

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
C.P. No. D-6789 of 2018  
[Shoukat Ali another. Vs. State Bank of Pakistan & 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: 23.04.2026**

M/s Malik Naeem Iqbal and Talha Abbasi advocates for the petitioner  
Mr. Faisal Siddiqui advocate for the respondent No.1  
Ms. Wajiha Mehdi Assistant Attorney General

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**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) *Declare that the failure of the respondents to treat salary exceeding maximum of the scale for OG-03 officers as part of monetized salary for the purposes of calculating pensionary benefits is illegal, discriminatory, arbitrary and unreadable;*
- ii) *Direct the Respondents to re-calculate pensionary benefits of the petitioners by treating salary exceeding maximum of the scale for OG-3 officers as part of monetized salary and pay them differential amount forthwith;*
- iii) *Grant any other relief deemed just, proper and appropriate in the facts and circumstances of the case, in the interest of justice.*

2. The petitioners, served the State Bank of Pakistan (SBP) for more than 38 and 30 years respectively and retired as OG-3 officers upon attaining the age of superannuation on 31.07.2013 and 15.10.2015. They claim entitlement to equal protection of law in respect of their pensionary benefits. The grievance of the petitioners arises from the failure of the respondents to include the amount of salary exceeding the maximum of the scale, i.e., Annual Merit Increase (AMI), as part of monetized salary for the purpose of calculating their pensionary benefits.

3. According to the petitioners' counsel, such benefit was already being extended to unionized staff of SBP as well as employees of SBP and State Bank of Pakistan Banking Service Corporation (BSC) and was subsequently extended to all officers with effect from 28.03.2016, yet the petitioners were/are excluded without any reasonable classification. It is contended that under the State Bank Employees (Service) Regulations, 2005, the Board of Directors is empowered to determine salary structure and pensionary benefits. The compensation package introduced with effect from 01.07.2015 capped monetized salary at the maximum

of the scale, but officers continued to receive AMI, which, though shown separately, forms part of emoluments and ought to be included in pension calculations as per settled principles of law. The petitioners' counsel submit that prior to retirement of the petitioner No.1 and subsequent his death during proceedings, now through his legal heirs, petitioner No.1 had approached the respondents through representation dated 30.09.2015, highlighting that AMI was being treated as part of salary for pension purposes in SBP and BSC and for unionized staff. However, the representation was rejected without assigning any intelligible differentia. Subsequent appeals and representations filed by both petitioners also remained unanswered. It was only on 28.03.2016 that the respondents extended the benefit of including AMI in monetized salary to officers prospectively, without granting the same to those who had already retired, including the petitioners. Aggrieved by such treatment, the petitioners assert that they have been subjected to discrimination in violation of constitutional guarantees. Their counsel contended that there exists no reasonable classification distinguishing them from similarly placed employees, as their employer, functions, qualifications, and duties are identical. The exclusion of AMI from their pensionary benefits is thus arbitrary, unreasonable, and without lawful justification. The petitioners further maintain that pension must be calculated on the basis of last drawn emoluments, including all components of pay, and any deviation from this principle amounts to denial of their lawful rights. Having exhausted all departmental remedies without success, the petitioners have approached this Court seeking redress. Accordingly, the petitioners pray that the action of the respondents in excluding salary exceeding the maximum of the scale from monetized salary for pension purposes be declared illegal, discriminatory, and arbitrary, and that the respondents be directed to recalculate their pensionary benefits by including the same and to pay the differential amounts. Reliance is placed by the petitioners on **2014 SCMR 135** and argued that this Court in constitutional jurisdiction under Article 199 of the Constitution can enforce the right of any employee is violated in defiance of such rule even pensionary rights which is now recognized as legal right. He further submitted that in I.A. Sherwani's case reported (**1991 SCMR 1041**) it was recognized that the right to receive pension by a Government servant is property so as to attract Articles 23 and 24(1) of the Constitution and any illegal denial to a Government servant to receive the same would affect his fundamental right granted under the said provisions of the Constitution. He prayed to allow this petition.

4. Learned counsel for the respondent Bank raised the question of maintainability of the petition, it was contended that the instant petition is not competent under Article 199 of the Constitution against the State Bank of Pakistan in matters arising out of its internal regulatory framework, particularly the State Bank of Pakistan Staff Regulations. Reliance was placed upon

