

IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT: MR. JUSTICE SALAHUDDIN PANHWAR & MR. JUSTICE ADNAN-UL-KARIM MEMON

C.P. NO.6344/2019

Petitioners : Dr. Jagdesh Kumar Wadhwani and others.

Respondents : Province of Sindh and others,

C.P. NO.5860/2019

Petitioners : Nasir Hussain and another,

Respondents : Province of Sindh and others,

C.P. NO.6903/2019

Petitioners : Muhammad IshaqLashari and others

Respondents : Province of Sindh and others,

C.P. NO.7753/2019

Petitioners : Mushtaque Ahmed and others

Respondents : Province of Sindh and others,

C.P. NO.8038/2019

Petitioners : Zafar Ahmed and another,

Respondents : Province of Sindh and others,

C.P. NO.8347/2019

Petitioner : Abdul HameedChanna,

Respondents : Province of Sindh and others,

C.P. NO.824/2020

Petitioners : AbidaMemon and others,
Respondents : Province of Sindh and others,

C.P. NO.3344/2020

Petitioners : Kher Muhammad and others,
Respondents : Province of Sindh and others,

C.P. NO.4450/2020

Petitioners : Mehtab Singh and others,
Respondents : Province of Sindh and others,

C.P. NO.5199/2020

Petitioners : Muhammad Siddiq Umar and others,
Respondents : Province of Sindh and others,

C.P. NO.1236/2021

Petitioner : GhulamHaider,
Respondents : Province of Sindh and others,

C.P. NO.1314/2021

Petitioners : Abdul Jabbar and another,
Respondents : Province of Sindh and others,

C.P. NO.4615/2021

Petitioner : Aftab Ahmed
Respondents : Province of Sindh and others,

C.P. NO.5412/2021

Petitioners : Iftikhar Ahmed Lodhi and others,
Respondents : Province of Sindh and others,

APPEARANCE:

Mr. Altaf Shaikh advocate in C.P No.D-6344/2019

Mr. M. Ishaq Lashari advocate for petitioners in CP No.D-6903/2019.

Syed Shahzad Ali Shah advocate in CP No.D-6903/2019, 8038/2019.

Mr. Irshad Ali Shar, advocate for petitioner in CP No.D-3344/2020.

Raja Jawad Ali Saahar, advocate for petitioners in CP No.D-824& 5199 of 2020.

Mr. Inayat Ali Mirza advocate in C.P Nos.D-824&5199 of 2020.

Syed Bashir Hussain Shah, advocate for petitioners in CP No.D-5412/2021.

Choudhri Muhammad Abu Bakar Khalil advocate for petitioner in CP No.D-4615/2021.

Mr. Zaheeruddin Mujahid, advocate.

Mr. Muzaffar Ali, advocate.

Mr. Z.U. Mujahid advocate.

Mr. Nadeem Ahmed Qureshi, advocate.

Mr. Mukesh Kumar Khatri, advocate for Respondent-State Life Insurance Corporation in CP No.D-4450, 5199 of 2020.

Mr. Liaquat Hussain advocate for Respondent-State Life Insurance Corporation in CP No.D-4615 and 5412 of 2021.

Mr. Faheem Memon advocate for Respondent-State Life Insurance Corporation.

M/s. Muhammad Zia Qurshian and Liaquat Hussain, advocates for Respondent-State Life Insurance Corporation in CP No.D-5412/2021.

Mr. Mr. Salman Talibuddin A.G Sindh and Ali Safdar Debar, Assistant Advocate General Sindh.

Mr. Asif Jahangir, Finance Secretary Sindh, Shahab Qamar Ansari, Special Finance Secretary Budget and Sikandar Hassan Dy. Secretary Finance, Sindh.

Mr. Saeed Ahmed Qureshi, Focal Person Chief Secretary Sindh.

Dr. Liaquat Ali Abro Senior Law Officer, Focal Person, M/s Manzooran Gopang and Abdul Sattar Pathan Law Officers, Law Department Government of Sindh.

Date of hearing : 07.10.2021.

Date of Judgment : 10.11.2021.

