

ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI
C.P. No.D-5615 of 2023
(Dr. Muhammad Ahmed Qadri v Province of Sindh & others)

Date	Order with signature of Judge
	Justice Adnan-ul-Karim Memon Justice Abdul Mobeen Lakho

Date of hearing and order:- 19.01.2026

Mr. Shahzaib Akhtar Khan advocate for the petitioner.
Mr. Khalid Jawed advocate for respondent(Karachi University)
Mr. Imran Ahmed Khan Abro AAG.

ORDER

Adnan-ul-Karim Memon, J. – The petitioner has filed the captioned Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer: -

- (A) *To declare that the petitioner, having served the requisite period of service, is liable to be treated in accordance with the prevailing law and rules and is entitled to receive the post-retirement dues as owed to him in view of his service with the respondent No.2 and as mandated by the provisions of the University of Karachi Services Pension Statutes.*
- (B) *Declare that the respondents Nos. 2 to 5, being statutory authorities/corporation is bound by the law and are under the control and ambit of the Government of Sindh, and are to strictly adhere to the aforesaid University of Karachi Services Pension Statutes as well as any ancillary/connected rules, acts, and/ or regulations.*
- (C) *Declare that the respondents Nos. 2 to 5 have acted not only in violation of the petitioners' constitutional rights as guaranteed under, inter alia, Articles 18, 23, 24, and 25 of the Constitution, but have also acted in violation of the aforesaid University of Karachi Services Pension Statutes, thereby gravely prejudicing the petitioner.*
- (D) *Declare that the petitioner has suffered opportunity loss in view of such illegal and malafide acts of the Respondents No. 2 to 5 in general and Respondent No.3 in particular, therefore is liable to be duly compensated for the such losses at the applicable KIBOR percentage since the day the release of the post-retirement benefits of the petitioner became due, i.e. or about 24.12.2018.*
- (E) *Declare that the act of the respondents No. 2 to 5 in general and the respondent No.3 in particular of withholding the petitioner's post-retirement benefits, especially in view of the office order dated 24.01.2023 and in absence of any cogent reasoning, is ultra-vires and therefore untenable and illegal and that in this regard the said respondents are liable to face legal consequences including but not limited to suspension and or penalization.*
- (F) *Direct the respondents No. 2 to 6 to release the petitioner's post retirement/pensionary dues in light/pursuance of the office order dated 24.01.2023.*
- (G) *Direct the respondents No. 2 to 6 to strictly adhere to the aforesaid University of Karachi Services Pension Statutes in letter and spirit and in view of sections 11 and 24 thereof, immediately revise, update, and release the post-retirement benefits as accrued in favour of the petitioner.*
- (H) *Direct the respondents No. 2 to 6 to produce a record/ relevant ledger of the pension accounts maintained by the said respondents.*
- (I) *Restrain the respondents No. 2 to 6 from taking any coercive action against the petitioner, including but not limited to any actions which may affect the pensionary status of the petitioner, and or depriving the petitioner of any other*

benefits which may have accrued to him in view of his period of service with the respondent No.2.

(J) Restrain the respondents No. 2 to 6 from acting ultra vires and from taking any further prejudicial and or discriminatory action against the petitioner.

2. The case of the Petitioner, Dr. Muhammad Ahmed Qadir, is that he has been actively involved in the country's education sector for over four decades since 1983, contributing significantly to higher education and academic development, however, he served the Respondent University since 1988, beginning as a Lecturer in Political Science, progressing through Assistant Professor (1990), Associate Professor (2001), Professor (2005), and eventually Dean of the Faculty of Arts and Social Sciences (2017). After approximately 30 years of unblemished service, he retired on 24-12-2018, becoming fully entitled to receive his superannuation/pension benefits under sections 11 and 24 of the University of Karachi Services Pension Statutes, 1972 ("Pension Statute"). He submitted that, despite fulfilling all conditions, including settling dues related to foreign service/study leave, the Petitioner has been unlawfully denied full release of his post-retirement benefits for nearly five years. It is urged that communications requesting the release of dues dated 19-09-2023 and 27-09-2023 have gone unanswered. While an anticipatory pension was partly provided, it was only for a limited period. It is submitted that Respondent No. 3 sanctioned the Petitioner's pensionary benefits via Office Order dated 24-01-2023, yet the benefits remain largely withheld. It is urged that the Petitioner has been discriminated against, as employees who retired later have received their dues promptly. It is submitted that the Respondents' claims of outstanding dues and unauthorized occupation of University premises are unfounded. It is submitted that rent is regularly deducted from the Petitioner's pension, and no disciplinary or inquiry proceedings have been conducted against him. He added that alleged liabilities totaling PKR 1,531,374/- and PKR 8,955,225/- are fabricated, unsubstantiated, and not recoverable from the Petitioner, as confirmed by internal records and prior Court rulings.

3. Learned counsel for the petitioner submitted that the Respondents' acts constitute blatant violations of the University Statutes, principles of natural justice, and the Petitioner's constitutional rights under Articles 18, 23, 24, and 25 of the Constitution. He submitted that the Supreme Court has consistently held that withholding pensionary benefits without an opportunity of hearing is illegal. He prayed to allow this Petition.

