

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**C. P. No. D-4470 of 2014**  
**(Arif Waheed Ghaznavi v Federation of Pakistan & others)**

Date

Order with signature of Judge

**Before:-**

**Mr. Justice Adnan-ul-Karim Memon**

**Mr. Justice Zulfiqar Ali Sangi**

**Date of hearing and order:-15.04.2026.**

Petitioner present in person.

Mr. Abdul Samad Memon advocate for the Respondents.

Ms. Wajiha M. Mehdi Assistant Attorney General.

**ORDER**

**Adnan-ul-Karim Memon , J** Petitioner Arif Waheed

Ghaznavi has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking pensionary benefits and calculation in this regard and also seeking promotion as his junior were promoted for the post of Deputy Registrar which is illegal, malafide unfair in violation of fundamental rights and against principles of natural justice.

2. The petitioner who is present in person submitted that he was initially employed by the National Language Authority (NLA), while the private respondent, Ms. Samra Zameer, was an employee of the Urdu Dictionary Board. Subsequently, both were absorbed into the Federal Urdu University of Arts, Science and Technology, where the private respondent continues to serve as Assistant Registrar/Deputy Registrar. While serving as Social Administration Officer (BS-17) in the National Language Authority under the Ministry of National Heritage and Integration, he applied for the post of Deputy Registrar (BS-18) in response to an advertisement published in the Daily *Jang* dated 25.04.2004. he submitted that the advertised post required a graduate degree and thirteen years of relevant experience. The petitioner asserts that he possessed superior qualifications, including three Master's degrees and an LL.B., along with twenty-seven years of relevant experience, thereby exceeding the prescribed eligibility criteria. On 16.03.2005, Professor Fateh Muhammad Malik of the National Language Authority recommended his appointment as Deputy Registrar through adjustment of surplus employees in accordance with government directives; however, the recommendation was not acted upon by the University authorities. The petitioner further contends that the shortlisting process was conducted by Ms. Samra Zameer, then serving as an Adhoc Assistant Registrar (BS-17), who acted with mala fide intent. It is asserted that she deliberately

recorded the petitioner's qualifications incorrectly by mentioning only a single Master's degree instead of three and also misstated his date of birth. Additionally, the petitioner was issued an interview call for the post of Assistant Registrar instead of Deputy Registrar, to facilitate the private respondent's own appointment to the higher post in collusion with members of the Selection Board. Upon receiving the said interview letter, the petitioner protested before the Vice Chancellor, who assured him that an inquiry would be conducted; however, no action was taken. He submitted that in the meeting of the Selection Board held on 12.07.2005, comprising the Vice Chancellor and five members, none of the nine candidates was found suitable for the post of Deputy Registrar. Nevertheless, Ms. Samra Zameer, the petitioner, and three other candidates were recommended for appointment as Assistant Registrar with additional increments. The petitioner submits that, despite the recommendations of the Selection Board, the then Registrar sought the appointment of one Mr. Farhan Ahmed already serving as Assistant Registrar and placed at Serial No. 4 among the successful candidates on the premise of his prior service and experience. Consequently, on 08.08.2005, the competent authority approved Mr. Farhan Ahmed's appointment, even though there was no record indicating that candidates placed at Serial Nos. 1 to 3 had declined the offer. It is further alleged that although Ms. Samra Zameer was not recommended for the post of Deputy Registrar, she was subsequently assigned the additional charge of Deputy Registrar (Academic) and, in September 2006, her appointment to the said post was approved by the Syndicate in its 9th meeting, in violation of the University's service rules and as a result of nepotism and undue favour. He emphasized that these irregularities attracted media attention, as reflected in a report published in the Daily *Khabrain* dated 16.04.2007, and were also highlighted by the Audit Officer in a letter dated 21.02.2008, which pointed out several procedural violations in her appointment. The petitioner maintains that the private respondent lacked the requisite qualifications even for the post of Assistant Registrar and was granted undue benefits, including advance increments and regularization without open competition. According to the petitioner, he was the most deserving candidate for the post of Deputy Registrar, yet he was unlawfully deprived of his rightful promotion during service. The petitioner further submits that during the tenure of the then Acting Registrar, certain documents from his service record were removed or tampered with at the instance of the private respondent. Feeling aggrieved and frustrated, he opted for premature retirement and requested correction of approximately three and a half years of service in order to avoid pensionary losses. He added that despite filing appeals and applications before the competent authorities after retirement, his grievances remained unaddressed. It is also contended that the petitioner has been deprived of his pensionary benefits due to the incorrect recording of his date of

birth, which affected the determination of his actual date of retirement. He submitted that the inaction of the authorities is arbitrary, mala fide, and violative of his fundamental rights, as well as contrary to the principles of natural justice. The petitioner asserts that there is no adverse material against him that would disqualify him from promotion or pensionary benefits and that, in the absence of any adequate alternative remedy, he has invoked the constitutional jurisdiction of this Court. He prayed to allow this petition.