JUDGMENT

SALAHUDDIN PANHWAR, J. Captioned petitions have been filed by the different **retired officers/officials** of various **Departments** of the

Government of Sindh and involving **identical** issue hence the same are being **decided** by this common **judgment**. The Petitioner of the leading petition bearing No.C.P D-6344/2019 has prayed that :-

- (1) To **declare** that the **petitioners** are **entitled** for **refund** of amount **deducted** from their **salaries** for **contribution** to **Group Insurance** with profit at Bank Rate.
- (2) Be further pleased to **direct** the **respondents** to **implement** the **judgment** of the Hon'ble **Supreme Court** of Pakistan in Civil Petition No.11-P/2017 and Civil Review Petition No.36/2018 in letter and spirit.
- (3) Be please to grant any other relief as may be **deemed fit** and proper under the **circumstances** of the petition and not prayed for by the **petitioners**.

2. **It has been contended** through subject petitions that as per rules the **premium** for the **Group insurance** is being **deduced** from the salaries of the Government employees according to their pay scale and they are **insured** during their service and up to **05** years of their retirement; the Group insurance is meant for **assurance** of life and was to be **paid** to the Civil Servant's legal heirs in event of his death. Whereas the respondent **State Life Insurance Corporation** is dealing in the business of the **life insurance** and as per their own policy the **premium** whatsoever has to be **paid** by the assured person, the same is to be **returned** with full **profit** when policy *becomes* **mature**, and after such payment said respondent is not responsible for any payment in case of incident. Moreover, the **State Life Insurance Corporation** is under legal **obligation** to **return** the amount of the Government employees being obtained on account of the insurance premium for certain period, however the same has been usurped. Whereas some of the **Civil** servants of the **Province of KPK** as well had filed a **Writ** before the **Peshawar High Court** on same **controversy** which has been

allowed, conversely the Civil Petition as well as subsequent **Review Petition** filed before apex court have been **dismissed** hence the KPK Government has **refunded** the amount of the Group insurance to those civil servants. Nonetheless the Province of Balochistan has already **promulgated** the **Balochistan Provincial Employees Group Insurance Act, 2009**, whereby all the Government employees serving in the province have to be paid at the time of their retirement the **contribution** made by them on account of the **Group insurance** from their salaries. Similarly, the judgment of the apex court has also been **implemented** by the Province of the Punjab, but the **Government of Sindh** has **failed** to do so; hence these petitions.

3. **Conversely** Respondent-Secretary, **Finance Department**, Government of Sindh, filed his **comments** *stating* therein that the Government of Sindh is providing the **Group Insurance** facilities to the legal heirs of the Civil **Servants** who expire during their service or five years after retirement i.e. up to the age of 65 years, as the case may be, in the light of the existing law/ rules i.e. "**The Sindh Civil Servants Welfare Fund Ordinance 1979 and the Rules 1980**", being risk covers only, and the rationale behind this **Group Insurance** Policy is to look after the **welfare** aspects of the **Civil Servants** and their families, *especially* once they are no more **alive** after serving the **State** for their entire life. **In** this backdrop, the Government has **planned Group insurance** policy in such a way that **all** the **employees** from **BS-1** to **BS-22** contribute a very *nominal* amount per month from their salaries; and in return a **substantial** grade-wise **compensation** package being provided to the legal heirs of the **deceased** employees. It is also stated that the **sum assured** is **greater** than **contribution** made in this behalf by the employees and the same is paid even if the entire contribution is not made during the course of the employment or in case of early death of such Civil

