

# HIGH COURT OF SINDH CIRCUIT COURT, MIRPURKHAS

**C.P No.D-791 of 2025**

[Obaisa Mangrio vs. Province of Sindh & Other]

DATE	ORDER WITH SIGNATURE OF JUDGE
	<u>Before:</u> <b><u>JUSTICE ARBAB ALI HAKRO</u></b> <b><u>JUSTICE MUHAMMAD HASAN (AKBER)</u></b>
Petitioner by	: Mr. Ghulam Rasool Samoon, Advocate
Respondents by	: Mr. Rafique Ahmed Dahri AAG Sindh a/w DEO ES&HS TMK Nisar Ali
Intervener	: Advocate Sajjad Rasheed in person
Date of hearing	: 28.01.2026
Date of decision	: 28.01.2026

## ORDER

**ARBAB ALI HAKRO J**:- The petitioner has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution, seeking directions for restoration of her service identity number, release of withheld salary and processing of pensionary benefits. The petition is founded upon the assertion that, despite long service in the Education Department, her post-retirement entitlements have been unlawfully withheld on account of administrative inaction and allegations which, according to her, have already resolved by the competent authority.

2. At the outset, we intend to decide first the fate of the application bearing M.A. No.212 of 2026, filed by the intervener, Sajjad Rasheed, seeking his impleadment as a respondent in the present proceedings. The applicant/intervener, who appears in person, submits that he has instituted a Direct Complaint bearing No.37 of 2025 against the petitioner before the Anti- Corruption Court, Hyderabad, and on that basis asserts that he is a necessary and proper party to this constitutional petition. We have heard the applicant/intervener and examined the nature of the relief sought in the main petition. The present proceedings concern the petitioner's outstanding salary, the restoration of her service identity number, and the release of pensionary and post- retirement benefits, matters that lie

exclusively between the petitioner and the Government departments responsible for her service record and retirement entitlements. The intervener, being a private individual, has no legal nexus with the subject matter of this petition. His complaint before the Anti- Corruption Court, even if pending, does not confer upon him any right to be impleaded in proceedings that do not affect his personal rights or obligations. The jurisdiction invoked in this petition is supervisory and constitutional in nature, and the scope of adjudication is confined to the administrative acts of the official respondents. No relief is claimed against the intervener, nor does the determination of the petitioner's pensionary rights require adjudication of any issue involving him. The application is therefore misconceived and not maintainable. Accordingly, M.A. No.212 of 2026 is **dismissed.**

3. The factual matrix, as emerging from the contents of the petition, reflects that the petitioner was initially appointed as a Primary School Teacher (BPS-07) by the District Education Officer, Tharparkar, at Mirpurkhas, through an order dated 03.11.1990. She joined her duties at GGPS Umerkot Main on 18.11.1990, after obtaining the requisite medical fitness certificate. Over the years, she underwent inter-district transfers, first from Umerkot to Hyderabad in March 2007 and thereafter from Hyderabad to Tando Muhammad Khan in April 2008. She was subsequently promoted to the post of High School Teacher (BPS-16) vide order dated 31.05.2008 and was posted at GGHS Kouro Lashari. The petitioner maintains that she continued to perform her duties satisfactorily; however, due to a malfunction of the biometric attendance system, her salary was discontinued from February, 2021 onwards. She asserts that, despite repeated applications, she was not assigned any posting and remained unpaid until her retirement. A show-cause notice was issued to her on 02.12.2022 on the allegation of absence from duty, to which she submitted a reply on 03.01.2023. According to the petitioner, without affording her a personal hearing and even prior to consideration of her

reply, she was visited with the major penalty of removal from service. She preferred a departmental appeal before the Secretary, School Education & Literacy Department, who, upon examining her attendance record and medical documents, allowed the appeal on 19.06.2023, withdrew the show-cause notice, and permitted her to resume duties subject to her applying for retirement. The petitioner thereafter submitted her retirement application along with the requisite service documents, including the Service Qualifying Certificate issued by the District Accounts Officer, Tando Muhammad Khan. Her retirement order was eventually issued by the Director Schools Education (ES&HS), Hyderabad. On 08.01.2025, she submitted her pension papers, GP Fund final payment files and other documents to the District Education Officer, Tando Muhammad Khan. She also applied for the unblocking of her service ID No.10350905. Subsequent correspondence ensued between the District Education Officer and the Taluka Education Officer for verification of original documents, which the petitioner claims to have submitted on 15.04.2025. Her grievance is that despite compliance with all requirements, her pension and GP Fund cases remain pending without lawful justification.

