

**IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD**

**Before:**

**Mr. Justice Muhammad Iqbal Kalhoro**

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

Mst. Saabi	CP No. D- 1584 of 2019 ----- Province of Sindh and others
Mst. Noor Bano	CP No. D- 945 of 2020 ----- Province of Sindh and others
Mst. Shamim Aijaz	CP No. D- 327 of 2021 ----- Province of Sindh and others
Manzoor Masih	CP No. D- 397 of 2021 ----- Province of Sindh and others
Nazar Muhammad	CP No. D- 497 of 2021 ----- Province of Sindh and others
Ameer Masih	CP No. D- 869 of 2021 ----- Province of Sindh and others
Nazeer Masih	CP No. D- 1418 of 2021 ----- Province of Sindh and others
Ali Muhammad	CP No. D- 1489 of 2021 ----- Province of Sindh and others
Khalid Hussain	CP No. D- 1903 of 2021 ----- Province of Sindh and others
Matloob Illahi	CP No. D- 2071 of 2021 ----- Province of Sindh and others
Siddique Masih and another	CP No. D- 31 of 2022 ----- Province of Sindh and others
Lachman	CP No. D- 62 of 2022 ----- Province of Sindh and others
Mst. Mumtaz Begum	CP No. D- 244 of 2022 ----- Province of Sindh and others
Farooque	CP No. D- 348 of 2022 ----- Province of Sindh and others
Mst. Nasima	CP No. D- 526 of 2022 ----- Province of Sindh and others
Mst. Kiran	CP No. D- 1154 of 2022 ----- Province of Sindh and others
Mansha Masih	CP No. D- 1649 of 2022 ----- Province of Sindh and others

Jawaid CP No. D- 1679 of 2022  
----- Province of Sindh and others

Sht. Kamla CP No. D- 1836 of 2022  
----- Province of Sindh and others

Arjun Ram Balmeki CP No. D- 2570 of 2022  
----- Province of Sindh and others

Shah Latif Employees Union CP No. D- 2581 of 2022  
----- Province of Sindh and others

Gopi Chand CP No. D- 2585 of 2022  
----- Province of Sindh and others

M/s. Sartar Iqbal Panhwar, Muharram Ali Abro, Kanjimal Meghwar, Ms. Farida Naz Abbasi, Haibat Khan Bhatti, Mian Taj Muhammad Keerio, Ahmed Nawaz Chang, Mohsin Raza Gopang, Mushtaq Ali Tagar, Ms. Seema Khoso, Abdul Hafeez Daudani, Syed Gohar Ali Shah, Agha Waqar Ahmed, Muhammad Zohaib Shaikh, Ghulam Murtaza Shaikh, Advocate for petitioner

Mr. Irfan Ali Bughio, Imdad Ali R. Unar, Advocate for respondent

Mr. Muhammad Ismail Bhutto, Addl. A.G.

Date of Hearing and Order: 08.09.2022

## **ORDER**

**ADNAN-UL-KARIM MEMON, J-.** These matters pertain to the pensionary / service benefits of the petitioners and /or family pension, which are of paramount consideration and this is the reason that all the pension matters are being taken up together for disposal, as the common question of law is involved in these matters.

2. The case of the petitioners is that they / their husbands were government employees and working in deferent departments of Government of Sindh and stood retired from their respective services and after retirement, they are roaming from pillar to post for the release of their pensionary / service benefits up to date, on the premise that the aforesaid service benefits have not been released to them due to which they along with their families are passing the lives of starvation, hence in the dismal circumstances they finding no other way have filed the instant petitions.

3. We have heard learned counsel for some of the petitioners as well as learned counsel(s) representing the respective departments as well as learned A.A.G. on the subject issue and perused the record with their assistance. However, no serious objection has been raised by them leaving this court to decide the issue on merits in terms of ratio of the decisions of Honourable Supreme Court.

4. To understand the concept and connotation of the term “pension”, the rights/privileges and obligations attached thereto, the importance thereof and the law laid down in respect thereof by the Hon’ble Supreme Court. The definition of the term “pension” and the nature of the right in respect thereof were examined in depth by the Hon’ble Supreme Court of Pakistan in the case of *I. A. Sherwani and others V/S Government of Pakistan through Secretary, Finance Division, Islamabad and others*, **1991 SCMR 1041**.