Servants *therefore* no benefits including the **maturity** is **admissible** to the Government **Servant** on attaining the **age** of **superannuation** under the existing Group Insurance Policy, but only the **facility** is provided in case of **death** during **service** or **5 years** after retirement. **Besides**, that the Government of Sindh is also providing the **compensation/Financial Assistance** package to the family of the **Civil Servant** who dies while in service, for which, no amount being deducted from the salaries of the Civil Servants *respectively*. As far as, **deductions** from the salaries of the **pensioners** are concerned, the Civil Servant once **retired** is **benefited** with various emoluments e.g. **monthly pension**, commuted value of pension, **Superannuation** Encashment of **L.P.R** as well as **Reimbursement** of Medical Charges. So far as, the prayers of the petitioners are concerned, this **decision** has been apparently applicable to the **KPK** Government and they have added Sub-Section **(I)**after **Section9**in the Khyber Pukhtunkhwa Civil Servant Retirement Benefits and Death Compensation Act 2014 (Act No.XXVII of 2014) through Khyber Pakhtunkhwa Civil Servants Retirement Benefits and Death Compensation (amendment) Act No.V of 2016. **Moreover**, a **Provincial Welfare Board I & II** meeting was *held* under the chairmanship of the Chief Secretary Sindh, being chairman of the **Boards** on **06.10.2021**, and the Board has **directed** to **expedite** the settlement of the claims by the **State Life Insurance Corporation** of Pakistan. The **Board** further observed that according to *existing rules* there is **no provision** for refund of the amount at the time of the retirement, and also *Government of Sindh cannot afford the huge burden of refund of the amount on the basis of maturity*. Thus, there is **no provision** in the existing law/rules for the **repayment** of the **deductions** of the **Group Insurance** to the **surviving** retired **Civil Servant** of the **Province** of Sindh.

4. Whereas the respondent **State Life Insurance Corporation** contended that the **Group Term Life Insurance** is kind of an **insurance** whereby the **Employer** arranges the **Group Life insurance** of his employees through an **Insurance** company by **paying** the **Insurance** premium, whether from his pocket or by collecting the premium from the employees. Similarly, in case of death of the **insured** employee, his death claim is to be paid to the **Employer** for onward payment to the deceased employees' family/legal heirs. This Group Life Insurance is **Term** Insurance and is **renewable** every **year** by paying the **Premium** by the Employer and for this Group Term Life Insurance, *a Master Policy Agreement is executed between the Employer and the Insurer.* Whereas there is **no direct** contract between the **employee** and the **Insurance** company during this entire process. It is very clearly mentioned in the **Master Policy Agreement that under this Group Term Life Insurance arrangement, the Insurance benefit is payable only in case of death of the employee during his service or within the agreed specified period after retirement,** and that it does not have any **bonus/ maturity / surrender value benefit.** It is very much clear that no premium amount has been received by **the State Life** directly from any **individual** employee(s) of the respective Government/commercial institutions. And as mentioned above, in case of the **death** of the **employee**, the legal **heirs** of that employee gets **benefit** from the **insurer** through the employer in the shape of the death claim (*sum assured*) agreed between the parties(ie) the Insurer and the **Employer.**

5. It was further contended that the Islamabad High Court at Para No. 12 of the **unreported** Judgment dated 13thSeptember, 2019 passed in Writ Petition No.4132/2016 has observed that *“bare reading of Section 19 and other related provisions of the Act of 1969 show that it does not amount to*

any extortion. Insurance policy is for the benefit of the civil servant / Government employees and the sum assured shall be paid only in case of their death. The sum assured is greater to the contribution made and same is paid even if the entire contribution is not made during the course of employment and in case of early death of a civil servant / Government employee same is still paid to the family of deceased" and **dismissed** the petition being without merit, by citing the reason that the subject petition was bad in the eye of law. Whereas similar kind of Petitions are also pending **adjudication** before the **High Court(s)** of the **Islamabad, Lahore and Sindh** containing the similar facts and circumstances and the **State Life** Insurance Corporation is **contesting** all these petitions before all **forums** with a clear and **single** judicious stance that the **Petitioners** have **no cause of action** to file these Petitions against them. It is asserted that the petitioners are **deliberately** and **intentionally** trying to **mislead** this Court by **intermingling** two different kinds of the insurance i.e. **Individual** Life Insurance and **Group Term Life Insurance arrangement**, whereas in former an Individual **enters** into an **Agreement** with the **Insurance** Company for various **terms** e.g. **10, 20, or 25** years etc., which commenced up to **20** years, for which the individual **pays** the **premium** from his **own** pocket, which is much **higher** than the Group Insurance premium.

6. **Heard** learned **counsel** for the respective parties as well **A.G. Sindh** and **Secretary, Welfare Boards** (Secretary, Finance Department) respectively.

