

ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-4073 of 2025
(*Fareed Ahmed v Federation of Pakistan & 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:- 12.3.2026

Mr. Altaf Ahmed Sahar, advocate for the petitioner

Ms. Wajiha Mehdi, Assistant Attorney General

Mr. Abdul Jalil Zubedi, Assistant AG

Mr. Ghulam Ali Brahmani, Secretary (Services), SGA&CD, Government of Sindh

ORDER

Adnan-ul-Karim Memon, J The petitioner, Fareed Ahmed, has filed the instant petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking declaration that he is entitled to full pensionary benefits along with arrears amounting to Rs.13,467,981/- as advised by the Finance Department, and that the decision of the Public Accounts Committee (PAC) for recovery of Rs.5.836 million from his pensionary dues based on Audit Report 2005-2006 is illegal, void ab initio and violative of the principles of natural justice. He has further sought suspension of the impugned PAC decision dated 25.4.2025 and consequential letters dated 12.6.2025 and 17.6.2025, along with directions to the respondents to release his pension, gratuity, leave encashment, GPF, and outstanding salaries, and to restrain them from making any deduction during the pendency of the petition.

2. Learned counsel for the petitioner submits that the petitioner's pensionary benefits have been withheld pursuant to the PAC directives whereby deduction of Rs.5.836 million has been ordered from his pension arrears, which, after retirement, cannot legally be effected under the pension laws and amounts to violation of Articles 4, 9, 10-A, 14, 24 and 25 of the Constitution.

3. Conversely, learned Assistant Attorney General contends that the petition is misconceived and not maintainable qua respondent No.2, as no actionable wrong has been attributed to it. It is submitted that upon permanent absorption of the petitioner in the Government of Sindh on 23.2.2007, respondent No.2 ceased to exercise any administrative or financial control over him and neither sanctions nor disburses his pensionary benefits. She argued that the relief sought indirectly assails the proceedings of PAC, whereas respondent No.2 is neither the decision-making nor implementing authority, and any grievance relating to pension deduction lies before the competent authority under the applicable service rules and financial laws; thus, the petition is hit by the doctrine of alternate efficacious

remedy. It is further submitted that the petitioner was subsequently retired from the Government of Sindh vide notification dated 07.6.2024, and respondent No.2 merely conveyed the matter to the Government of Sindh and the Accountant General, Sindh for implementation of PAC directives.

4. The learned AAG, assisted by the secretary SGA&CD, submitted that the petitioner, who retired as Executive District Officer (BS-19) from the Government of Sindh, has been receiving his monthly pension regularly since March 2025. He has also received a commutation amount of Rs. 2,233,325 on 03.09.2025. He added that Pension arrears amounting to Rs. 6,235,537 for the period from 05.02.2014 to 28.02.2025 were also paid in August 2025 from the total sanctioned arrears. However, an amount of Rs. 5,863,000 has been withheld from his pension arrears in compliance with the directives of the Public Accounts Committee regarding Audit Para-20.1 of the Audit Report. He added that the recovery relates to excess payment caused by awarding procurement contracts at higher rates while ignoring the lowest bidders during 2004-2005, when the petitioner served as Chairman of the Purchase Committee under the Directorate General of Special Education, Islamabad. He pointed out that, additionally, another amount of Rs. 1,384,021 has been withheld, which will be released subject to submission of the challan for pension contribution for the period of his deputation in the Lines Area Re-Development Project (KDA) from May 2005 to December 2014. He submitted that the competent authority has sanctioned total pension arrears amounting to Rs. 13,467,981 under Rule 225 of the Sindh Civil Service Rules, as advised by the Finance Department. It has also been directed that the recovery of Rs. 5.836 million be made from the pensionary benefits of the petitioner in accordance with applicable rules, and the concerned department has been requested to ensure recovery and submit the pension contribution amount to complete the process. He further submitted that, so far as the repatriation of the petitioner is concerned the Supreme Court of Pakistan had ordered repatriation of the petitioner to his parent department, namely the Ministry of Human Development, Social Welfare and Special Education, and that he was relieved by the Government of Sindh vide notification dated 28.10.2014, yet could not join there and was subsequently retired by the Government of Sindh w.e.f. 04.2.2014 vide notification dated 07.6.2024, which was issued belatedly; therefore, at this stage, he cannot be repatriated to his parent department after his retirement in 2014.

5. At this stage, the petitioner's counsel submitted that the recovery had already been made from the pensionary benefits of the petitioner, which need to be refunded.

