

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No.D-2954 of 2025
(Zahid Khan v Province of Sindh & others)

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:- 26.02.2026

Mr. Abdul Nabi advocate for the petitioner.

Mr. Waleed Khanzada Advocate for the respondent-KW&SC.

Mr. Abdul Jalil Zubedi, AAG

ORDER

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

- a) *Declare that the impugned action and objection raised by Respondent No.6 are illegal, arbitrary, unlawful, and void ab initio; declare that the petitioner's service from 17.06.1980 till 02.02.2024 was valid, legal, and continuous for all purposes;*
- b) *Direct the Respondents, particularly respondent No. 06, to immediately release the petitioner's pension Commutation amount along with a markup of 20% per annum from February 2024 until full realization of the amount, in the interest of justice and equity;*
- c) *To direct the respondent NO.4, to release the payment of C.P. Fund Final, Bill rupees Rs. 4,71,456/- and the leave encashment in lieu of LPR, Bill passed on 26th March 2024, amounting to Rs. 1,538,990/-;*
- d) *To direct the respondent No. 6 to pass the pension Commutation bill amounting to Rs. 5,300,000/- is pending un passed pending in Respondent No.9 and Respondent No. 6 unnecessarily.*
- e) *Constitute a departmental committee to inquire into the malafide conduct of the Assistant Director (Local Fund & Audit) and recommend appropriate disciplinary and legal action;*
- f) *Initiation of appropriate disciplinary, departmental, and legal action under the applicable laws, including but not limited to the Sindh Civil Servants (Efficiency and Discipline) Rules, 1973, against all officials found responsible;*
- g) *Award costs of litigation and compensation for mental agony and harassment suffered by the petitioner due to willful dereliction of duty by the respondents.*

2. Petitioner is a retired employee of the Karachi Water & Sewerage Corporation (KW&SC), has filed the instant Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking release of his pensionary dues including commutation, CP Fund final bill, and leave

encashment, which have allegedly been withheld based on an objection regarding his date of birth.

3. Learned counsel for the Petitioner submits that the Petitioner was appointed in the Karachi Development Authority on 17.06.1980 and, upon merger of the department in February 1984, continued his service under KW&SC without any break until his retirement on 02.02.2024 as Deputy Director (Admin) (BPS-18). He argues that throughout the Petitioner's service tenure of over four decades, his date of birth as recorded in educational certificates, CNIC, municipal birth certificate, seniority lists, ACRs, and Service Book Parts II, III, and IV remained consistently reflected as 02.02.1964. It is contended that no objection was ever raised by the department regarding the Petitioner's age below 18 years or eligibility at the time of appointment or during service, nor was any inquiry initiated alleging fraud or misrepresentation. Learned counsel further submits that the objection raised by Respondent No.06 after the Petitioner's retirement based on an initial medical assessment made at the time of appointment is arbitrary, malicious, and contrary to settled principles of service jurisprudence. He maintains that once an employee's date of birth is determined and accepted by the appointing authority at the time of entry into service and the employee is allowed to serve for decades on such basis, the same cannot be reopened at the verge of or after retirement, particularly in the absence of any allegation of fraud. He also contends that the Petitioner's appointment, even if made below the prescribed age, stood regularized and protected under the Government of Sindh Notification dated 28.07.1980 relating to "boy service," and therefore cannot be made a ground for withholding pensionary benefits at this stage. It is argued that a pension is a vested right earned through qualifying service and cannot be withheld without lawful justification or due process. He prayed to allow this petition.

4. Conversely, learned counsel for KW&SC submits that at the time of the Petitioner's appointment on 17.06.1980, his age was assessed by the Medical Officer as 18 years, thereby determining his date of birth as 17.06.1962 in the Service Book Part-I. He contends that this entry, being the first and original record of age, attained finality under Rule 171 of the Civil Services Rules, Volume-I, as well as Notification dated 16.04.2012 issued by the Services, General Administration & Coordination Department, Government of Sindh, which stipulates that the date of birth once recorded at the time of entry into service cannot be altered thereafter. It is further submitted that the Petitioner continued in service up to 01.02.2024 based on the date of birth recorded in his matriculation certificate, thereby rendering service for approximately two years beyond the actual date of superannuation, which, according to the respondents, fell on 16.06.2022. Learned counsel submits that the audit authorities raised an objection in this regard and, consequently, Respondents No.05

and 06 sought clarification and opined that the Petitioner's date of birth should be treated as 17.06.1962 in accordance with the initial medical assessment recorded in the Service Book. On this basis, the commutation and certain pensionary benefits have been withheld pending the determination of the correct date of birth by this Court.