7. **We shall** come to the **merits** of the instant petition a *little later*, but would prefer to make **direct** referral to the **"The Sindh Civil Servants Welfare Fund Ordinance, 1979"** (*hereinafter to be referred The Ordinance*),

which, *prima facie*, is the subject of the all the **petition** (s) in hand and the preamble of thereof reads as:-

“WHEREAS it is expedient to establish a **welfare fund** to provide **financial security and assistance** for the **civil servants and their families**;

8. **The preamble** leaves nothing **ambiguous** that the *aim* and *object* of the Ordinance was/is to *first* establish a **welfare fund** with sole purpose and **object** to provide the *financial security & assistance* to the Civil Servants and their families. The term '*fund*', per Section-2(c) of the Ordinance, is defined as:-

“**fund**” means the Fund established under **section3**;

The **Section 3** thereof reads as:-

“**Welfare Fund.** – (1) There shall be established a Fund to be called the **Sindh Civil Servants Welfare Fund**.

(2) The Fund shall consist of two parts; one for civil servants in (basic scale) 16 and above and other for civil servants in (basic scale) 15 and below and each part shall be **maintained** and administered separately.

(3) Each part of the Fund shall include –

- (a) **contributions** made under **section 4** by the civil servants in (basic scale) 16 and above in case of Part I and civil servants in (basic scale) 15 and below in case of Part II;
- (b) contributions made by Government;
- (c) profits or interest accruing on the amount of the Fund.

Whereas Section 4 of the ordinance reads as under;

(4) The moneys of the Fund shall be deposited in such bank or banks as Government may direct.

9. **Prima facie**, the reading of the above **section** makes it quite **clear** that firstly the '*Sindh Civil Servants Welfare Fund*' shall be established wherein the civil servants, parted in two groups i.e. *16 and above* and *15 and below*, shall make their **contributions**, as required by **Section 4** of the Ordinance. Needful to add that such contributions shall also include the

contribution, made by the Government which (*moneys of fund*) shall be **deposited** in such Bank or Banks as the Government may direct.

10. The bare reading of the **Section 4**(*ibid*) of the Ordinance *makes* it clear that the Civil Servant was / is under *mandatory* obligation to **pay** the **contribution** which, if not paid, is liable to be **recovered** qua deducted from his pay with **interest**. Secondly comes **Section 5** of the Ordinance which describes the '*Utilization of the Fund*'. The same, being relevant, is reproduced hereunder:-

"Utilization of fund. – The Fund shall first be utilized for paying the premia for insurance of the civil servants to the insurance company or any other insurer and meeting other expenses on the arrangements made with such company or insurer, **and thereafter if any amount is left in the Fund, it shall be utilized for such welfare and benefits of the civil servants as may be prescribed.**"

11. The above provision, *prima facie*, leaves nothing to doubt that *first* obligation of the '**Welfare Fund**' shall be to pay the '*premia*' for insurance of the civil servants to insurance company or *any other insurer* and then to **utilize** the amount, if **left**/available in the fund, for **welfare** and **benefits** of the civil servants. The above provision also leaves room that it is not necessary that '*all contributions*' (as defined by section 3(3) of Ordinance) needs not necessarily to pay the '*premia*' because payment thereof was / is subject to arrangement with insurance company or *any other insurer*. The provision of **Section 6** of the Ordinance also puts the Government under obligation that it (*the Government*) shall constitute *two Boards for administration of the Fund*, one for **Part I** of the Fund, known as Provincial Welfare Board **No.1**, and other for **Part II** of the Fund known as Provincial Welfare Board **No.2** which, per **Section 6 (3)(a)(b) & (c)**:

"(a) shall arrange for insurance of the civil servants with whom such Board is concerned, in the sums specified in the Schedule, or **in the sum as may from time to time be notified by Government**,

with such insurance company or any other insurer, as the Board deems fit;

- (b) shall have the power to sanction expenditure incurred on the administration and management of the respective Part of the Fund with which the Board is concerned; and
- (c) may do or cause to be done such other things as are ancillary or incidental to any of the aforesaid powers or **to the purposes of the Fund.**"