4. Respondent No.10, the District Education Officer, Tando Muhammad Khan, has filed paragraph-wise comments contesting the petition. It is asserted that the petitioner is not a law-abiding employee, as she allegedly caused loss to the public exchequer by drawing a salary without performing duties. It is contended that she never physically joined or served at any school within District Tando Muhammad Khan, and that her purported promotion and posting as HST at GGHS Kouro Lashari are fraudulent, engineered through the misuse of authority by a relative who previously served as DEO. Statements of the HeadMistress and staff of GGHS Kouro Lashari are relied upon to assert that she never joined the school. It is further stated that a judicial inquiry into the alleged financial loss is underway before the Anti-Corruption Court, Hyderabad. Respondent No.10 denies receipt of any properly forwarded applications

or pension papers through the prescribed channel and alleges that the entries in the petitioner's service book relating to her service in District Tando Muhammad Khan are fabricated and bear forged signatures of Drawing and Disbursing Officers. On this basis, the respondent contends that the petitioner has approached the Court with unclean hands and is not entitled to any relief.

5. The Finance Department, through its comments, states that the petitioner was an employee of the School Education & Literacy Department and that matters relating to her salary, pension, commutation, GP Fund and other service benefits fall exclusively within the jurisdiction of the administrative department, which is the competent pension-sanctioning authority. The Finance Department asserts that it is merely a pro forma party.

6. Learned counsel submits that the petitioner served the department for over three decades and that the stoppage of her salary stemmed solely from a biometric malfunction, not from any misconduct. The subsequent removal order, counsel argues, stood conclusively set aside by the Secretary, who restored her status and permitted her to seek retirement. Once the competent authority withdrew the show- cause proceedings, the respondents were bound to process her pension without delay. Counsel maintains that all required documents, including the original service book, were duly submitted, yet the respondents continue to withhold her pension on unsubstantiated allegations of forgery. It is argued that a pension constitutes a vested right and that its denial violates constitutional protections.

7. Learned A.A.G contends that the petitioner never physically served in District Tando Muhammad Khan and that her salary was stopped due to persistent absence reflected in biometric records. It is argued that her promotion and posting as HST were irregular and allegedly procured through the misuse of authority by a relative. The service book entries relating to her service in the district are said to be fabricated, and a judicial

inquiry into illegal drawl of salary is already pending. Learned Law Officer submits that no pension papers were ever forwarded through the proper channel and that the petition raises disputed factual issues, warranting dismissal.

8. We have heard the learned counsel for the petitioner, learned law officer representing the official respondents and the representatives of the concerned department, so also examined the material placed on record.

9. The record placed before this Court demonstrates that the petitioner's entry into service, her subsequent interdistrict transfer and her promotion to the post of High School Teacher are all supported by contemporaneous official documents issued by competent authorities in the ordinary course of administrative business. The appointment order of 1990, the inter-district transfer order dated 09.05.2008 issued by the Executive District Officer (Education), Tando Muhammad Khan and the promotion order dated 31.05.2008 issued upon the recommendation of the Departmental Promotion Committee, are all formal instruments bearing official signatures, endorsements and circulation to multiple offices, including the Secretary Education, the District Accounts Officer and the District Coordination Officer. These documents are not private writings emanating from the petitioner; they are official acts of the State, issued on departmental letterheads, duly numbered, and preserved in the administrative record.

10. Such documents carry a presumption of regularity unless disproved through cogent evidence. They cannot be brushed aside merely because a subordinate officer, years later, raises unsupported allegations. Administrative orders of transfer and promotion, once issued by the competent authority and acted upon by the department, cannot be retrospectively declared fraudulent on the basis of conjecture or suspicion. If the department genuinely believed that the petitioner's transfer or promotion was irregular, the proper course would have been to initiate proceedings at the relevant time, not to allow the petitioner to serve for

years, subject her to disciplinary proceedings and then, at the stage of pension, attempt to disown its own official acts. The law does not permit a department to approbate and reprobate in this manner.

