

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI**  
CP. No. D- 2388 of 2020

---

Date \_\_\_\_\_ Order with Signature(s) of Judge(s) \_\_\_\_\_

---

Direction

For hearing of CMA No.27999/2021 (contempt)

**06.03.2023**

Dr. Rana Khan, advocate for the applicant/petitioner  
Mr. Abdul Jalil Zubedi, AAG  
Mr. Moin Azhar Siddiqui, advocate for respondent No.2 to 4  
Prof. Dr. Abdul Waheed Registrar University of Karachi and Asif Mukhtiar,  
Director Legal Department, University of Karachi

-----

On 31.05.2021, the petition was disposed of with the following observation:

“That the matter of the petitioner would be placed before the Syndicate of the Karachi University within fifteen (15) days from today and the Syndicate thereafter would decide the case of the petitioner about counting her previous temporary and officiating service, followed by confirmation/regularization of service vide office order dated 20.08.2018 as provided under the University of Karachi Service Pension Rule No.14 (page 65) so also consider her case for grant of pensionary benefits of 31 years’ service as available to her under the relevant rules and regulations, within one month from placing the matter before the said Syndicate strictly in accordance with law.”

2. On 02.11.2021, the applicant filed a contempt application bearing CMA No.27999/2021 with the narration that the respondents failed to count her previous temporary and officiating service i.e. 31 years’ service as provided under the University of Karachi Service Pension Rule No.14, thus are liable to be proceeded under Article 204 of the Constitution.

3. Learned counsel for the applicant submitted that the period of 31 years spent by the petitioner as temporary and officiating service, in the employment of the respondent university including few years’ service as a regular employee could be aggregated for her entitlement to pension under the Pension Regulations of respondent University. The learned counsel emphasized that the petitioner had served the respondent university for a considerable period as discussed supra qualifying her to receive the regular superannuation pension, and the period she spent as a temporary and officiating is to be added to her regular qualifying service to calculate her pension in terms of Pension Regulation No.14 of the University case.

4. The learned counsel further submitted that the service of the petitioner was regularized vide office order dated 20.08.2018, which ought to have been

regularized from the date of her initial appointment made in 1987. Learned counsel added that the petitioner was allowed to retire from service on attaining the age of superannuation on 04.05.2020 as a regular employee, however, without pensionary benefits, which is apathy on the part of the respondent-university. She submitted that the purported decision dated 27.11.2022 made by the Syndicate in compliance with the order dated 31.05.2021 is an eye wash and erroneous decision based on malafide intention to usurp the service benefits of the petitioner, which decision is liable to be set aside by this court by directing the Syndicate to reconsider petitioner's case for counting of her previous service for pension purpose. Learned counsel lastly submitted that the service of the petitioner starts from the date when she took over the charge of the post and is entitled to the pension.

5. Learned counsel for the alleged contemnors denied the allegations leveled against them and referred to the reply filed on behalf of the alleged contemnors and submitted that the case of the petitioner was placed before the Syndicate as per directions of this court, however, in the meeting held on 27.11.2022, the Syndicate opined that since the petitioner had no ten years regular service in her credit, therefore, she could not be awarded pensionary benefits under the law. Learned counsel submitted that the contentions of the petitioner cannot be acceded to as she lacks the 10 years length of regular service to claim the superannuation pensionary benefits. In support of his contentions, he relied upon the cases of the Ministry of Finance through Secretary and others v. Syed Afroz Akhtar Rizvi and others, **2022 PLC (CS) 202**, Chairman, Pakistan Railway, Government of Pakistan, Islamabad and others v. Shah Jehan Shah, **PLD 2016 SC 534**, Syeda Sakina Riaz through Attorney v. The Federation of Pakistan through Secretary Establishment Division, Cabinet Secretariat, **2018 PLC (CS) Note 80**, and Messrs Sui Southern Gas Company Limited v. Zeeshan Usmani and others, **2021 SCMR 609**. He prayed for the dismissal of the contempt application.

6. We have heard the learned counsel for the parties on the listed application and perused the record with their assistance.

7. The question is whether the syndicate of the respondent university has complied with the direction contained in the order dated 31.05.2021 or otherwise.

8. To appreciate the stance of the parties, it is expedient to refer to Rules 13 and 14 of the University of Karachi Services Pension Statute, 1972, which reads as under:

“13. Beginning of Service:- Subject to any special rules, the service of a University servant begins to qualify for pension when he takes over charge of the post to which he is first appointed.

14. Temporary & officiating service:-(i) University servants borne on temporary establishment who have rendered more than five years continuous temporary service shall count such service for the purpose of pension, and”

9. To qualify for a pension, the service of the employees of the respondent university begin when he/she takes over the charge of the post to which he/she was first appointed. Section 26 of the University statute provides that 10 years minimum service is required to hold the employee entitled to the pension, whereas, it is an admitted fact that the petitioner took over the charge of the subject post in 1987 and has served the respondent university for 31 years on a temporary and officiating basis, and three years’ service as regular employee till her retirement in the year 2020 as such the petitioner was/is entitled to regular pensionary benefits and monthly Benevolent Grant.