5. It is well-settled that a person who enters Government service has also something to look forward to after his retirement, to what is called retirement benefits, a grant of pension being the most valuable of such benefits. It is equally well-settled that the pension-like salary of a civil servant is no longer a bounty but is a right acquired after putting in satisfactory service for the prescribed minimum period. It cannot be reduced or refused arbitrarily except to the extent and in the manner provided in the relevant rules. In the case reported as *Re: Pensionary Benefits of the Judges of Superior Courts*, **PLD 2013 SC 829**, it was held, inter alia, by the Hon’ble Supreme Court that pension is a right which the Government servants or employees in different positions and different capacities earn in terms of the relevant statutory provisions applicable to their case, mostly depending upon their length of service; and, in any case, it is not a State bounty which could be awarded as a favor to any individual outside the scope of the applicable statute.

6. It is well-settled that pension is a measure of socio-economic justice that inheres economic security in the fall of life; a person who enters the Government / public service has also something to look forward to after his retirement viz. his retirement benefits, the grant of pension being the most valuable of such benefits; pension is like a salary and is no longer a bounty, but is a right acquired after putting in satisfactory service for the prescribed minimum period; pension cannot be reduced or refused arbitrarily except to the extent and in the manner provided in the relevant rules; and, pension becomes the property of the retiring employee or civil/public servant as a matter of right upon the termination of his service.

7. From the above principles settled by the Hon’ble Supreme Court, it is clear that pension, like salary, is a regular source of livelihood, and thus is protected by the right to life enshrined in and guaranteed by Article 9 of the Constitution. In principle, there seems no room to disagree with the plea / legal position that the right to life of a person/citizen shall include the right to livelihood and such right,

therefore, cannot hang on to the fancies of individuals in authority; and, the employment is not a bounty from them i.e. individuals in authority, nor can its survival be at their mercy.

8. This is a matter of grave concern that for several years, the long and unjustified delay in payment of pensions has been a source of tremendous hardship and humiliation to retiring officials and their families. Despite strictures and orders passed by the Honorable Supreme Court of Pakistan in its various pronouncements and simplified guidelines laid down by the Government, petitions on account of delay persist.

9. It is well-settled law that no pension granted or continued to the pensioner is liable to seizure by the department under Pension Act, 1871, and the rules, framed thereunder. Besides, there is no power for the Government to withhold Gratuity and Pension during the pendency of the departmental proceeding or criminal proceeding if any. Even it does not give any power to withhold Leave Encashment at any stage either before the proceeding or after the conclusion of the proceeding.

10. Prima facie, the petitioners have a qualifying length of service to their credit and they gave various reasons to claim the interest on the delayed payments on the premise that they stood retired from services in their respective years, however, in violation of law, they have been denied the pensionary benefits, which has triggered the cause and hardship to the petitioners to approach this court.

11. Learned counsels for the petitioners have pointed out that the pension of the petitioners has been withheld without assigning any cogent reason. In our view, pensionary benefits cannot be stopped; and, is violative of the law laid down by the Honorable Supreme Court in the case of *Haji Muhammad Ismail Memon*, **PLD 2007 SC 35**.

12. In the light of the foregoing, we direct the Chief Secretary Sindh, to constitute a committee headed by him; and, the head of the concerned departments, where the petitioners/their families have served and retired from service. The representative of Accountant General Sindh's office and other accounts officers of the concerned departments shall attend the office of the Chief Secretary, on the date and time so fixed by him, to resolve the issue of pension and service benefits of the petitioners, including family pension and other ancillary matters including arrears if any outstanding, in its true perspective, within one month; and if they are entitled under the law, their pensions /service benefits must be released, if not already paid, strictly in terms of the ratio of the judgment passed by Honorable Supreme Court in the case of *Haji Muhammad Ismail Memon*, **PLD 2007 SC 35**. They are also directed to recalculate the pensionary benefits of the

petitioners and increases accrued on the withheld pensionary benefits with effect from the date of their retirement to date and take prompt disciplinary action against all delinquent officials who in their lethargic attitude failed and neglected to release the service benefits of the petitioners. Such disciplinary proceedings shall be initiated against them forthwith and culminate into its logical conclusion within a reasonable time after providing a meaningful hearing to them.

13. These petitions stand disposed of in the above terms. Let notice be issued to the Chief Secretary, Government, Sindh, the competent authority of respondents, Accountant General Sindh; and, the Accounts officers concerned, for compliance. Such compliance report be submitted through the Additional Registrar of this Court.

**JUDGE**

**JUDGE**

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