

ORDER SHEET
THE HIGH COURT OF SINDH, AT KARACHI

Constitutional Petition No.D-1497 of 2020

Order with signature of Judge(s)

For hearing of Misc. No.32309/2021 (151)

22.2.2022

Mr. Waleed Khanzada, advocate for the petitioner
Mr. Muhammad Nishat Warsi, DAG
Mr. Khalid Javed, advocate for respondent No.2

The captioned petition was disposed of vide judgment dated 05.08.2020 passed by this Court with the following direction:

"17. In view of the above, PNSC is hereby directed to pay all the post-retirement benefits to the petitioner strictly in accordance with law without fail within fifteen (15) days and to submit compliance report to this Court through MIT-II within seven (07) days thereafter. For future as well as for cases pending for calculation and/or payment of post-retirement benefits, PNSC is further directed to ensure compliance of the directions given by the Hon'ble Supreme Court in Haji Muhammad Ismail Advocate (supra) and Province of Punjab, through Conservator of Forest, Faisalabad (supra) in letter and spirit The petition is allowed in the above terms with costs."

The matter was take up on 02.12.2021 and the following order was passed:

"In compliance of the order dated 03.06.2021, an amount of Rs.1,78,48,779/- has been deposited by the respondent No.2 with the Nazir of this court. On the last date of hearing, it was made clear that if no stay order is obtained from the Hon'ble Supreme Court of Pakistan, the amount deposited with the Nazir of this Court could be released in favour of the petitioner. Today, the learned counsel for the respondent No.2 has candidly conceded that no stay order has been obtained, as the matter was not fixed before the Apex court. In such circumstances, Nazir of this Court is directed to release the amount, subject to the outcome of the CPLA filed before the Hon'ble Supreme court, already deposited by the respondent No.2 in favour of the petitioner along with the profit if any accrued thereon after deducting applicable advance tax from the said amount. In view of the above, the instant petition is disposed of."

Learned counsel for the petitioner has filed the application CMA No. 32309/2021 with the request to amend/modify the order dated 02.12.2021 by correcting/deleting the word "subject to the outcome of the CPLA filed before the Hon'ble Supreme Court" on the plea that the same phrase is confusing the implementation of the order dated 02.12.2021 passed by this Court.

This court vide order dated 14.02.2022 passed the following order:

"Prima facie, the plea of the respondents that the matter is pending before the Hon'ble Supreme Court, however, they have conceded that no stay order has been obtained by them as yet. Be that as it may, since there is no stay order operating in favor of the respondents, therefore, we have no option but to direct the respondents to come prepared on the next date of hearing on the question, as to why the pensionary benefits deposited with the Nazir of this Court shall not be released to the petitioner in line with the final order passed by this Court. However, it is made clear if there is no stay order obtained by the respondents from the Hon'ble Supreme Court of Pakistan in the subject CPLA, this court shall have no option but to order for the release of the pensionary benefits of the petitioner lying with the Nazir of this court."

Today, when the matter was taken up at 11:00 a.m. learned counsel for the respondent appeared and submitted that in compliance with the court's orders a sum of Rs.1,78,48,779.00 had already been deposited with the Nazir of this Court by respondent No.2/PNSC vide three separate bank pay orders along with the breakup of the amount. He further submitted that without prejudice the rights of the respondent, the respondents owed amounting to Rs.629, 172/- on account of the following deductions, which are outstanding against the petitioner and will be recovered at the time of settlement of PNSC dues. The breakdown of recoveries/deduction is as under:

| | |
|--------------------|----------------|
| 1. Group Insurance | 733 |
| 2. Eid Advance | 16,250 |
| 3. P.F. Subs | 27,695 |
| 4. Income Tax | <u>584,494</u> |
| | 629,174 |

He finally submitted that Nazir of this court has already been directed to release the pensionary benefits to the petitioner, subject to the outcome of the petition filed before the Hon'ble Supreme Court of Pakistan by the respondent PNSC.

Be that as it may. Prima-facie, at this juncture, there is no impediment releasing the pensionary benefits of the petitioner, deposited with the Nazir of this court in terms of the ratio of the judgment dated 03.06.2021 passed by this Court.

In view of the above facts and circumstances of the case, since there is no interim order operating in favor of the respondents, this court is left with no option but to direct the Nazir of this Court to release the pensionary benefits of the petitioner, strictly in terms of the judgment dated 03.06.2021 as discussed supra.

The listed application stands disposed of in the above terms.

JUDGE

JUDGE