

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
C.P. No.D-5909 of 2024  
(*Abdul Qayum Bhutto 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:- 27.02.2026

Mr. Ali Asadulah Bullo advocate for the petitioner.  
Ms. Nasima Mangrio advocate for the respondent-KPT  
Ms. Wajiha Mehdi, DAG

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**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): -

- i) *Declare that the impugned order dated 23.09.2024 as illegal, issued in violation of the order and directions of this Court, and set aside the same;*
- ii) *Direct the Respondents to 2 and 3 to count and include the ad hoc service of the petitioner from 1996 to 2001 for pension and pensionary benefits, along with all consequential benefits;*
- iii) *Direct the Respondents not to take any coercive action against the petitioner and to conduct themselves strictly in accordance with the law.*

2. The case of the Petitioner is that he was initially appointed as Assistant Electrical Engineer on adhoc basis on 22.10.1996 and, after rendering satisfactory service, his services were regularized on 30.04.2001. Thereafter, he earned promotion to the post of Electrical Engineer (BS-18) in 2007 and was subsequently assigned acting charge of Deputy Chief Electrical Engineer (BS-19) in 2015. Upon attaining the age of superannuation, he retired from service on 23.03.2024. It is submitted that although similarly placed officers, who were appointed on adhoc basis, were granted the benefit of counting their past ad hoc service towards qualifying service for pension pursuant to the order dated 07.02.2023 passed by this Court in CP-D Nos. 5634 & 5635 of 2022 and its subsequent compliance through Board Resolution dated 31.10.2023, the Petitioner has been denied the same relief. For convenience sake impugned letter is reproduced as under:-

“Vide letter No. HRM/Misc/24/3 dated 11.01.2014 issued by the Human Resource Management Department of Karachi Port Trust, the Petitioner, namely Mr. Abdul Qayoom Bhutto, Ex-Electrical Engineer, was informed, with reference to his application dated 26.08.2024 seeking release of retirement benefits of pension and commutation from the date of his initial appointment under the provision of law, that his request was not covered under the applicable rules, as conveyed by the Deputy Manager (HRM).”

3. Learned counsel argues that the refusal of Respondents to include the Petitioner's adhoc service from 22.10.1996 to 30.04.2001 for pension and pensionary benefits, vide impugned order dated 23.09.2024, is discriminatory, arbitrary, and violative of Articles 4 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973, particularly when identical relief has been extended to his colleagues. He prayed to allow the petition.

4. Conversely, learned counsel for Karachi Port Trust raises preliminary objections regarding the maintainability of the instant petition under Article 199 of the Constitution and submits that the Petitioner has already been paid all admissible pensionary benefits in accordance with applicable rules upon his retirement on 23.03.2024. It is contended that the Petitioner was appointed on adhoc basis in 1996 and was absorbed in permanent service only with effect from 30.04.2001; therefore, the period of adhoc service cannot be counted towards pension under the relevant rules. Learned counsel further submits that the benefit of counting adhoc service was provisionally extended only to those officers who were regularized pursuant to earlier Board Resolution No. 131 dated 12.12.1995 and in compliance with the order of this Court in various petitions, which is presently sub judice before the Hon'ble Supreme Court of Pakistan. She added that the Petitioner, having been appointed subsequently in 1996 and not being covered under the said Resolution, as such cannot claim parity with those officers. It is also argued that the Petitioner remained silent throughout his service tenure and has raised the present claim only after retirement, involving disputed questions of fact not amenable to constitutional jurisdiction. She prayed to dismiss the petition in terms of earlier order dated 11.12.2026 passed by this Court in C.P. No. D-7529/2021.

5. Learned AAG is of the same view and request for dismissal of the petition.

6. We have heard learned counsel for the parties, as well as the learned Assistant Advocate General, and have perused the record with their able assistance.

7. The precise controversy involved in the instant petition is whether the ad hoc service rendered by the Petitioner from 22.10.1996 till his regularization on 30.04.2001 is liable to be counted towards qualifying service for pension and pensionary benefits, particularly when similarly placed employees have allegedly been extended such benefit pursuant to the order dated 07.02.2023 passed by this Court in CP-D Nos. 5634 & 5635 of 2022 and subsequent compliance through Board Resolution dated 31.10.2023.