5. The learned Assistant Advocate General adopts the submissions made on behalf of KW&SC and submits that although the Petitioner is drawing an anticipatory pension, the dispute regarding his actual date of birth, having implications for qualifying service and retirement benefits, requires adjudication by the competent Court before final disbursement of the withheld dues can be made.

6. We have heard the learned counsel for the parties and perused the record with their assistance.

7. The Petitioner was initially appointed in the Karachi Development Authority on 17.06.1980. At that time, the medical officer assessed him as 18 years of age. However, his educational certificates and other personal records indicated a date of birth of 02.02.1964, meaning he was under 18 at the time of appointment. However, the Government of Sindh, by Notification dated 28.07.1980, explicitly protected "boy service," i.e., appointments made to candidates below the prescribed age, with the proviso that service rendered before attaining the minimum age for the post shall not count as qualifying service for pension purposes. Once the employee attains the minimum age, service can be regularized and counted towards pension and seniority. Therefore, any period of service rendered before the Petitioner reached 18 years of age, i.e., 02.02.1982, can be excluded from pension computation, but the period served after attaining 18 years is clearly qualifying service under the Sindh Civil Servants Pension Rules, 1986, and KW&SC (APT) Rules, 1987.

8. The Petitioner's service from 1980 to 1982, below 18 years, if any, falls under the protected "boy service" category. Service from 02.02.1982 onwards, after attaining the age 18, is fully regularized. He served continuously without interruption until his retirement on 02.02.2024.

9. The Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974, Rule 6(3), and the Sindh Civil Servants Pension Rules, 1986, Rule 4.1, recognize that qualifying service begins from the date of regularization/attainment of minimum age.

10. The Supreme Court held that once age and service were accepted at the time of appointment, retrospective objections cannot be raised unless fraud is proven and it was reaffirmed that service matters must follow rules and records maintained

during service, and no retrospective alteration of age is permissible without evidence of misrepresentation. It is also settled that if an employee serves without objection for decades, he acquires a legitimate expectation that his service record is final and cannot be challenged post-retirement.

11. Service prior to 02.02.1982 under 18 years could be excluded from qualifying service, as per the “boy service” protection. Service from 02.02.1982 to 02.02.2024 attaining 18 years to retirement at age 60 is full qualifying service. This constitutes over 42 years of qualifying service, more than sufficient to entitle the Petitioner to full pension, commutation, CP Fund, and leave encashment. Any objection by the Respondents to the commutation and other pensionary dues on the ground of age at initial appointment is arbitrary, malafide, and contrary to statutory protection and settled principles of law.

12. The correct approach is to count service for pension from the date the Petitioner attained 18 years of age, consistent with government notifications and rules.

13. The Petitioner’s Matriculation Certificate, School Leaving Certificate, CNIC, Service Book Parts II-IV, seniority lists, and ACRs consistently record the date of birth as 02.02.1964. The first entry of 18 years in Service Book Part-I was made based on a medical assessment. However, statutory rules, Government Notifications, and case law clearly recognize that a protected “boy service” period does not prevent an employee from accruing full pension once attaining the minimum age. Thus, any two-year extension beyond the originally alleged superannuation i.e. 16.06.2022 cannot deprive the Petitioner of pensionable benefits, because service from attaining 18 years to retirement is legally qualifying and uninterrupted.

14. In view of the above facts and circumstances of the case we are of the considered view that the Petitioner’s service is legally valid and continuous from 02.02.1982 attaining 18 years to 02.02.2024 the age of superannuation. Pensionary benefits including commutation, GP Fund final bill, leave encashment, and arrears must be released in full, and any delay or withholding is inconsistent with. Accordingly, the Respondents’ objection based on age at the time of appointment is legally untenable, and the Petitioner is entitled to full pensionary benefit. This petition stands disposed of in the above terms.

JUDGE

JUDGE