4. Learned counsel for the Respondent University submits that the instant constitutional petition is not maintainable under Article 199 of the Constitution, as the University of Karachi does not have statutory service rules. Consequently, the relationship between the Petitioner and the University is that of master and servant, and no writ lies in respect of disputed service matters. It is further submitted that no

action or omission on the part of the Respondents has been taken in disregard of any legal provision. The Petitioner has failed to establish any legal or vested right warranting interference by this Court. He emphasized the point that the petition involves seriously disputed questions of **fact**, including outstanding dues, occupation of university premises, and unadjusted advances, which cannot be adjudicated in constitutional jurisdiction. He added that the Petitioner retired on 24.12.2018 upon attaining the age of superannuation. However, the petitioner admitted that he has already been paid Provident Fund, Leave encashment, and Monthly pension, as evidenced through documentary annexures placed on record. He argued that despite retirement, the Petitioner has failed to vacate the University accommodation, in clear violation of University Syndicate Resolutions dated 13.11.2014 and 22.08.2020, despite repeated notices. However, he continues to illegally occupy the premises and has failed to pay rent and utility charges since 25.12.2018, thereby causing financial loss to the University. Learned counsel next argued that substantial amounts remain outstanding against the Petitioner, including PKR **1,531,374/-** on account of campus residence and utilities, and PKR **8,955,225/-** on account of unadjusted advances, making a total liability of PKR 10,486,599/-. These amounts have not been cleared despite repeated demands. It is further submitted that the Petitioner himself delayed settlement of pensionary matters by failing to timely deposit pension contributions relating to his foreign leave **service**, which was deposited only on 19.08.2022, after more than three years of retirement. He emphasized that any payments made to the Petitioner were expressly subject to adjustment of outstanding dues, as reflected in the Office Order dated **24.01.2023**, which the Petitioner has violated by failing to clear his liabilities. In view of the above facts, learned counsel submits that the Petitioner is not entitled to any declaration, direction, injunction, or ancillary relief. Besides, the petition suffers from concealment of material facts, involves disputed questions, and is liable to be dismissed.

5. In rebuttal, learned counsel for the Petitioner submits that the instant petition arises solely from the unlawful withholding of post-retirement and pensionary benefits by Respondent No. 2 (University of Karachi), despite the Petitioner having retired on superannuation on 24.12.2018 after rendering nearly 30 years of unblemished service, lastly serving as Dean, Department of Political Science. He added that the Petitioner is statutorily entitled to pension and allied benefits under Section 23 read with Section 11 of the University of Karachi Pension Statutes, 1972, which mandate completion of pension formalities within three months of retirement, failing which anticipatory pension is required to be sanctioned. Admittedly, such benefits were neither released in time nor regularly paid. He further submitted that the Respondents' objection regarding maintainability is misconceived, as Karachi University has been conclusively held to be a statutory body and a "person" under

Article 199 of the Constitution by a Division Bench of this Court in C.P. No. D-5300 of 2020 and order dated 01.01.2025. The constitutional petition is therefore fully maintainable under Article 199 of the Constitution. He argued that while a monthly pension is being paid, all other post-retirement dues remain unlawfully withheld, despite their formal sanction vide Office Order dated 24.01.2023, exposing the Respondents' contradictory stance and mala fides. He added that allegations regarding foreign leave, outstanding advances, and alleged recoveries are afterthoughts, never raised before filing of the petition, nor supported by any audit report, inquiry, or disciplinary proceedings. He emphasized that admittedly, no proceedings were finalized before retirement, and thus pensionary benefits cannot be withheld on mere allegations, as held in C.P. No. D-6025 of 2024 vide Order dated 15.01.2025. He also argued that the plea of illegal occupation of university premises is equally untenable as rent is regularly deducted from the Petitioner's pension, contradicting the allegation of unauthorized occupation. In any event, a pension cannot be withheld or deducted on this ground, which action is illegal. He next submitted that the alleged amounts of PKR 1,531,374/- and PKR 8,955,225/- are unsubstantiated, fabricated, and disproved by the Respondents' own annexures, which show the funds were earmarked for internal university expenditures and were never issued to the Petitioner personally as such this demand is illegal. The selective denial of benefits, while similarly placed employees retiring later were paid without delay, constitutes hostile discrimination, warranting constitutional intervention. He emphasized that the Supreme Court has consistently held that a pension is a vested right, which cannot be withheld without show cause notice and due process. The Respondents' conduct is in clear violation of these binding principles. In view of the above, learned counsel for the petitioner submits that the continued withholding of the Petitioner's post-retirement dues is illegal, arbitrary, and mala fide, and prays that the instant petition be allowed, with directions to the Respondents to release all outstanding pensionary benefits forthwith.

6. Upon careful consideration of the pleadings, submissions of learned counsel for the parties, relevant statutory provisions, and the case-law cited at the bar, it is noticed that the controversy centers upon the withholding of post-retirement and pensionary benefits of the Petitioner, who retired on superannuation on 24.12.2018 after rendering nearly three decades of unblemished service to the University of Karachi, as prima facie, no documentary proceedings were initiated during his tenure of service so far as the allegations leveled against the petitioner are concerned.

