

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. No. D-1712 of 2023

(Mst Rukhsana Asghar Chaudhary v Government of Sindh & others)

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| 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: 05.03.2026

Mr. Abdul Wahab Baloch advocate for the petitioner
Mr. Abdul Jalil Zubedi, Assistant AG

ORDER

Adnan-ul-Karim Memon, J: Petitioner namely Mst. Rukhsana Asghar Chaudhary has filed this Petition under Article 199 of Islamic Republic of Pakistan, seeking following relief:

- i) *To direct the respondents to release/give the all benefits of retirement pension and to the petitioner, because the petitioner was employee and retired on superannuation of age and she is entitled for benefits for the interest of justice;*
- ii) *The petitioner is entitled for proforma promotion in scrutiny best because her name appeased.*
- iii) *Grant any other relief deemed appropriate by this Honorable Court.*

2. Learned counsel for the petitioner submits that the petitioner served the Government of Sindh in the Livestock and Fisheries Department and was a regular/permanent employee performing duties as Director Fisheries (Marine) (BPS-19). However, during her service, the petitioner performed her duties with honesty and dedication to the satisfaction of the authorities. It is further contended that, based on seniority, the petitioner had become eligible for promotion, and her name was included in the seniority/scrutiny list prepared by the Secretary, Government of Sindh, dated 15.12.2017; however, her case for promotion could not be finalized due to the non-convening of the Promotion Committee meeting. Subsequently, the petitioner retired from government service on attaining the age of superannuation vide Notification dated 03.06.2020. After retirement, despite approaching the respondents repeatedly and submitting an application, the petitioner was not granted her retirement benefits, including pension and other dues. Learned counsel further submits that the petitioner is also entitled to proforma promotion to the next higher grade as her right of consideration for promotion accrued during her service, and she was deprived of the same for no fault of her own. In support of his contention, he relied upon judgments of the superior courts holding that a civil servant can be granted proforma promotion even after retirement where the right of promotion had accrued during service, but the case was not considered due to administrative reasons. It is argued that the petitioner's service record is clean and unblemished, she was fully eligible for such promotion and the consequential financial benefits. He further contends that the respondents have adopted a discriminatory pick-and-choose policy to accommodate blue-eyed candidates, which has been deprecated by the superior courts. He therefore prayed that the respondents be directed to release the

petitioner's pensionary benefits and grant her proforma promotion with all consequential benefits.

3. Conversely, learned AAG opposed the petition and submitted that the petition is not maintainable. He argued that there are serious discrepancies in the petitioner's record. According to him, the date of birth mentioned in the affidavits verified through the Identity Section Management System (ISMS) is shown as 05.03.1960, whereas the date of birth recorded in the petitioner's matriculation certificate is 05.03.1960, based on which she had already been retired on 04.03.2020 vide Notification dated 03.06.2020. He further submitted that the affidavit attached to the petition indicates that the petitioner is still working as Director Fisheries (Marine) (BPS-19), which contradicts the record showing that she has already retired from service. He also pointed out inconsistencies in the documents filed by the petitioner, stating that the pay slip for July 2010 reflects the date of birth as 05.03.1966 and shows her designation as Deputy Director Fisheries, which further creates doubt about the authenticity of the documents. Learned AAG further contended that the application purportedly submitted by the petitioner to the department appears fabricated, as the signatures differ from those appearing on the affidavits, and according to the department, no such application has been received. It was also argued that the petitioner had even mentioned an incorrect address for the office of the Accountant General, Sindh, in her application. He prayed to dismiss the petition.

4. After hearing the learned counsel for the parties and examining the record, it appears that the petitioner served the Government of Sindh in the Livestock & Fisheries Department and retired from service on attaining the age of superannuation. The controversy in the instant matter revolves around two issues: release of pensionary/retirement benefits and grant of proforma promotion to the next higher grade after retirement.

5. It is a settled principle of service law that a pension is not a bounty but a vested statutory right of a retired civil servant earned for past service. The same cannot be withheld except in accordance with law and after following due process. The superior courts of Pakistan have consistently held that pensionary benefits must be released promptly unless there is a pending disciplinary proceeding or statutory impediment. In the case of *Dr. Syed Sabir Ali v. Government of Punjab*, the Supreme Court held that retirement benefits accrued to a civil servant are a lawful entitlement and cannot be denied arbitrarily. Similarly, in *Federation of Pakistan v. Amir Zaman Shinwari*, it was observed that pensionary rights flow from the service rendered by a civil servant and the State is bound to honor such rights in accordance with law. The courts have further held that mere administrative delay or negligence cannot deprive a retired employee of pensionary benefits. Therefore, if the petitioner has retired from service and no disciplinary proceedings or legal impediment exist, the respondents are under a legal obligation to process and release her pension and other retirement dues forthwith.

6. The law is equally settled that promotion itself is not a fundamental right; the right of consideration for promotion in accordance with rules is vested. Where a civil servant fulfills the eligibility criteria, and the promotion committee fails to consider his/her case due to administrative delay or departmental inaction, the courts have recognized the concept of proforma promotion. In this regard, the Hon'ble Supreme Court in *Dr. Muhammad Anjad v. Dr. Israr Ahmed* held that if a civil servant was eligible for promotion during service but his case was not considered due to administrative reasons, he may be granted proforma promotion with consequential benefits. Likewise, in *Secretary Ministry of Finance v. Muhammad Anwar*, the Supreme Court explained that under Fundamental Rule 17, the competent authority may grant notional or proforma promotion with financial benefits if a civil servant was wrongfully prevented from serving in the higher post through no fault of his own. The same principle has also been affirmed by the High Courts, holding that a civil servant may be granted proforma promotion even after retirement where the right of promotion accrued during service, the officer possessed the requisite eligibility and service record, and the case could not be considered due to administrative inaction or delay. Such promotion is notional in nature, does not disturb the seniority of serving officers, and is granted only for financial and pensionary benefits.

7. The objections raised by the respondents regarding discrepancies in documents or the petitioner's date of birth are matters requiring verification by the department. However, such discrepancies cannot be used as a ground to indefinitely withhold pensionary benefits, particularly when the petitioner has already been formally retired through an official notification. The department is at liberty to verify the service record, but until a lawful determination is made, the petitioner cannot be deprived of her statutory retirement benefits.

8. In view of the settled principles of law, we hold that pensionary benefits are a statutory right and cannot be withheld except under lawful authority. The petitioner is entitled to consideration for proforma promotion if it is established that she was eligible during service, her name appeared in the seniority list, and the Promotion Committee did not convene due to administrative reasons.

9. Accordingly, the respondents are directed to finalize the petitioner's pension case forthwith and release all retirement dues in accordance with law, by considering her case for proforma promotion from the date her juniors were promoted, if she is otherwise found eligible and her service record is clean.

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

JUDGE

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