

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constitution Petition No. D-91 of 2024*(Ghulam Hyder Pirzada Vs. Province of Sindh & others)***Constitution Petition No. D-406 of 2024***(Mst. Zubaida Vs. Province of Sindh & others)***Constitution Petition No. D-269 of 2022***(Mst. Rabia Vs. Province of Sindh & others)*

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| DATE OF HEARING | ORDER WITH SIGNATURE OF JUDGE |
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Before;

Adnan-ul-Karim Memon, J;
Muhammad Abdur Rahman, J;

Date of hearing and order: 21-05-2024.

Mr. J.K Jarwar, advocate for the petitioner in CPD No. 91 of 2024.

Mr. Muzaffar Ali Dehraj advocate for the petitioner in CPD No. 406 of 2024.

Mr. Sheeraz Fazal advocate holds brief for Mr. Nisar Ahmed Bhanbhro advocate for the petitioner in CPD No.269 of 2022.

Mr. Asfandyar Kharal, Assistant Advocate General, Sindh.

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/family members 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 A.A.G on the subject issue and perused the record with their assistance. However, no serious objection has been raised by the AAG; and referred the statement in C.P No.D-91 of 2024 with the narration that due to financial constrains 10% increase of 2021-2022, 5% increase of 222-2023 and 17.5% increase of 2023-2024 is being paid to all 1250 pensioners; however, the arrears of annual increases in pension of petitioner Ghulam Hyder for last three years i.e. 2021 to 2024 amounting to Rs. 4,44,037/- has already been paid in April 2024. Per learned AAG the Government of Sindh from time to time has enhanced the pension, but the Sindh Local Government Board Pension Fund has not increased accordingly as per the office memorandum for increase in pension issued by Finance Department Government of Sindh. He added that the same has been increased to 1250 pensioners, but there is gape between actual pension, expenditure and fund received from Finance Department, the pension liabilities accumulated to Rs. 850 million and request has been made for such increases upto 66.913 million. The learned counsel for the petitioner has refuted the claim and request for releasing of his arrears w.e.f 2021 to 2024. So far as the case of petitioner Mst. Zahida, learned AAG has not filed comments and requests for referring the matter to the competent authority for releasing of monthly pension of the petitioner being widow. Learned AAG submitted in the case of petitioner Mst. Rabia this matter relates to Municipal Committee Khairpur and certain payments were undertaken to the paid but this matter needs to be referred to the competent authority to comply the orders dated 11-08-2022, 07-12-2022 and 12-04-2023. These intricate questions be referred to the competent authority to see all the aspect of the case as the pension issue is to be resolved as early as possible for the reason 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 pension/arrears at any stage either before the proceeding or after the conclusion of the proceeding.

4. Learned counsel for the petitioners have pointed out that the pension/arrears/increases on pension of the pensioners has been withheld/ are not being paid regularly without assigning any cogent reason. In our view, pensionary benefits cannot be stopped and/or withhold and, is violative of the law laid down by the Supreme Court in the case of Haji Muhammad Ismail Memon, **PLD 2007 SC 35**, the issue needs to be resolved, firstly at the end of respondent department/competent authority.

5. 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 pensioners, 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 Supreme Court in the case of Haji Muhammad Ismail Memon, supra. 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.

6. 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

Nasim/P.A