

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. No. D-346 of 2026
[Khalid Ahmed v. Province of Sindh and others]

Date	Order with signature of Judge(s)
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Before:
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Zulfiqar Ali Sangi

Date of hearing and Order: 11.03.2026

Mr. Abdul Samee advocate for the petitioner
Mr. Abdul Jalil Zubedi AAG

ORDER

Adnan-ul-Karim Memon, J. – Petitioner has filed this Constitution Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan 1973, seeking the following relief:-

- i) *To hold that the act of the Respondent No.2 not issuing the retirement notification of the petitioner as Executive Engineer (BS-18) whereas the petitioner has attended age of superannuation on 06.05.2024, therefore the act of respondents not issuing the retirement Notification deprive the petitioner from benefits of retirement is without any justification which is in clear violation of the judgment of Supreme Court of Pakistan Pakistan in pension case as such the act of the Respondent No.2 is illegal, unlawful against the natural justice;*
- ii) *Direct the Respondents to prepare all the pensions papers of the petitioner in BS-18 and finalize the pension along with all other benefits as civil servant is entitled after the retirement. Further direct the respondents to pay markup to the petitioner from 06.05.2024 because they cause delay in issuing retirement notification of the petitioner in BS-18;*
- iii) *Direct the Respondent No.3 to disburse all the retirement benefits of petitioner in BS-18 along with pension without any delay;*
- iv) *Declare that the Respondents have no authority under the law to deprive the petitioner from the retirement benefits a on the ground of inquiry proceedings without any outcome.*

2. It is the case of the petitioner that he was initially appointed as Sub-Engineer (BS-11) on 02.12.1989 and was subsequently promoted to BS-16, then Assistant Engineer (BS-17) in 2013, and later to Executive Engineer (BS-18). He was posted as Executive Engineer (BS-18), Machinery Maintenance Division, Khairpur at Shikarpur vide notification dated 15.06.2023 and assumed charge on 16.06.2023. It is submitted that the petitioner was placed under suspension vide notification dated 13.11.2023 on account of an inquiry which has not yet reached any conclusion. However, during the subsistence of such suspension, the

petitioner attained the age of superannuation on 06.05.2024. However, despite repeated representations, the respondents have failed to issue his retirement notification and have withheld his pensionary benefits, causing him severe financial hardship.

3. Learned counsel for the petitioner submits that mere pendency of an inquiry cannot deprive a civil servant of retirement benefits and places reliance upon judgments of the Supreme Court of Pakistan and orders of this Court, including PLD 2007 SC 35 (*Haji Muhammad Ismail Memon's* case), wherein it has been held that pensionary benefits cannot be withheld merely on the basis of allegations or pending proceedings in the absence of conviction. It is further argued that the respondents are under a legal obligation under the relevant pension rules to finalize pension cases prior to retirement, and their failure to do so is illegal, arbitrary and violative of the petitioner's fundamental rights. The learned counsel therefore prays that the respondents be directed to issue the petitioner's retirement notification and release all pensionary and retirement benefits along with markup for the delay.

4. Conversely, learned Assistant Advocate General submits that the petitioner was placed under suspension pursuant to initiation of an inquiry on the basis of a monitoring report which disclosed serious irregularities and substantial financial loss to the Government. He added that according to the report, while the petitioner was posted as Executive Engineer in ADP No.3339 (2022-23), several deficiencies were found in the road project including discrepancy in the length of the road, absence of stone pitching, non-construction of masonry structures, incomplete thermoplastic work, reduced thickness of base course and asphalt layers, non-execution of brick edging and bitumen coating, improper berm construction and other defects in quality and specifications of work. As per learned AAG, these irregularities resulted in a cumulative loss of approximately Rs.430 million to the Government. It is further submitted that in another project, namely ADP No.3828 (2022-23), the measured road length was found to be 6.75 kilometers instead of the sanctioned 8 kilometers, resulting in an additional loss to the Government. Learned AAG therefore contends that in view of the serious allegations and the pending inquiry regarding substantial financial loss, the retirement notification of the petitioner has not been issued, and prays that the petition be dismissed accordingly.