12. We are in no doubts that since per law *itself* it is the '*Fund*' (Sindh Civil Servants Welfare Fund) alone is competent for performing both said detailed obligations/duties, then **non-establishment** thereof shall cause serious **consequences** on the purpose and the object of the **Ordinance**. Here, it is worth referring that the **Secretary, Finance** Department acknowledged that there is no separate Boards and Funds established by the Government of Sindh **so far** and all the deductions are **transferred** to the general **account** of the Government of Sindh. Such **acknowledgment**, we shall emphasis, is not worth appreciating, because the same was / is likely to cause serious **prejudice** to the aim and the **object** of the *Fund* as well the **Ordinance** itself because the purpose and object whereof is not confined to the *insurance* of the civil servant but **welfare** and **benefits** of the Civil servants and their families by using the *left / available fund* after paying *premia*.

13. In addition, with regard to **fund-II** the Ordinance speaks that the Government shall be itself **contributory** of the fund as well, because the **concept** of the legislature was to **help out** the low paid *employees*. It has also come on record that on different pretexts and occasions the **Boards** which is to be **chaired** by the **Chief Secretary** and as well as the **Secretary** of the **Finance** Department failed to sign **MoU** with **Insurance** companies.

14. **Apparently** from the year **2018** there is no agreement in field between the trustees of the funds and the insurance companies. In that period amount of rupees **2.5 billion** **remained** in general fund of the

Government of Sindh which amount has been **collected** from the income of the **Civil Servants** working on different posts, *prima facie*, brought **no fruit** as was / is aimed by the **Ordinance**. This shows authorities have **deliberately** remained silent for the period of **50 years** and have **allowed** the amount to remain in **general account**. The presumption, we are sorry to add, could be nothing, but to delay in establishing the welfare funds of the two groups was not with clear intention rather was / is to **frustrate** the **object** and **aim** of the Ordinance which **includes** timely payment of the *assured sum* as well as **utilization** of available **fund** for the **benefits** of **Civil** servants and their families.

15. **Since**, such failure/**negligence** is in direct **conflict** with the object and purpose of the Ordinance *itself* and even was/is **causing** prejudice to the **aims** and **objects** of the **Ordinance** therefore, the same can't be **allowed** to be continued any further. **Accordingly**, the Government shall ensure the compliance of the **Section 3&6** of the **Ordinance** in its letter and in spirit which, *too*, within **three months** from date of this **order**.

16. **Further**, the contributions, per **Section 4** of the **Ordinance**, shall be deposited directly into the **Welfare Funds** per section **3(4)** of the Ordinance as well per **Rule 4(1)** of Sindh Civil Servants Welfare Fund **Rules, 1980** which requires that such contribution *first* shall be **remitted** to the **Accountant** General Sindh and then same shall *immediately* be **credited** into the Fund. Nevertheless the **Rule 4(1)** of the *Sindh Civil Servants Welfare Fund Rules, 1980* speaks as:-

"**4(1)** The contribution payable under sub-section (2) of section 4 shall in the case of a civil servant in Grade-16 or above be remitted to the Accountant General, Sindh under intimation to his Head Office or Department and in the case of other civil servants to their respective Heads of Offices or Departments, and the sum so received shall immediately be credited into the Fund."

17. **Accordingly**, the Welfare Board shall establish a “**Welfare Fund**” while seeking assistance by the finance experts, including experts of **Takaful Fund**, *preferably* within **three months**, and shall **transfer** all the amount **deducted** from the **salaries**, to that **welfare fund**.

18. **We** would add that from so far **discussion** as well referral of the relevant provisions, it has become crystal clear that the **investment** of the fund for the insurance *even* is not to be made to a *specific insurance company*, but it is the prerogative of the **Welfare Boards** (*to be constituted under section 6 of the Ordinance*) to make the arrangement with the insurance company or *any other insurer* for such purpose. Such prerogative appears to be **purposeful** because only after a **comparative** analysis of the *scheme(s)* of the different *insurance companies* or *insurer* it can only be **tested** as to which *offer / scheme* is in the best **interest/welfare** of the Civil Servants and their families with regard to *premia*, being offered by such insurance companies and insurers.