7. The preliminary objection regarding maintainability raised by the Respondents cannot be sustained as the University of Karachi, though not governed by statutory service rules, is undoubtedly a statutory body established under the University of Karachi Act, 1972 and has already been held by a Division Bench of

this Court to be a “person” within the meaning of Article 199 of the Constitution, exercising public functions and authority in C.P. No. D-5300 of 2020, and Order dated 01.01.2025. Consequently, constitutional jurisdiction is rightly invoked, particularly where the grievance pertains to the denial of statutory and constitutional/Legal rights as well as pensionary rights, which is a legal right as held by the Supreme Court in the recent judgment, therefore the objection is overruled.

8. The Petitioner’s right to pension and allied post-retirement benefits flows directly from Sections 11 and 23 of the University of Karachi Services Pension Statutes, 1972, which impose a mandatory obligation upon the University to complete pension formalities within three months of retirement and, in case of delay, to grant anticipatory pension. The admitted position that such statutory benefits were neither finalized within the prescribed period nor regularly paid, despite formal sanction vide Office Order dated 24.01.2023, establishes a clear breach of statutory duty on the part of respondent university.

09. The Respondents’ justification for withholding the Petitioner’s dues based on alleged outstanding amounts, foreign leave contribution, and occupation of university accommodation prima facie lacks legal foundation. It is an admitted position that no inquiry, audit determination, or disciplinary proceedings were initiated or finalized against the Petitioner before his retirement. It is settled law that pensionary benefits cannot be withheld based on unproven allegations or disputed claims, and any recovery or penalty must follow due process, including notice and opportunity of hearing. Mere assertions, unsupported by proper adjudication and determination under the relevant law, do not create a lawful authority for the respondents to deny a pension and or outstanding service dues on the aforesaid analogy

10. Furthermore, the plea of unauthorized occupation of university premises stands contradicted by the Respondents’ own conduct, as rent is admittedly being deducted from the Petitioner’s pension as agitated by the petitioner. In any event, it is well-settled that a pension cannot be withheld or adjusted on account of residential occupation disputes, as held in Pakistan Telecommunication Company Limited and another v Anjuman Falah-e-Behboud and others **2018 PLC (CS) 510**, Muhammad Ismail Memon v In the matter of Iftikhar **PLD 2007 SC 35**, Muhammad Yousaf v Province of Sindh & others **2024 SCMR 1689**, Pervaiz Hussain Shah & others v Secretary to Government of Punjab and another **2024 SCMR 309**, **Ghulam Sarwar Chang v Province of Sindh and others** **2025 PLC (C.S) 12**, unreported orders in C.P. No. D-6025 of 2024 order dated 15.01.2025 and C.P. No. D-5300 of 2020 order dated 01.01.2025 passed by this Court and such issues, if any, must be addressed independently in accordance with law before the competent forum.

11. The alleged liabilities of PKR 1,531,374/- and PKR 8,955,225/- are neither substantiated through audit reports nor shown to have been disbursed to the Petitioner in his personal capacity as agitated by the petitioner which needs proper adjudication under the law. On the contrary, the Respondents' own record reflects that such amounts pertain to institutional expenditures, rendering the claim to be property adjudicated. The selective denial of benefits, when similarly placed employees retiring later were paid without delay, further establishes hostile discrimination, offending Article 25 of the Constitution. Therefore this court is left with no option but to say that the aforesaid issue needs proper adjudication before competent authority and in such circumstances cannot be denied.

12. The law relating to pension is now firmly settled by the Supreme Court, which has consistently held that pension is a vested, enforceable right, not a bounty, and cannot be withheld without lawful justification and due process in *Muhammad Ismail Memon v In the matter of Iftikhar* **PLD 2007 SC 35**, *Muhammad Yousaf v Province of Sindh & others* **2024 SCMR 1689**, *Pervaiz Hussain Shah & others v Secretary to Government of Punjab and another* **2024 SCMR 309**, *Ghulam Sarwar Chang v Province of Sindh and others* **2025 PLC (C.S) 12**. Any administrative action depriving a retired employee of such benefits is not only illegal but also arbitrary and violative of the principles of natural justice. On the aforesaid proposition, we are guided by the decision of the Supreme Court rendered in the case of *Muhammad Yousuf v Province of Sindh & others* **2024 SCMR 1689**.

13. In view of the foregoing, the continued withholding of the Petitioner's remaining post-retirement benefits, if not earlier paid, is without lawful justification, and cannot be sustained at this stage. The Petitioner has successfully established infringement of his statutory and legal rights, warranting interference by this Court under Article 199 of the Constitution.

14. Accordingly, the petition merits acceptance, with directions to the competent authority of Respondents to recalculate and release all outstanding post-retirement benefits/dues if not earlier paid to him, and pensionary benefits if any forthwith, strictly in accordance with law, however the same shall not be withheld on the aforesaid analogy, as discussed supra..

15. This petition stands allowed in the above terms along with pending application(s) if any.

JUDGE

JUDGE