11. The matter assumes further clarity when examined in light of the appellate order passed by the Secretary, School Education & Literacy Department, in July 2023. The petitioner had challenged the show-cause notice and the subsequent removal order before the Secretary, who is the competent appellate authority under the Sindh Civil Servants Appeal Rules, 1980. The Secretary afforded the petitioner a personal hearing on 19.06.2023, examined the record and concluded that the charges of absence could not be established. The Secretary expressly vacated and withdrew the show-cause notice and restored the petitioner's status, permitting her to continue at her place of posting and to submit her retirement application.

12. This order is a quasi-judicial determination rendered by the highest administrative authority in the department. It conclusively resolves the allegations of absence and misconduct. It has neither been challenged nor set aside by any competent forum. Once such an order is passed, subordinate officers are bound by it. They cannot, by comments filed before this Court or by administrative inaction, revive allegations conclusively adjudicated by the competent appellate authority. To permit such conduct would undermine the hierarchical structure of administrative decision-making and render appellate orders meaningless.

13. The record further contains a No Dues Certificate and a No Inquiry Certificate issued by the District Education Officer, Tando Muhammad Khan, dated 12.01.2024. These certificates categorically state that no government dues are outstanding against the petitioner and that no departmental or anti-corruption inquiry is pending against her. These certificates emanate from the very office which now, through respondent No. 10, asserts that the petitioner caused a loss to the public exchequer and that a judicial inquiry is pending before the Anti-Corruption Court.

Even assuming, for argument's sake, that some form of inquiry is pending, the legal position is well-settled. The mere pendency of a complaint, inquiry or proceedings before the Anti-Corruption Court, whether preliminary, inconclusive or dormant, does not furnish a lawful ground to withhold pension. Pension is not a bounty; it is a vested right earned through long service. It cannot be suspended or withheld unless a competent authority, through a lawful and reasoned order, withholds it under the statutory framework governing pensions. No such order exists in the present case. The respondents have not pointed to any provision of law under which a pension may be withheld merely because an inquiry is said to be pending. Courts have consistently held that pensionary rights cannot be defeated by unproven allegations or by proceedings that have not culminated in a finding of guilt.

14. In this context, it is necessary to reiterate that the mere pendency of any complaint, inquiry, or proceedings before the Anti-Corruption Court, whether preliminary, ongoing, or inconclusive shall not impede or delay the petitioner's pensionary rights, nor shall it be treated as a lawful ground to withhold or suspend her pension, in the absence of a final adjudication establishing guilt or a specific statutory order withholding pension. Any departmental apprehension regarding past irregularities may, if so advised, be pursued independently in accordance with law, but such apprehension cannot be used as a pretext to deprive the petitioner of her lawful entitlements.

15. The competent authority has issued the petitioner's retirement order. The District Education Officer has received her pension papers. Her service book has been submitted in original, as required by the Taluka Education Officer's letter. The respondents have not issued any formal objection to her pension papers, nor have they initiated any lawful proceedings to dispute her service record. Instead, they have allowed the matter to linger, leaving the petitioner without a pension, commutation, GP Fund, or other post-retirement benefits. This conduct is arbitrary,

unreasonable, and contrary to the constitutional guarantees of due process, dignity, and equality before the law.

16. The allegations raised in the comments of respondent No.10 are unsupported by any credible material. They cannot defeat the petitioner's rights, particularly when weighed against the official documents on record, the Secretary's exonerating order, the No Dues and No Inquiry Certificates and the retirement order. The respondents have failed to justify the continued withholding of the petitioner's pensionary and post-retirement benefits. The petitioner's rights stand established, and the respondents' objections collapse under the weight of their own record.

17. For the reasons recorded above, this petition is **allowed**. The respondents shall forthwith restore and activate the petitioner's service identity number and shall process, finalise, and release all pensionary and post- retirement benefits, including pension, commutation, GP Fund, group insurance, and all other admissible dues, strictly in accordance with law, within a period not exceeding thirty days from the date of this order. The arrears of salary withheld from February 2021 to July 2023 shall also be released in the light of the Secretary's order.

JUDGE

JUDGE

Sajjad Ali Jessar