

**HIGH COURT OF SINDH, CIRCUIT COURT AT
HYDERABAD**

C.P No.D-837 of 2020

[Mir Munawar Ali Talpur versus Province of Sindh & Others]

DATE	ORDER WITH SIGNATURE OF JUDGE
------	-------------------------------

Before:-

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Adnan Iqbal Chaudhry

Petitioner	:	Through Mr. Farhad Ali Abro advocate
Respondents	:	Through Mr. Allah Bachayo Soomro, Additional Advocate General Sindh
Date of hearing	:	26.10.2021
Date of Decision	:	26.10.2021

ORDER

ADNAN-UL-KARIM MEMON, J . - By means of this petition, the petitioner has sought direction against the respondents for payment of his pensionary benefits.

2. Background of the case, as narrated in the memo of petition, is that petitioner was serving as Statistical Officer (BS-17) in Police Department at Hyderabad Range and on attaining the age of superannuation, he retired from service on 03.01.2014; however, without pensionary benefits till further orders due to pendency of trial against him in Crime No. 393 of 2010.

3. Learned counsel for the petitioner submits that vide judgment dated 05.09.2019, petitioner was acquitted by the learned trial Court from the aforesaid criminal case and no appeal was filed against the acquittal of the petitioner, hence the same has attained finality. He further submits that on being acquitted he approached the respondents for release of his pensionary benefits, but no fruitful result came out. He prayed that since the petitioner has been acquitted from the aforesaid crime, therefore, there remains nothing with the respondents to stop his pension.

4. On the other hand, learned A.A.G. submits that pension of the petitioner was stopped on account of pendency of criminal case against him; however, on his acquittal from said case, his pension case is being processed by the respondents and same is at final stage. He has filed copies of correspondence exchanged between the respondents in this regard.

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

6. The primordial question is whether pensionary benefits of any civil / public servant can be withheld on account of pendency of disciplinary /criminal proceedings against him?

7. It is well-settled law that if a Government servant, who has been suspended pending an inquiry into his conduct attains the age of superannuation before completion of inquiry, the disciplinary proceedings against him shall abate and such Government servant shall retire with full pensionary benefits and the period of suspension shall be treated as a period spent on duty.

8. As per Fundamental Rule 54-A read with Sindh Civil Service Regulations, disciplinary proceedings cannot be continued or conducted as Petitioner ceased to be an employee of the respondent-department on attaining the age of superannuation on 03.01.2014. Law provides that the period of suspension followed by reinstatement or superannuation count towards qualifying service for pension.

9. As a result of above discussion, we would conclude that the respondent department has no right to withhold or postpone pension or payment on account of commutation of pension. The respondent-department is bound to release pension to the Petitioner at the time of superannuation i.e. 03.01.2014.

10. At this stage learned A.A.G. has intervened and submitted that the grievance of the petitioner has been redressed as per the report submitted today; however, the respondent department is required to expedite the process of payment of pensionary benefits to the petitioner under the law within two weeks. In case of failure respondent department shall be liable to payment of interest upon

withheld amount with effect from the date of superannuation of the petitioner.

11. The petition stands disposed of in the above terms with costs.

Let a copy of this order be communicated to the competent authority of respondents for compliance.

JUDGE

JUDGE

Sajjad Ali Jessar