authoritative precedents, including 2017 SCMR 571, 2020 PLC (CS) 525, and order dated 05.01.2026 passed by this Court in C.P. No. D-4024 of 2025, wherein it has consistently been held that disputes relating to service structure, pension, or benefits governed by SBP Regulations or circulars are not amenable to writ jurisdiction. It was argued that the present petition, though framed otherwise, in substance seeks interpretation and enforcement of SBP Staff Regulations, including the definition of “salary” under Regulation 2(iv), and therefore falls squarely within the bar laid down in the cited judgments. The reliance placed by the petitioners on 2014 SCMR 135 was distinguished on the ground that it pertained to a public limited company (PSO) and not the State Bank of Pakistan, and that specific precedents relating to SBP would prevail over general principles. On merits, learned counsel submitted that the claim of the petitioners is untenable. It was argued that the Annual Merit Increase (AMI) is inherently a performance-based incentive applicable only to serving employees and not to retired personnel. The AMI in question was approved by the Board of Directors of SBP on 12.03.2016 and implemented through circular dated 28.03.2016 with immediate effect, without any retrospective application. Since the petitioners had admittedly retired prior to the said date in 2013 and 2015 respectively, they could not claim any benefit arising from such increase. It was further contended that the petitioners’ attempt to seek inclusion of AMI in their pensionary benefits is analogous to claiming a post-retirement enhancement in salary, which has been expressly disapproved by the Supreme Court in 2014 SCMR 135. It was also pointed out that the petitioners’ reliance on an earlier circular dated 05.05.2014 is misconceived, as the said circular was applicable only to SBP-BSC employees and not to SBP officers, a position admitted by the petitioners themselves. The governing instrument, therefore, remains the circular dated 28.03.2016, which does not support the petitioners’ claim. Lastly, it was asserted that the petitioners are attempting to claim benefits to which they were never entitled under the applicable rules, and no discrimination or violation of fundamental rights has occurred. In support of his contention he relied upon the cases of *Ghulam Rabbani v Governor State Bank of Pakistan* 2020 PLC (C.S) 525, *Muhammad Zaman & others v Government of Pakistan through Secretary Finance Division Islamabad and others* 2017 SCMR 571, *Shafique Ahmed Khan and others v NESCOM through Chairman Islamabad & others*, PLD 2016 SC 377, *Nagina Bakery v Sui Southern Gas Limited & others* 2001 PLC (C.S) 760, *Muhammad Azam Khan v State Bank of Pakistan, Karachi* PLD 1976 Karachi 778, *Hyderi International Finance Ltd v State Bank of Pakistan Lahore* PLD 1980 Lahore 658 and *Chief Manager State Bank of Pakistan Lahore and others v Muhammad Shafi* 2010 SCMR 1994 and one unreported Judgment in C.P. No.D-100 & 101 of 2013 passed by this Court. He lastly prayed to dismiss the instant petition.

5. In rebuttal, learned counsel for the petitioners contended that the objections to maintainability are misconceived, as the petition raises a pure question of law concerning violation of fundamental rights, particularly equality and non-discrimination in pensionary benefits, thus squarely falling within the constitutional jurisdiction under Article 199 of the constitution. It was argued that no material facts have been suppressed and that the petition does not seek enforcement of non-statutory SBP regulations but challenges their discriminatory application. Relying on the law laid down in **2017 SCMR 571**, counsel submitted that constitutional jurisdiction is not barred merely because an institution operates under non-statutory rules, so long as it performs public functions and its actions infringe fundamental rights. The State Bank of Pakistan, being a statutory body discharging public functions, is therefore amenable to constitutional scrutiny. Counsel argued that pension must be computed on the basis of last drawn emoluments, which include AMI/salary exceeding the maximum of the scale. He added that denial of this benefit to the petitioners, while it was extended to unionized staff, SBP-BSC employees, and later to all officers through circular dated 28.03.2016, constitutes hostile discrimination without any intelligible differentia or rational nexus to the object of pension calculation. He submitted that distinctions based on service structure or pay scales are irrelevant in determining pension, which must be calculated uniformly. He added that the subsequent extension of the benefit to all officers itself demonstrates that the earlier exclusion was arbitrary. It was thus submitted that the impugned action is violative of Article 25 of the Constitution, and the petitioners are entitled to recalculation of pension by including AMI with all consequential benefits.

6. We have heard the learned counsel for the parties and perused the record with their assistance and case law cited at the bar.

7. First and foremost the question of maintainability of this petition in terms of the ratio of the judgment rendered by the Supreme Court in the case of *Muhammad Zaman & others v Government of Pakistan through Secretary Finance Division Islamabad and others* **2017 SCMR 571**. The core ratio of the judgment is that the State Bank of Pakistan Officers (Pension-cum-Gratuity) Regulations, 1980 are non-statutory in nature, even though they were framed under Section 54 of the State Bank of Pakistan Act, 1956 and therefore not enforceable through constitutional jurisdiction; however, the determining test is the nature and scope of the regulations, not the requirement of government approval.

8. The controversy in the present petition revolves around two fundamental questions: first, whether the petition is maintainable under Article 199 of the Constitution in view of the jurisprudence governing the State Bank of Pakistan and its regulatory framework; and second, whether the exclusion of Annual Merit

Increase (AMI), i.e., salary beyond the maximum of the scale, from pensionary benefits amounts to unlawful discrimination or violation of a vested right.