19. **However**, the picture surfaced, *prima facie*, showed that ‘**Fund**’ has never been established yet the arrangement was made by the **Government** with the *State Life Insurance Company* alone which, *too*, without any **comparison** of the ‘*premia*’ being offered or could have been *offered* by the other *insurance companies* or *insurers* possibly through competitive process.

20. **At** this juncture, the **Secretary, Finance** Department stated that that they have provided rupees **2.5billion** to the **State Life Insurance Corporation** for last two years. Suffice to say that this is **big** number and the Civil servants are 500,000 *approximately* hence on death ratio the Secretary

Finance Department has assisted this Court, is at an *average* of 2700 deaths per year. By that the number of the premium is high, whereas the insurance of some different category is not attractive, *hence* the Secretary Finance Department suggests that this Court may direct that **experts**/financial experts be *hired* by the Board to negotiate with different companies **competing** in the market *enabling* the Civil Servant for maximum death claim and other coverage like lethal diseases and injury received in accident etc. Accordingly, the '**Welfare Board**' shall ensure exercise of *prerogative* thereof, as was/is aimed by the **Ordinance** itself and the fund/contribution be saved after paying '*premia*' so that same could be used for other welfare and **benefits** of the Civil Servants and their families. For such exercise, the **Board** can *competently*, **hire** the financial experts, if they find so necessary, but without hurting / burdening the *contribution* in such engagement / hiring.

21. Another aspect which came to *surface* is that in pursuance to the earlier order, the **Secretary** Finance Department, *submitted* **deduction** of the specific amount from the salaries of the Civil servants as **contribution** for welfare fund. Break up of last three years is that :-

YEAR	DEDUCTION (Rupees)
2018-2019	1.38 billion
2019-2020	1.38 billion
2020-2021	1.45 billion
Total of last three years	4.21 billion

and as per new **MoU**, the amount **scale-wise** payable on the death of civil servant is:-

BPS	AMOUNT
1-4	3,75,000
5-10	4,37,500
11-15	7,50,000
16	11,25,000
17	15,00,000
18	21,87,500
22	31,25,000

22. It was also contended by the **Secretary Finance** Department that the **MoU**, signed with the **State Life** Insurance Corporation, includes that if the premium, **paid** to them, is higher than the amount/compensation being given to the legal heirs of the deceased employee, in such **eventuality** after deduction of **10%** they (**SLIC**) are bound to return the same to the Government. However, record is silent that in previous **ten years** what quantum of the amount has been returned by the **State Life** Insurance Corporation. We would refrain ourselves from making any *comment* onto legality of the **MoU** which obligation, *otherwise*, was / is to be made by the **Welfare Boards**. Needless to add that the **Welfare Boards**, shall also press such clause of the **MoU** thereby shall ensure that same is **recovered** / received and is used for the welfare/benefits of the **Civil Servants** and their families, also review/re-examine the **MOU**. Besides, Secretary finance Department contended that Rupees 2.5 billion have been paid to the State Life Insurance Corporation which chart shows deducted amount is more than rupees 4 billion hence residue amount and further deduction, even on monthly basis shall be transferred to the Fund within fifteen days after establishment of fund as referred in paragraph 16 (supra).

23. **It has** also come on record that **4,477** claims of *employees* who have passed away within the **prescribed** age limit are pending since **2018** and the legal heirs are pursuing, however they are **facing** great **hardship** owing to objections/ formalities and out of that *only* **635** **compensations** have been settled, whereas rest of the claims are due. This is not a worth appreciation situation which, *even*, is in **negation** to what **Rule-10** of the Sindh Civil Servants **Welfare Fund Rules**, 1980 demands. The same reads as:-

“10(1) As **soon** as may be **after** the **death** of a civil servant the Head of Office or Department shall **furnish** to the **Insurance** Company -

- (i) a **certificate** in the **form** set out in **Annexure 'B'** or **'C'** as the case may be, certifying the death of the civil servant indicating the Grade in which he was placed immediately before his death;
- (ii)
- (iii)
- (iv)

(2) On receipt of the documents referred to in sub-rule (1) the Insurance Company shall make arrangement for **immediate payment** of the assured sum."