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

7. It appears from the record that the petitioner/ Ex-Director (BS-19) under the Directorate General of Special Education, Islamabad, served as Chairman of the Purchase Committee constituted for the procurement of machinery, equipment, and furniture & fixtures for centers located at Islamabad, Gilgit, and Muzaffarabad. However, the Public Accounts Committee observed that during 2004-2005, the subordinate offices of the then Ministry of Social Welfare and Special Education awarded procurement contracts to bidders offering higher rates while rejecting the lowest bidders without recording any reasons. This action was in violation of Rule 38 of the Public Procurement Rules, 2004, and Para 19(iv) of GFR Vol-I, which required transparent tendering and proper justification if the lowest bid was/is not accepted. As a result, a loss of Rs. 5,835,726 was caused to the Government exchequer. It is urged that the petitioner was twice directed through Office Memorandums dated 04.12.2010 and 09.08.2012 to submit his written explanation; however, no response was received. Subsequently, on the recommendation of the Departmental Accounts Committee, an inquiry was conducted regarding the audit report of 2005-2006. The inquiry officer recommended recovery of Rs. 5.836 million from the petitioner, being Chairman of the Purchase Committee, along with initiation of disciplinary proceedings for causing financial loss to the Government. Accordingly, had been requested that the said amount be recovered from petitioner, who was permanently absorbed in the Government of Sindh as Project Director, Lines Area Redevelopment Project, City District Government Karachi, and deposited into the Government Treasury, with the challan receipt forwarded to the Directorate General of Special Education & Social Welfare, Islamabad for settlement of the audit para of the Public Accounts Committee. But unfortunately, the petitioner was allowed to retire from the Sindh Government vide notification dated 07.6.2024, with retrospective effect, i.e., 04.2.2014, though the Supreme Court had already directed him to be repatriated to his parent department, but he managed to retain the position in the Sindh Government without lawful justification.

8. In view of the foregoing facts and submissions of learned counsel, the controversy relates to the legality of recovery from the petitioner's pensionary benefits on the basis of the directives of the Public Accounts Committee (PAC) and the petitioner's claim for refund of the amount already recovered.

9. Under the service laws applicable to government servants, pension is a statutory right, though it is not entirely immune from recovery. In terms of Rule 225 of the Sindh Civil Servants Rules and related provisions, the Government may recover dues from pensionary benefits where a government servant is found

responsible for financial loss to the Government. However, such recovery is not automatic and must follow due process, including a proper inquiry and a final determination of liability after providing the officer an opportunity of hearing.

10 It is well settled that an audit objection or a PAC observation, by itself, does not constitute a final determination of liability. The PAC primarily examines audit reports and may recommend recovery or further action, but its directives are recommendatory in nature and require the administrative department to initiate proper proceedings before effecting recovery. Thus, liability must be determined through lawful departmental proceedings or adjudication.

11. In principle, recovery from pensionary benefits may be made only after departmental proceedings are initiated, a show-cause notice is issued, a formal inquiry is conducted, and a clear finding of liability is recorded by the competent authority. Only thereafter can recovery be ordered, which may be adjusted from pension arrears, gratuity, commutation, or monthly pension in accordance with the rules. Accordingly, recovery from pension is permissible only after due process and a lawful determination of responsibility, and cannot be based solely on an audit objection.

12. It is a settled principle of service jurisprudence that a pension is not a bounty but a vested statutory right which accrues to a government servant upon retirement and is protected under the law. Reference in this regard may be made to the judgment of the Supreme Court of Pakistan in *Government of Punjab v. Muhammad Aslam*, wherein it was held that pension constitutes a property right and cannot be withheld or curtailed except strictly in accordance with law. Likewise, in *Muhammad Akram v. Government of Pakistan*, the Supreme Court reiterated that any recovery from pensionary benefits must have clear statutory backing and must also comply with the principles of natural justice.

13. Under the relevant pension regime, particularly the provisions analogous to Rule 9 of the Civil Servants (Pension) Rules, 1977 and corresponding provincial pension rules, recovery from pension or gratuity can only be effected where a civil servant is found guilty of misconduct in departmental or judicial proceedings instituted while in service or within the prescribed limitation period after retirement.

14. In the present case, there is nothing on record to demonstrate that any such proceedings were lawfully initiated or concluded against the petitioner in accordance with the statutory framework before directing recovery through the PAC mechanism.

15. It is also well settled that the Public Accounts Committee performs an oversight and recommendatory function and its observations do not by themselves create enforceable liabilities against an individual civil servant unless the competent authority proceeds in accordance with the applicable service rules and due process of law. In this context, reliance may be placed on the principle laid down by the Hon'ble Supreme Court in Federation of Pakistan v. Muhammad Azam Malik, wherein it was held that recovery from a retired employee cannot be ordered without affording him proper opportunity of hearing and without following the prescribed legal procedure.

16. Furthermore, it is equally settled that recovery from pensionary benefits after retirement is impermissible unless authorized by law and preceded by due adjudication, as observed in the case of Province of Punjab v. Muhammad Arshad.

17. In the present matter, the respondents themselves have conceded before this Court that any recovery, if permissible in law, must be pursued through appropriate proceedings before a court of competent jurisdiction and not by direct deduction from the pension of the petitioner. Such concession is consistent with the settled legal position.

18. Consequently, this Court is of the considered view that the pensionary benefits of the petitioner cannot be subjected to recovery merely on the basis of PAC directives without following the due process prescribed under the relevant service and pension laws. However, this shall not preclude the respondents from seeking recovery, if so advised, through proper legal proceedings before a court of plenary jurisdiction in accordance with law.

19. Accordingly, the petition is disposed of with the observation that the petitioner shall be entitled to release of his pensionary benefits in accordance with law and no further recovery shall be effected from his pension. In case any amount has already been recovered, the petitioner may approach the competent authority for its refund. The respondents shall constitute a committee to hear the petitioner and the officials of the Audit Department and, after providing them an opportunity of hearing, decide the matter within three months in accordance with law and the observations made herein.

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

JUDGE

JUDGE