

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
Suit No.815 of 2010

**[Muhammad Shahnawaz & Ors v. K-Electric & Ors]**

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DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing of CMA No.14754 of 2020

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For plaintiffs	Mr. Muhammad Rizwan, Advocate
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For plaintiffs No.9,10,30&31	Mr. Allauddin Malick, Advocate
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For Defendant No.1/K-Electric	Ms. Sehar Rana, Advocate
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For Defendant No.2	Mr. Khursheed Javed, DAG
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Date of hearing	11.02.2022
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**ORDER**

**Muhammad Shafi Siddiqui, J.-** This application bearing CMA No.14754 of 2020, moved by some of the plaintiffs/applicants as disclosed in the application, seeks directions to pay undisputed claim of pensionary benefits of some of the plaintiffs in compliance of Hon`ble Supreme Court Pakistan`s order dated 09.11.2015. The claim is however disputed by K-Electric on the strength that apart from the salary even substantial amount as ex-gratia was paid and these plaintiffs are accountable for the same subject to evidence likely to be recorded in these proceedings. It is further disputed that these applicants/plaintiff have settled their dues as full and final settlement through written documents which facts are not denied.

1]. I have heard the learned counsels and perused the materials available on record.

2]. Primarily, the application under consideration is for the payment of pensionary benefits. The pensionary benefits, as claimed in the interlocutory application, are somehow alien to the subject of the suit itself.

3]. Prima facie the scope of this suit cannot be enlarged to the extent of post retirement benefits i.e. pensionary benefits unless amended. Learned counsel, however, submits that the subject dispute as raised by the plaintiffs in this suit came up for consideration before Hon`ble Supreme Court in Civil Appeal No.56-K, 79-K and 80-K of 2012 filed by three individuals [Annexure A/21], which appeals were disposed of in the following terms :-

*“After hearing the arguments of both the learned ASCs at some length, with their consent, these appeals are disposed of in the following terms:*

*“The Trial Court, seized of the original suits instituted by the appellants, shall ensure proceedings in these suits expeditiously by consolidating and framing issues within two weeks from the date of communication of this order. If parties, so agree, the evidence of both the parties will be recorded on commission within next three months and in any case these suits will be proceeded and disposed of finally within six months from today.*

*Mr. Khalid Javed Khan learned ASC for the Respondents has offered for payment of undisputed claim of the appellants as regard the pensionary benefits, gratuity etc. If the appellants so choose, they can avail such benefit, which will be without prejudice to the pending litigation, and subject to the final fate of the suits.”*

4]. On the strength of this order, learned counsel for the plaintiffs claims that as the amount of pension has been paid to other individuals/employees the same be also extended to these plaintiffs to avoid discrimination.

5]. These plaintiffs have earlier moved a Constitution Petition No.8188 of 2019, claiming the identical relief of balance pensionary benefits i.e. provident funds and gratuity with the Nazir of this court for further release of 25% out of it. This petition as informed by learned counsel for the defendants came up for

consideration before a Division Bench where the petitioners did not press the petition as they intend to avail their remedy in a suit i.e. instant suit.

6]. Although plaintiffs` counsel has not denied that they were paid additional amount at the time of settlement of their dues, however, these facts are similar to those involved in the case of appellants in HCA No.449 of 2018 to whom such relief was extended and hence entitled to similar treatment to avoid discrimination. In view of above and observation in HCA No.449 of 2018 these applicants also deserve similar treatment. Accordingly, the application is disposed off directing K-Electric to provide similar treatment as given to appellants of HCA No.449 of 2018.

Application [CMA No.14754 of 2020] stands dismissed.

Karachi;  
Dated:22 .2.2022

**J U D G E**