

# IN THE HIGH COURT OF SINDH, AT KARACHI

**Present:**

**Mr. Justice Irfan Saadat Khan**

**Mr. Justice Adnan-ul-Karim Memon**

**C.P No. D-562 of 2016**

(Muhammad Munawar and 23 others v. The Federation of Pakistan and 05 others)

For hearing of Misc. No.19976/2021

Date of hearing

& order : 30.05.2022

Dr. Raana Khan, advocate for the petitioner

Mr. Khafeel Ahmed Abbasi, DAG

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## **ORDER**

The captioned Petition was disposed of vide Judgment dated 26.05.2021, with the following observations:-

*“17. In view of the statement of Deputy Secretary (Establishment Division), this petition stands disposed of in the terms whereby the competent authority of respondent-department is directed to allow all service benefits to the retired petitioners, as admissible under the law, if not earlier paid to them, within a period of one month from the date of receipt of this judgment.*

*18. As a result, the petition stands disposed of along with the pending application(s), with no order as to costs.”*

On 09.07.2021, the applicants filed an application under Order 47 read with Section 114 of Civil Procedure Code (CMA No.19976/2021) for review of the judgment dated 26.05.2021 passed by this court, inter alia, on the ground that they were/are civil servants, however, their case has not been considered in its proper perspective via impugned judgment; and this Court has mistakenly held the applicants to be non-civil servants, thus they have been deprived of their pensionary benefits as admissible to the civil servants.

Dr. Raana Khan, learned counsel for the applicants, has reiterated the submissions made in paragraph 4 of the judgment under review and heavily relied upon the contents of the application and affidavit in support of the application. She submitted that the petitioners are serving and retired employees of respondent-APO, thus are entitled to all the service/pensionary benefits as admissible to the Civil Servants, serving in Federal Government Departments; and, referred to the OM dated 23.11.2020, whereby the Ministry of Law and Justice declared the employees of the respondent-APO as Civil Servants as defined under the Civil Servants Act, 1973. Learned counsel next submitted that similarly placed employees of other State Owned Entities (SOE)/ Statutory Bodies and Autonomous Bodies are getting the benefit of pension, yet the applicants are deprived of the same in violation of Articles 4 & 25 of the

Constitution. She prayed for allowing the review application and matter may be posted for hearing on merit.

We have heard learned counsel for the applicants on the maintainability of the review application and perused the contents of the application.

We have scanned the record and found the contention of the learned Counsel for the applicants untenable, in view of the findings recorded in paragraphs No.9 to 17 of the judgment under review.

In our view, we have limited jurisdiction to dilate upon the controversy under review jurisdiction, for the reason that the applicants have not assailed the judgment dated 26.05.2021 passed by this Court, before the Honorable Supreme Court and the same has attained finality.

In our view, the review of the judgment/order can only be made by the party, if there is a mistake or error apparent on the face of the record as provided under Order XLVII (Section 114 CPC). The applicants through the review application have attempted to call in question the validity of the judgment dated 26.05.2021 passed by this Court without assailing the same before the Appellate Forum.

The grounds taken by the applicants in the review application were considered at the time of hearing of the main petition and the request of the applicants to treat them as civil servants was discarded. Therefore, the question of reviewing the judgment does not merit consideration.

For the aforesaid reasons, we are not persuaded by the contention of the learned Counsel for the applicants that any case of review is made out. Therefore, the review application merits dismissal, which is accordingly dismissed as, in our view, the judgment dated 26.05.2021 passed by this court was based on the correct factual as well as the legal position of the case and we do not find any inherent flaw floating on the surface of the record requiring our interference.

Consequently, the application bearing CMA No.19976/2021 is dismissed.

**JUDGE**

**JUDGE**