

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No.D- 2243 of 2014

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar.
Mr. Justice Abdul Maalik Gaddi.

Muhammad Hanif Nasir Petitioner

V E R S U S

Karachi Metropolitan Corporation,
& others Respondents

Date of hearing 16.11.2016

Petitioner is present with his counsel M/s. Naseer Ahmed and Mohammad Asif, Advocates.

Mr. Iqbal Khurram, Advocate for the K.M.C.

Mr. Abdul Jalil Zubedi, A.A.G.

Muhammad Ali Mazhar, J: The petitioner has filed this petition for the directions against the respondents to pay his full and final dues including pensionary benefits. He was retired from service on 15.09.2004 after rendering 33 years of service. At the time of his retirement, he was performing duties as Director General, Parks, Recreation, Wild Life and Environment, KMC. Despite his retirement in the year, 2004 neither his full and final dues have been worked out nor anything was paid to him.

2. On behalf of respondents, counter affidavit has been filed by Abdullah Mushtaq, Director General, Parks and Horticulture, KMC. In para-3, it is stated that the petitioner while performing his duties, a sum of Rs.79,29,400/- were released during the period from

21.11.1994 to 23.06.1997 for some development work and since the petitioner failed to account for this amount, therefore, it is required to be adjusted in his dues. It is further stated that no original vouchers or receipts for payment were deposited by the petitioner which were required to be submitted by him before his retirement. Along with the additional statement dated 13.08.2015, a sheet showing the breakup with the date of payment is attached with the subject "adjustment of advance" which was allegedly issued on 30.03.2004. To a question raised by this court to the learned counsel for the KMC that the period of payment of this amount is mentioned in the breakup as of 21.11.1994 to 30.06.1997 while the petitioner was retired in the year 2004. Nothing is placed on record to show that any show cause notice or inquiry was conducted if the petitioner failed to account for this amount or any case or inquiry in this regard pending with the NAB or Anti-Corruption Department against the payment of this amount? Learned counsel for the KMC argued that this was the responsibility of the petitioner to submit the proper accounts along with documents to the department but he failed to do so, however, he admitted that no such inquiry or case is pending otherwise it would have been mentioned in the counter affidavit.

3. The issue of full and final settlement dues and pensionary benefits is pending in this court since 2014 while the actual date of retirement of the petitioner was 15.09.2004. Neither during this period any action was taken nor after filing of this petition. The petitioner states that there was no misappropriation or embezzlement of the amount. The respondent has also not levelled any allegation of misappropriation or embezzlement of amount nor complained that the work was not completed for which

the funds were released. The petitioner further stated that all relevant documents were submitted at relevant time. Learned counsel for the petitioner also quoted a letter dated 03.05.1973 issued by Additional Finance Secretary and Chairman, Pension Cases Disposal Committee, Sindh, Karachi in relation to the examination of delayed pension and G.P Fund cases by the Pension Cases Disposal Committee, Sindh. Though in this case, no inquiry was conducted nor any inquiry is pending but even in this letter, directions have been given that all the enquiries pending against a government servant should be completed within one year of his retirement and in case it is not done, his pension and gratuity should be released in full. It is further stated that if the inquiries are not completed within the specified period, action should be taken against those who are responsible for causing delay. It is further stated that the retiring government servants should not on account be penalized for slackness of others. Learned counsel also referred to order dated 07.04.2009 passed by the hon'ble Supreme Court in Human Rights case No. 05 of 2009 in which strict directions were issued for the payment of pensionary benefits expeditiously and the order was communicated to all Chief Secretaries of the Provinces for strict compliance of the directions given by the hon'ble Supreme Court. In the case of Haji Muhammad Ismail Memon, Advocate which is reported in **PLD 2007 S.C. 35**, the hon'ble Supreme Court held in paragraph 7 and 8 as under:-

“7. It is pathetic condition that Government servants, after having served for a considerable long period during which they give their blood and sweat to the department had to die in a miserable condition on account of nonpayment of pension/ pensionary benefits etc. The responsibility, of course, can be fixed upon the persons who were directly responsible for the same but at the same time we are of the opinion that

it is an overall problem mostly in every department, where public functionaries failed to play their due role even in accordance with law. Resultantly, good governance is suffering badly. Thus everyone who is responsible in any manner in delaying the case of such retired officers/official or widows or orphan children for the recovery of pension/ gratuity and G.P. Fund has to be penalized. As their such lethargic action is in violation of Articles 9 and 14 of the Constitution of Islamic Republic of Pakistan, 1973. Admittedly, it is against the dignity of a human being that he has to die in miserable condition and for about three years no action has been taken by the concerned quarters in finalizing the pension case and now when the matter came up before the Court, for the first time, they are moving in different directions just to show their efficiency and to clear their position before the Court. Such conduct on their behalf is highly condemnable and cannot be encouraged in any manner.

8. We, therefore, direct that all the Government Departments, Agencies and Officers deployed to serve the general public within the limit by the Constitution as well as by the law shall not cause unnecessary hurdle or delay in finalizing the payment of pensionary/retirement benefits cases in future and violation of these directions shall amount to criminal negligence and dereliction of the duty assigned to them. Thus having noticed such miserable condition prevailing in the department particularly relating to the payment of the pension to retired Government servants or widows or orphan children, we direct all the Chief Secretaries of the Provincial Governments as well as the Accountant Generals and the Accountant General Pakistan Revenue, Islamabad, to ensure future strict adherence of the pension rules reproduced hereinabove and clear such cases within a period not more than two weeks without fail.”

4. As a result of above discussion, this petition is disposed of with the directions to the respondents to calculate the entire full and final settlement dues of the petitioner and also start payment of pension within a period of one (01) month. Pending applications are also disposed of.

JUDGE

JUDGE