9. At the outset, the question of maintainability assumes pivotal importance, as it goes to the very root of the jurisdiction of this Court. The learned counsel for the respondent Bank has rightly contended that the present dispute arises out of the internal service structure and regulatory framework of the State Bank of Pakistan, particularly its pension regime. In this regard, the law is no longer *res integra*. The Supreme Court in the case of *Muhammad Zaman v Government of Pakistan* has conclusively held that the State Bank of Pakistan Officers (Pension-cum-Gratuity) Regulations, 1980, though framed under the enabling provisions of law, are non-statutory in nature. The necessary corollary of this finding is that rights flowing from such regulations do not attain the status of statutory rights enforceable through constitutional jurisdiction under Article 199 of the Constitution, unless an independent violation of a fundamental right is established.

10. This principle has been consistently followed and reaffirmed in subsequent judgments, including *Ghulam Rabbani v Governor SBP*, *Muhammad Azam Khan v State Bank of Pakistan*, and *Hyderi International Finance Ltd v SBP*, wherein it has been held that matters relating to service structure, pension, and internal benefits of the State Bank of Pakistan are not ordinarily amenable to writ jurisdiction. These authorities clearly draw a distinction between statutory rights and those emanating from internal or non-statutory frameworks, the latter being outside the purview of constitutional enforcement.

11. The petitioners, however, have attempted to bring their case within constitutional domain by invoking the principles laid down in *I.A. Sherwani v Government of Pakistan* and 2014 SCMR 135, contending that pension is a vested right and constitutes property, thus attracting constitutional protection. While there can be no cavil with the proposition that pension, once legally accrued, is a protected right, the reliance placed on these judgments is misplaced in the peculiar facts of the present case. Those precedents apply in situations where an admitted or established pensionary entitlement is denied in violation of law. In the present matter, however, the dispute does not pertain to denial of an existing right but rather to the determination of what constitutes “pensionable salary” under the regulatory framework of the State Bank of Pakistan.

12. This distinction is crucial. The petitioners are, in essence, seeking inclusion of AMI in their pensionable emoluments, which necessarily requires interpretation, extension, and modification of the SBP’s internal regulations and policies. Such an exercise squarely falls within the domain of non-statutory service matters and cannot be elevated to a constitutional issue merely by

invoking Articles 23, 24, or 25 of the Constitution. No independent statutory provision or law has been shown to have been violated. The grievance remains confined to the internal regulatory regime of the employer. Consequently, the case falls directly within the bar laid down by the Supreme Court in Muhammad Zaman's case, and the petition is, therefore, not maintainable under Article 199 of the Constitution.

13. Even otherwise, if the matter is examined on merits, the petitioners' claim does not withstand judicial scrutiny. The foundation of their case rests on the assertion that AMI forms part of their emoluments and ought to be included in the calculation of pension. However, the material on record reflects that AMI is inherently a performance-based increment, granted at the discretion of the employer and not forming part of the basic pay scale. It was only through a policy decision taken by the Board of Directors of the State Bank of Pakistan on 12.03.2016, implemented via circular dated 28.03.2016, that AMI was formally recognized for inclusion in monetized salary for pensionary purposes. Significantly, this policy was made effective prospectively and was never intended to operate retrospectively.

14. The petitioners admittedly retired prior to the said policy one in 2013 and the other in 2015. At the time of their retirement, there existed no rule, policy, or entitlement under which AMI could be treated as pensionable salary. It is a settled principle of law, as reiterated by the Supreme Court in 2014 SCMR 135, that post-retirement financial benefits cannot be extended retrospectively unless expressly provided. The petitioners, therefore, cannot claim the benefit of a policy that came into existence subsequent to their retirement.

15. The argument of discrimination under Article 25 of the Constitution, though forcefully advanced, is equally untenable. The classification drawn by the respondents between employees who retired prior to 28.03.2016 and those who continued in service thereafter is based on a clear and intelligible differentia, namely, the applicability of a new policy from a specified date. Such classification bears a rational nexus to the object sought to be achieved, i.e., implementation of a revised compensation structure prospectively. Similarly, the distinction between officers and unionized or SBP and BSC employees is rooted in separate service structures and regulatory regimes. The law recognizes that different cadres or classes of employees may legitimately be governed by different terms and conditions of service. In this regard, reliance may be placed on *Shafique Ahmed Khan v NESCOM* and *Nagina Bakery v SSGC*, which affirm that variations in service benefits based on distinct frameworks do not amount to unlawful discrimination.

16. The petitioners' contention that pension must be calculated on the basis of last drawn emoluments, inclusive of all components of salary, is also misconceived. The term "emoluments" is not to be understood in a vacuum; it derives its meaning from the applicable service rules. Where a particular component of pay is not recognized as pensionable under the governing framework at the time of retirement, it cannot be subsequently imported into the calculation of pension.

17. In view of the foregoing discussion, it becomes obvious that the petitioners are, in substance, seeking extension of a benefit which was neither available nor legally recognized at the time of their retirement. Such a claim does not give rise to any enforceable fundamental right, nor does it fall within the scope of constitutional jurisdiction under Article 199 of the Constitution.

18. However, without prejudice the rights of the parties, the exclusion of AMI from their pensionary benefits, in the facts and circumstances of the case, is a policy decision of the respondent Bank.

19. Accordingly, the petition is held to be not maintainable and is dismissed along with pending application(s).

JUDGE

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