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

6. The controversy in the instant petition revolves around the question whether the respondents were/are legally justified in withholding the retirement notification and pensionary benefits of the petitioner merely on the ground of a

pending inquiry which had not culminated into any disciplinary proceedings before the petitioner attained the age of superannuation.

7. Under Section 13 of the Sindh Civil Servants Act, 1973, a civil servant automatically retires from service on attaining the prescribed age of superannuation. Once such age is attained, the relationship of employer and employee comes to an end and the competent authority is under a statutory obligation to issue retirement notification and process pension papers accordingly. The law does not confer any authority upon the department to withhold the retirement notification merely because an inquiry is pending, particularly when such inquiry has not culminated into disciplinary proceedings during the service tenure.

8. Section 19(4) of the Sindh Civil Servants Act, 1973 further provides that where determination of pension or gratuity is delayed beyond one month of retirement, the retired civil servant shall be paid provisional or anticipatory pension based on qualifying service. This statutory mandate clearly demonstrates that pension is a vested statutory right of a retired civil servant and cannot be withheld indefinitely. Therefore, even if some procedural delay exists in finalizing pension papers, the law obligates the department to ensure that the retired employee is not deprived of his pensionary entitlement.

9. It is now a settled principle of service jurisprudence that where a government servant attains the age of superannuation before conclusion of disciplinary proceedings, the inquiry normally abates unless the rules specifically authorize continuation of proceedings after retirement.

10. The superior courts have consistently held that mere pendency of inquiry or allegations does not authorize withholding of pensionary benefits, especially when the proceedings had not culminated into a finding of guilt during the service tenure of the employee. Moreover, the Supreme Court of Pakistan has repeatedly held that pension is not a bounty or charity, but a statutory and vested right earned by a civil servant after long service. In **PLD 2007 SC 35** (*Haji Muhammad Ismail Memon v. Government of Sindh*), it was held that pensionary benefits cannot be withheld merely on the basis of allegations or pending proceedings unless the employee is found guilty in accordance with law. Similarly, the Supreme Court reiterated that pension cannot be withheld in anticipation of possible disciplinary action unless there exists a lawful order passed under the relevant pension rules after due process. The Supreme Court has also emphasized that pension cases must be finalized well before the date of retirement, and delay in payment of pensionary dues amounts to violation of legal rights of the retired employee. Courts have repeatedly deprecated the practice of departments delaying pension or withholding retirement benefits without lawful justification.

11. Where the department initiates an inquiry but fails to conclude the same before the employee reaches superannuation, the department cannot subsequently deprive the retired employee of his pensionary benefits on the basis of such unfinished inquiry.

12. In such circumstances, the civil servant stands retired by operation of law, the inquiry loses its legal efficacy, and pensionary benefits cannot be withheld without a final determination of guilt through due process. Courts have further held that where disciplinary proceedings were not concluded during service, the department may pursue other remedies available under law, but the statutory right to pension cannot be arbitrarily withheld.

13. In the present matter, the petitioner attained the age of superannuation on 06.05.2024. however, no disciplinary proceedings were finalized against him during his tenure of service. The alleged inquiry relied upon by the respondents remains inconclusive and has not resulted in any finding of misconduct by a competent authority. In such circumstances, the respondents were under a statutory obligation to issue the retirement notification and process the pension case of the petitioner. The act of withholding the retirement notification and pensionary benefits merely on the basis of a pending inquiry is therefore without lawful authority, arbitrary, and contrary to the settled principles of service jurisprudence.

14. The petitioner retired on 06.05.2024, and the respondents had no lawful authority to withhold his retirement notification or pension; being a statutory right, withholding it without conclusion of disciplinary proceedings is illegal and violates his rights.

15. Accordingly, the competent authority of respondents are directed to issue the retirement notification of the petitioner and finalize his pension and other retirement benefits forthwith in accordance with law. the petition stands disposed of along with pending application(s) in the above terms.

JUDGE

JUDGE