif, a mentally incapacitated and blind special child, born on 01.01.1978. The father of the parties, Muhammad Malik, was appointed as a Driver in Pakistan Insurance Corporation (PIC) and served the Respondent No.2 with distinction until his honorable retirement on 03.03.1991. During his service, he was awarded long service awards in 1988 and 1992, including an Umrah ticket, in recognition of 34 and 37 years of service, respectively. He submitted that Muhammad Asif, being disabled since birth, remained wholly dependent upon his parents. After the death of his mother on 20.03.2008 and father on 22.12.2014, family pension was lawfully transferred to Muhammad Asif for life, in terms of applicable pension rules governing disabled/incapable children. A formal Office Memorandum dated 08.12.2015 sanctioned family pension amounting to Rs. 5,669/- per month. It is urged that the Petitioner was appointed as de jure and de facto guardian of Muhammad Asif through a Guardian Certificate issued by the learned District & Sessions Judge, Karachi West, and subsequently reaffirmed under the

Sindh Mental Health Act, 2013, vide order dated 31.10.2025, authorizing him to receive pension on behalf of the ward. Medical Boards constituted by the Court confirmed the permanent disability and blindness of Muhammad Asif.

3. It is submitted by the counsel for the petitioner that despite clear statutory protection, the Respondent No.2 arbitrarily and maliciously discontinued the family pension on 21.11.2023 without lawful justification. Repeated representations and legal notices dated 06.10.2023, 10.11.2023, 25.11.2024, and thereafter reminders dated 03.10.2025 and 01.11.2025 yielded no response. He argued that the discontinuation is patently illegal and violative of Section 4 of the National Insurance Corporation (Re-organization) Ordinance, 2000, which expressly safeguards existing service rights, pensionary benefits, and privileges of employees transferred from the Corporation to the Company. Furthermore, Finance Division Office Memoranda dated 15.06.1994 and 11.06.1995 unequivocally grant family pension for life to dependent disabled children without any age restriction. This protection was reaffirmed through the statutory SRO dated 14.02.2001 issued by the Ministry of Commerce. He submitted that in proceedings before the Federal Ombudsman, Respondent No.2 deliberately misrepresented applicable rules by relying upon age-based pension provisions, while suppressing the specific rules governing disabled children, thereby misleading the forum and acting in bad faith. It is urged that the impugned action has deprived Muhammad Asif of his sole source of livelihood and violates his fundamental rights guaranteed under Articles 2-A, 4, 8, 14, 18, 25, and 27 of the Constitution of the Islamic Republic of Pakistan, 1973. The Petitioner has no alternate efficacious remedy except to invoke the constitutional jurisdiction of this Court. He argued that the outstanding family pension from 01.07.2023 till date remains unlawfully withheld and continues to cause irreparable financial hardship. The Petitioner's counsel prays that this Court direct Respondent No.2 to restore the lifelong family pension of Muhammad Asif forthwith and to pay all outstanding pensionary dues from 01.07.2023 till date, along with markup at the rate of 14%, in accordance with law.

4. Learned Assistant Attorney General assisted by the learned counsel for the respondent company submits that the complaint bearing No. WMS-KHI/0000720/24 dated 19.01.2024, lodged by Mr. Muhammad Asif, was misconceived, factually incorrect, was rightly dismissed and the petitioner has remedy under the law as such this petition is liable to be dismissed. It is submitted that PRCL is a public sector listed company having its own duly approved Pension and Gratuity Rules, framed and sanctioned by its Board of Directors, which exclusively govern the service and pensionary matters of its employees and pensioners. Under Rule 14(b) of the Pension and Gratuity Rules applicable to staff cadre, family pension in case of death of a pensioner is admissible to sons only until they attain the age of 21 years. She

submitted that in the present case, petitioner was 37 years of age at the time of applying for family pension. The pension was allowed due to an apparent oversight by the concerned HR officers, in clear violation of Rule 14(b), and was therefore irregular and void ab initio. Upon scrutiny, the irregularity came to light, and consequently, the family pension was lawfully stopped with effect from September 2023. It is further submitted that in terms of para (2) of the office order dated 06.12.2015 issued by the HR Department of PRCL, any pension paid in excess or beyond entitlement is recoverable. Although an amount of Rs. 2,613,345/- was paid to the petitioner as family pension up to August 2023, which was/ is legally recoverable, the respondent company, considering the disability of the complainant, has exercised restraint and has not initiated recovery proceedings. Learned counsel further submits that the reliance placed by the petitioner on the “Revision of Basic Pay Scales and Fringe Benefits for Civil Employees (BS-1 to 22) of the Federal Government, 1994” is wholly misplaced, as PRCL has neither adopted the Federal Government Basic Pay Scales nor are the said rules applicable to PRCL. The petitioner has failed to produce any relevant or admissible document supporting his claim under the applicable PRCL rules. In view of the foregoing, it is submitted that the petition does not disclose any maladministration and is liable to be dismissed.

5. After hearing the learned counsel for the parties and perusing the record, we have noticed that the controversy revolves around the applicability and interpretation of pensionary rules governing the respondent company and the claim of lifelong family pension for a disabled child.

6. It is well settled that pension is not a bounty but a vested right, which accrues under the rules applicable at the time of service and retirement of an employee, and can neither be withheld nor altered except in accordance with law. It is well settled that pensionary benefits are protected rights and any deprivation thereof must strictly conform to the governing rules. However, it is equally settled that such rights are regulated by the specific service and pension rules applicable to the organization concerned. However, the Supreme Court held that autonomous and statutory corporations are governed by their own service rules, and reliance on Federal Government rules is misplaced unless expressly adopted. As such courts cannot import rules applicable to civil servants into autonomous bodies in the absence of adoption.

7. In the present case, the respondent company has categorically asserted that it is governed by its own Pension and Gratuity Rules duly approved by its Board of Directors, and that Rule 14(b) restricts entitlement of family pension to sons only up to the age of 21 years. The petitioner has not been able to place on record any provision of the respondent’s own rules which allows lifelong family pension to a

disabled son, nor any notification showing adoption of the Federal Government pension rules relied upon by him. Mere reference to Finance Division Office Memoranda or Federal Government SROs, without proof of their adoption by the respondent company, is insufficient in law.

8. The record further shows that the family pension was initially sanctioned due to an apparent administrative oversight and, upon scrutiny, was stopped when found to be contrary to the applicable rules. It is a settled principle that an illegality does not create a vested right and cannot be perpetuated based on past mistake; therefore, continuation of a benefit granted in violation of rules cannot be claimed as a matter of right.

9. At the same time, this Court is mindful of the settled principle that matters involving disabled persons require a humane and purposive approach. The constitutional guarantees must be interpreted to advance dignity and social justice. Nevertheless, sympathy alone cannot override explicit statutory rules, as repeatedly held by the superior courts.

10. In view of the above discussion, this Court finds that the petitioner has failed to establish a legal right to lifelong family pension under the applicable rules of the respondent company. The action of the respondent in discontinuing the pension, upon discovering that it was granted in violation of Rule 14(b), cannot be termed as arbitrary or unlawful. The reliance placed on Federal Government pension rules is misconceived, and no case of maladministration or violation of law is made out for invoking constitutional jurisdiction. However keeping in view the precarious condition of Muhammad Asif we deem it proper to dispose of the petition by considering the peculiar circumstances of the case and the disability of Muhammad Asif. The competent authority/ respondent company may examine the matter for any compassionate relief or policy-based assistance as may be permissible under law.

JUDGE

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