3. Respondent No. 3's counsel submitted a statement in compliance with the directions of this Court to clarify the receipt of an amount of Rs. 7,26,300/- and to address the petitioner's claim for pensionary benefits. He submitted that the said amount was received by the University from the National Language Authority through a letter dated 27.09.2005 on account of the petitioner's final payment, including Leave Pay Certificate (LPC) and Contributory Provident (CP) Fund, for the period of his service with the NLA from 27.11.1985 to 07.09.2005. Subsequently, the National Language Authority, vide its letter dated 09.06.2011, confirmed that its employment was non-pensionable and that the petitioner had already been paid the CP Fund for his tenure with the Authority. The University's counsel further contends that the petitioner obtained employment on the basis of misrepresentation and concealment of material facts relating to his Matriculation Certificate, which was later found to be fraudulent or invalid. Upon the surfacing of this misconduct, and prior to the conclusion of formal disciplinary proceedings, the petitioner opted for premature retirement. It is argued that, under settled principles of service jurisprudence, pension is not a vested right where the very foundation of employment is tainted by fraud or misrepresentation. An employee who secures appointment on the basis of forged documents is not entitled to claim equitable or statutory pensionary benefits. Additionally, it is submitted that the petitioner served the University for only five years and five months, which does not constitute the minimum qualifying service required for pension under the applicable rules. Consequently, the petitioner is not legally entitled to pensionary benefits from the University. In view of the foregoing, Respondent No. 3's counsel prayed that the petitioner's claim for pensionary benefits be dismissed.

4. We have heard the petitioner and learned counsel representing the respondent University and perused the record with their assistance.

5. The petitioner served the National Language Authority (NLA) from 27.11.1985 to 07.09.2005 and was thereafter absorbed into the Federal Urdu University of Arts, Science and Technology (FUUAST), from where he ultimately retired. The respondent University also received an amount of

Rs. 7,26,300/- from the NLA representing the petitioner's Leave Pay Certificate and Contributory Provident Fund.

6. It is well settled that when an employee is absorbed into another government or semi-government organization pursuant to government directives, his past service is ordinarily counted for pensionary benefits, particularly when there is no break in service. The transfer of the petitioner's service benefits and acceptance by the University indicates continuity of employment. The receipt of the CP Fund by the University signifies the transfer of financial liability from the previous employer to the new organization. Courts have consistently held that where service benefits are transferred and the employee is absorbed, the entire length of service must be considered for retirement benefits.

7. Pension is recognized as a statutory and vested right, not a discretionary benefit, once an employee fulfills the qualifying conditions. The superior courts, including the Supreme Court of Pakistan, have repeatedly held that pension constitutes a property right protected under Articles 9, 14, and 24 of the Constitution of the Islamic Republic of Pakistan, 1973.

8. The petitioner had a legitimate expectation that his previous service would be counted, especially after the University accepted his service record and financial contributions from the NLA.

9. Although the NLA described its employment as non-pensionable, this fact alone does not defeat the petitioner's claim because upon absorption into the University, the petitioner became part of a pensionable establishment. The transfer of CP Fund is often treated as an equivalent to pension contribution, enabling the new employer to count past service toward pension, subject to applicable rules. Service jurisprudence supports counting of past service where an employee is absorbed in the public interest, even if the previous organization maintained a different retirement benefits scheme.

10. The respondent University's contention that the petitioner served only five years and five months and thus does not meet the minimum qualifying service is not sustainable because when the entire service from 1985 to retirement is counted, the petitioner clearly fulfills the qualifying service requirement under the Federal Civil Servants (Pension) Rules, 1972, or analogous university statutes. Ignoring the earlier service would

amount to unjust enrichment by the University, which has already received the petitioner's financial contributions from the NLA.

11. The University's assertion that the petitioner obtained employment through misrepresentation lacks legal effect in the absence of a conclusive finding through a properly conducted disciplinary inquiry during his tenure of service that has not been done and now at this stage that exercise cannot be undertaken. Since the petitioner was allowed to retire from service, and no penalty was imposed after due process, the allegation cannot be used to deny pensionary benefits. It is well settled that Pension cannot be withheld merely on the basis of allegations unless misconduct is proved through due process of law. Acceptance of premature or voluntary retirement implies that the employer did not establish the alleged misconduct.

12. While the petitioner has raised grievances regarding his supersession for the post of Deputy Registrar, such claims are generally Time-barred, given the significant lapse of time since the events of 2005-2006. Difficult to adjudicate in constitutional jurisdiction without compelling evidence of mala fide or violation of statutory rules. However, although the claim for actual promotion may not be maintainable, however this Court may consider granting notional benefits if clear illegality is established. Nonetheless, the primary sustainable relief pertains to pensionary benefits.

13. In light of the above, the petitioner, having served the National Language Authority from 27.11.1985 to 07.09.2005 and thereafter the respondent University until his retirement, is entitled to the counting of his entire length of service for the purpose of pensionary benefits. The receipt of the Contributory Provident Fund and service record by the respondent University establishes continuity of service and transfer of financial liability. The contention that the petitioner is not entitled to pension on the ground of insufficient qualifying service is, therefore, misconceived. Furthermore, in the absence of a final determination of misconduct through due process, the allegation of fraudulent appointment cannot be relied upon to deny pensionary benefits. However, the petitioner's claim for promotion to the post of Deputy Registrar, having arisen nearly two decades earlier, is barred by delay and laches and thus cannot be granted, except for any notional consideration if permissible under the law.

14. This Court directs the competent authority of respondent University to count the petitioner's entire service from 27.11.1985 until the date of

retirement. Recalculate and release all pensionary benefits, including gratuity and arrears by adjusting the amount already received by the petitioner if any. The aforesaid exercise shall be completed within a three months.

15. This petition stands disposed of along with all pending application(s) in the above terms.

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