24. The above leaves nothing **ambiguous** that the Insurance Company on receipt of the documents, as required by **Rule 10(1)**, shall ensure *immediate* payment of the sum **assured**. However, the picture, so surfaced on record that out of **'4477'** pending claims only **'635'** claims are **satisfied** by the Insurance Company so far.

25. When confronted, the **Secretary** Finance Department *contends* that they have **simplified** the procedure and **within 15** days they will submit **4,000** cases with the **State Life** Insurance Corporation. Accordingly, the **State Life** Insurance Corporation, on receipt of the claims **verified** by the department, shall issue cheques within **fifteen days** thereby assuring that the amounts are received by the legal heirs (be transmitted into the Bank account of the deceased employee wherefrom last pay drawn in case of delay in issuance of the succession certificate or declaration of the legal heirs). In case of failure, they can be liable for legal action in accordance with law. **Nonetheless** such *sum assured* was / is the right of the **families** of the civil servant (s) hence the delay, if any, by the department (s) or the **Insurance** company can't be accepted. **Accordingly**, all the department (s) of the Sindh Government, having application of the *Sindh Civil Servants Welfare Fund Ordinance, 1979* shall ensure immediate submission of the required form (s) to the Insurance Company which, without any delay, shall ensure *immediate* payment of the **assured sum**. Any negligence shall be considered as negation

to law, *rather* be considered as criminal negligence which shall give right to *aggrieved* to claim *consequences* of suffering because of delay.

26. However, *reverting* to the **prayer** clause (s)/**merits** of these petition(s), it would **suffice** to add that *recently* this Court (Bench at Sukkur) has **dismissed** the petition (s) with similar prayers/relief(s). The concluding paras thereof are reproduced hereunder:-

“10. As to reliance on the judgment of the learned Peshawar High Court in the case of Fida Muhammad Durrani(*supra*) is concerned, it would suffice to observe that the law in consideration had been amended by the KPK government, and the amended law very clearly provided that the amount in question shall be paid to the retiring employee in accordance with formula pursuant to the amendment carried out in the year 2014; hence, the ratio of said judgment is not applicable to present petitioners case, as the provisions of both the laws are not *pari material*.

11. Insofar as the judgment of Islamabad High Court in the case of Muhammad Rehan Khan (*Supra*) is concerned, the same is applicable on all foursto the case of petitioners insofar as merits of the case is concerned. However, as to reliance on para-13 of the said judgment by the petitioners Counsel, as an alternate plea regarding issuance of directions for amending the law, we may observe that issuance of directions for legislating something in a prescribed manner, is not the domain and authority of this Court as it is always the prerogative of the legislature to do so. There is no impediment for such purposes, couple with the fact that one Province has already done so way back in 2014. At best, the Petitioners could approach the Government and seek redressal of their grievance regarding any amendment in the law.

12. In view of hereinabove facts and circumstances of the case, we do not see any reason to exercise any discretion in favour of the petitioners as they have failed to make a case for indulgence, as the law is very clear on the subject, whereas, such law by itself is not under challenge before us, hence, all the listed petitions dismissed with pending applications, if any.”

Sd/-

27. In existence of above, there is **no room** for entertaining or re-adjudicating the decided issue. Without prejudice to above, it is pertinent to mention that Welfare Boards are competent forum to redress the issue of Civil Servants, serving and retired including petitioner(s), hence Boards shall examine all prevailing laws and amendments by other Provinces, thereafter shall be competent to make their recommendations to the Government of Sindh. Hence, we may add that the Government would appreciate emerging of new situation i.e *demand of refund of deposited amount* while keeping in view the **amendments**, already made by the **KPK**

Government, because the legislation is, *undeniably*, domain of the government. Accordingly, learned **A.G. Sindh** when *confronted* with the legal proposition has contended that after going through the referred **Judgments** and enactment by the KPK Government he will submit his advice to the **Government** of Sindh with regard to amendment if any. In *consequence* of what has been *discussed* above, the instant petitions are disposed of, however, as petition (s), regarding the prayer clause (a) and (b), being decided one, are dismissed.

Office: copy of this judgment shall be communicated to Chief Secretary Sindh, Secretary Finance Department and Secretary Law Department, for compliance.

J U D G E

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