8. It is urged by the Petitioner that upon regularization of his services, the preceding continuous adhoc service, rendered without any break, cannot be excluded from qualifying service for pension, particularly when similarly placed officers have

been granted such a benefit. The denial thereof is asserted to be discriminatory and violative of Articles 4 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973. Conversely, learned counsel for the Respondent, Karachi Port Trust, submits that the Petitioner was absorbed into permanent service w.e.f. 30.04.2001, and the adhoc period does not qualify for pension under the applicable service rules. It is further contended that the benefit under Board Resolution No.131 dated 12.12.1995 was limited to officers appointed and regularized under a specific policy prior thereto, which does not include the Petitioner, and that the claim, having been raised post-retirement, entails disputed questions of fact not amenable to constitutional jurisdiction under Article 199 of the Constitution.

9. It is by now a settled proposition of law that adhoc or temporary service does not ordinarily count towards qualifying service for pension unless the relevant service rules expressly provide for its inclusion. However, the superior Courts have consistently held that where an employee continues in uninterrupted service, and is subsequently regularized without any break, such past service may be counted for pensionary purposes, particularly when similarly placed employees have been granted the said benefit, as denial thereof would offend the principle of equality before law. It is now well settled that once an employee is regularized in service having 10 years regular service and by rendering continuous service on work-charge or adhoc basis, such past service cannot be excluded for pensionary benefits in the absence of any express statutory prohibition under the KPT law and rules Likewise, past service rendered before regularization, if followed by uninterrupted service till retirement, is liable to be counted towards pension as discussed supra, failing which it would amount to discriminatory treatment. Furthermore, the principle of equal treatment has also been emphasized by the Hon'ble Supreme Court, wherein it was held that once a benefit has been extended to a set of employees similarly placed, the same cannot be denied to others without any lawful justification, as such denial would be hit by Article 25 of the Constitution.

10. In the present case, it is not disputed that the Petitioner remained in continuous service from the date of his initial appointment on 22.10.1996 till his retirement on 23.03.2024, nor is there any allegation of a break in service. It is also not denied that similarly placed officers were granted the benefit of counting their adhoc service towards pension pursuant to the order passed by this Court and subsequent Board Resolution dated 31.10.2023, albeit stated to be provisional in nature. It is well settled that, if the employee after regularization and till his retirement has earned 10 years regular service, his past service on contract can be counted in his total regular service and that accumulation service entitled him for pensionary benefits under CSR regulation as well as fundamental rules.

11. The plea raised by the Respondents that the Petitioner is not covered under the earlier Board Resolution appears to be more like a classification without reasonable nexus to the object sought to be achieved, particularly when the service profile of the Petitioner is substantially similar in material particulars to that of the officers who have been extended the said benefit.

12. As regards the objection that the Petitioner approached this Court after retirement, it may be observed that a pension is a continuing right and any error in its computation gives rise to a recurring cause of action. Therefore, the claim of the Petitioner cannot be defeated on the ground of delay alone, therefore the petition is found to be maintainable under Article 199 of the Constitution, as such the direction under writ of Mandamus can be issued to the competent authority of the respondents to act in accordance with law.

13. In view of the above discussion, the refusal of the Respondents to consider and include the Petitioner's adhoc service towards qualifying service for pension, despite extending similar benefits to other similarly placed officers, appears to be arbitrary and discriminatory, and not sustainable in law.

14. Consequently, the impugned order dated 23.09.2024 is declared to be without lawful justification and of no legal effect, and the competent authority of Respondents is directed to recompute the pension and pensionary benefits of the Petitioner by counting his adhoc service from 22.10.1996 to 30.04.2001 as regular service for all intents and purposes, including consequential benefits, strictly in accordance with law. The aforesaid exercise shall be undertaken within two weeks without fail.

15. The petition, along with pending application(s), is disposed of in the above terms.

JUDGE

JUDGE