10. As per Section 19 of the University of Karachi Service Pension Statute, there are four classifications of pension, which are as under:-

**1. Compensation pension:-** If a permanent University servant is selected for discharge owing to the abolition of his permanent post or owing to a change in the nature of the duties of that post, he shall, unless is appointed to another post the conditions of which are deemed to be at least equivalent to those of his own, have the option:-

- (a) of taking any compensation pension or benefit to which he may be entitled for the service he has already rendered; or
- (b) of accepting another post of transfer to another establishment even on lower pay, if offered, and continuing to count his previous service for pension.

**2. Invalid pension:-** (1) An invalid pension is awarded on his retirement from University service, before reaching the age of superannuation, to a University servant who by bodily or mental infirmity is permanently incapacitated for further service, on production of a medical certificate from the Medical Authority.

(2) A university servant who wishes to retire on invalid pensions should apply to the Vice-Chancellor through the Head of his Department who may direct him to present himself before the relevant Medical Authority for obtaining a medical certificate on incapacity for further service in the following form:-

..  
..

**3. Superannuation pension:-** A Superannuation Pension is granted to a University servant who retires or has retired after 1st July 1972 or attaining the age of 60 years.

**4. Retiring pension:-** A Retiring Pension is granted to a servant, who not being eligible for Superannuation Pension:-

- (i) Opts to retire after 25 years qualifying service or such less time as may for any special class of University servant be prescribed; or

- (ii) Is compulsorily retired, by the competent authority, after 25 years qualifying service;
- (iii) Is compulsorily retired from service by the authority competent to remove him from service on grounds of inefficiency, misconduct or corruption;

11. As per section 26 of the University of Karachi Service Pension Statute, which provides that "Amount of Full Pension:- (1) After qualifying service of not less than 10 years, full superannuation, retiring, invalid or compensation pension may be granted not exceeding the maximum limit prescribed at Annexure-1."

12. As per the above, a University employee, who has rendered temporary service for less than 10 years at a temporary establishment is allowed to count the period of temporary service for his/her pension (or gratuity), but temporary service must be continuous and excludes the broken period of temporary service rendered previously. This section cannot be used to override the condition for qualifying service for pension and the employee has to have the bare minimum number of years in service for being entitled to the pension.

13. Section 14 (ii) provides that University employees who have rendered temporary and officiated service for less than five years immediately followed by confirmation shall also count for gratuity or pension (as the case may be), which (service) must also be continuous. By way of illustration, where University Employee rendered continuous temporary or officiating service for three years and was subsequently immediately confirmed, those three years would be counted towards his/her service for pension.

14. Thus in the light of above, the service rendered for more than five years as contemplated by Section 14(i) and (ii) would only be added, included, or taken into account for pensionary benefits when the employee serves the minimum number of years for grant of pension. In such a scenario, we are of the candid view that Section 14 of the University of Karachi Service Pension Statute would entitle employees of respondent-university rendering temporary service in a temporary establishment of fewer than ten years would be entitled to a grant regular pension, such period would also be counted towards pension if the employee is otherwise entitled to the pension. This principle is elucidated in the cases of *Chairman Pakistan Railway Government of Pakistan Islamabad and others v. Shahjahan Shah and others* (PLD 2016 SC 534) and *Syeda Sakina Riaz through Attorney v. The Federation of Pakistan and another* (2018 SCMR 1272).

15. From the above legal position of the case, we are of the affirmative view that the case of the Petitioner does meet the required criteria as stipulated in the law of the respondent university and she becomes entitled to the service benefits of her previous service w.e.f. 1987 to 2020.

16. In view of the above, we convert the instant contempt application into the application under Section 151 CPC and dispose of this application in the terms of the ratio of the judgment passed by the Hon'ble Supreme Court of Pakistan in the case of Secretary, Ministry of Finance, Islamabad and others v. Tayyaba Halim Subhani and others, **2022 SCMR 77**, and set aside the decision dated 27.11.2022 of the syndicate of respondent-university for the reason that petitioner was appointed as a Librarian in the year 1987 by the respondent-Karachi University without break in service, shockingly, her services were regularized only for few years perhaps the reasons are obvious just to avoid grant of pensionary benefits to her. Therefore, we deem it appropriate to direct the Vice Chancellor of the respondent university to take up the matter of the petitioner at his end forthwith to count her 31 years' temporary and officiating service as regular service for pensionary benefits and the same be paid to the petitioner within 30 days, positively.

**JUDGE**

**JUDGE**

Nadir\*