

*Order Sheet*  
**IN THE HIGH COURT OF SINDH KARACHI**  
**Constitutional Petition No. D –3315 of 2020**

Before:

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

Mst. Zarina Anwar

*Versus*

The Secretary Ministry of Education and 04 others

Date of hearing & order : 10.12.2020

Mr. Babar Ali Shaikh, advocate for the petitioner.

Mr. Ali Safdar Depar, Assistant A.G Sindh along with Riaz Ahmed, Assistant Accounts Officer, Accountant General Sindh & Jawed Ali Khawaja, Litigation Officer, SELD.

**ORDER**

**ADNAN-UL-KARIM MEMON, J.**, Through this petition, the petitioner is seeking direction to the respondents to issue notification of her retirement and award to her pensionary benefits on the premise that she was appointed as PTC Teacher (BPS-07) in Government Girls Primary School Tambo, Ghalib Shah Tehsil Pasru District Sialkot Government of Punjab and after 15 years of service in the Department of Education, she was sent on deputation to the Department of Education and Literacy, Government of Sindh. According to her, she continued her job in Education and literacy department, Government of Sindh, and stood retired from her service in the year 2017. Her grievance is that the Government of Sindh / Government of Punjab is avoiding to release her pension.

2. Mr. Babar Ali Shaikh, learned counsel for the petitioner, submits that post-retirement benefits of the petitioner are her inalienable fundamental rights guaranteed by the Constitution, cannot be withheld or delayed on the ground of whatsoever, especially when the same is her only source of income after retirement.

3. Learned AAG in principle has accepted the stance of the petitioner, however, he emphasized on his para-wise comments and argued that the petitioner will have to approach her parent department i.e. Education Department, Government of Punjab and in such an event, length of her service in the Government of Sindh will also be taken into consideration.

4. We have noticed that despite service upon respondent No.3 they deliberately failed and neglected to appear to assist the Court on the subject

issue, more particularly to defend their case, leaving this Court with no choice but to proceed with this matter in their absence.

5. We have heard learned counsel for the petitioner and learned AAG and perused the material available on record.

6. The important question involved in the present proceedings is that whether Education Department, Government Sindh (borrowing department) has to prepare the pension papers of the petitioner or her parent department i.e. Education Department, the Government of Punjab.

7. To answer the proposition, regarding the preparation of pension papers of Government servants on deputation to other departments, in case of a permanent employee, the papers have to be prepared by the Ministry/Division/Department/Office in which he/she held a substantive appointment.

8. Prima-facie, the petitioner was initially appointed as PTC Teacher (BPS-07) in Government Girls Primary School Tambo, Ghalib Shah, Tehsil Pasru, District Sialkot, Government of Punjab vide appointment letter dated 09.03.1981. She was granted senior grade in BPS-10 vide office order dated 01.01.1992 and further move over in BPS-11.

9. We have noticed that in the year 2004 she was transferred to the Education Department, Government of Sindh, on deputation on wedlock policy. Her deputation period was extended by the Sindh Government from time to time and finally, she attained the age of superannuation in the year 2017. In the meanwhile, the petitioner requested the respondents to pay her retirement dues, whereby the respondent-Education Department, Government of Sindh, vide office order dated 29.04.2019 directed the petitioner to approach her parent department i.e. Government of Punjab, Education Department (School Wing), Punjab Civil Secretariat, Lahore, for claiming her retirement emoluments / benefits.

10. Admittedly the petitioner was not on the permanent strength of the Sindh Government's service because her initial appointment was made by the Education Department, Government of Punjab, as she was working on deputation in Sindh Government since 28.12.2004 till she reached the age of superannuation. Her retirement case was referred to the Education Department, Government of Punjab by the Director Schools Education vide letter dated 29.04.2019.

11. We have noticed that at the time of her deputation there was understanding between the petitioner and respondent- Education Department i.e. Government of Punjab and Government of Sindh that her G.P Fund and pensionary liabilities shall be shared by them respectively. An excerpt of the letter dated 16.08.2004 is reproduced as under:

“No.SO B-III (SGA&CD)7-28/2004  
GOVERNMENT OF SINDH  
SERVICES GENERAL ADMINISTRATION  
AND COORDINATION DEPARTMENT  
New Sindh Secretariat Building – I  
Shahrah-e-Kamal Attaturk  
Karachi – 74200  
(Regulation Wing)  
Karachi dated the 16<sup>th</sup> August,2004

To,

*The Secretary to Govt. of Punjab,  
Education Department (Schools Wing)  
Punjab Civil Sectt:  
Lahore*

*Sub: INTER-PROVINCIAL TRANSFER OF MST. ZARINA ANWAR, OTC  
TEACHER, FROM PUNJAB TO SINDH PROVINCE, ON DEPUTATION  
BASIS.*

*I am directed to refer to you letter No.SO (S.IV)8-16/2004, dated 17.04.2004, on the above subject and to convey the no objection of Govt. of Sindh to the proposed transfer, on deputation basis, for initial period of 3(three) years, in respect of Zarina Anwar, OTC Teacher, GGPS Raipur Markaz Sabaz Pir, Tehsil Pasroor, District Sialkot from Punjab to Sindh Education Department, subject to the following terms and conditions:-*

- i. She will join at their own expenses.*
- ii. This Province/Department shall not pay any TA/DA.*
- iii. No deputation allowance shall be made.*
- iv. GP Fund/pensionary liabilities will be shared by the respective Governments.*
- v. The Education Deptt. Shall pay salary to the deputationist as per LPC of the incumbent.*
- vi. The incumbent shall automatically be deemed repatriated after completion of deputation period.*
- vii. The period of deputation is 3 (three) years.*

*2. If the above mentioned terms and conditions are acceptable to Govt. of Punjab as well as Mst. Zarina Anwar, she may be relieved of her duties and directed to report to Sindh Education Department, Karachi for her posting/adjustment, under intimation to this Department.*

*Sd/-  
(Muhammad Ali)  
Section Officer (REGP: III)”*

12. We in the circumstances are constrained to direct Secretary Education, Government of Sindh and Secretary Education Department Government of Punjab, jointly and severally, to pay all her perks and privileges to which she was

entitled to by issuance of notification of her retirement, inclusive of her entire pensionary benefits within two (02) months and report compliance through MIT-II of this Court.

13. This petition stands disposed of in the above terms with no order as to costs.

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JUDGE

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JUDGE

Shahzad\*