

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

**C. P. No. D – 1157 of 2023**

*(Mst. Safooran Chang versus Province of Sindh and others)*

**C. P. No. D – 986 of 2020**

*(Mst. Hazooran Chang versus Accountant General Sindh and another)*

Present:

**Mr. Muhammad Iqbal Kalhoro, J.**

**Mr. Arbab Ali Hakro, J.**

Date of hearing : **21.03.2024**

Date of decision : **21.03.2024**

Mr. Sachal Bhatti, Advocate for petitioner in C. P. No. D-1157 of 2023.

Mr. Achar Khan Gabol, Advocate for respondent No.5 in C. P. No. D-1157 of 2023.

Mr. Zulfiqar Ali Naich, Assistant Advocate General Sindh along with Zaheer Ahmed Memon, District Accounts Officer, Khairpur.

## **ORDER**

**Muhammad Iqbal Kalhoro, J.** – Petitioner Mst. Safooran, a daughter of late Abdullah, a High School Teacher, who died on 07.02.2009, has filed this petition claiming her share to her father's pension.

2. Record reflects that stepmother of petitioner namely Mst. Hazooran had filed a CP No. D-986 of 2020 claiming her right to family pension of her husband, late Abdullah. In the course of which, the Director, School Education, Sukkur had appeared and filed several documents including a *nikahnama* of petitioner with Abdul Ghafoor on 28.04.1992. She had based her case on the *nikahnama* stating that there were two legal heirs of late Abdullah. One was his daughter, petitioner, Mst. Safooran, who was married and hence she was the only one entitled to the pension. The Court on the basis of such documents had ordered the District Accounts Officer, Khairpur to calculate arrears and release pensionary benefits to her. The latter, after receiving such order by the Court, calculated pensionary benefits of Mst. Hazooran and started giving the same to her.

3. Petitioner Mst. Safooran, as soon as came to know of the above fact, filed a Family Suit for jactitation of marriage bearing No.74 of 2020 against Abdul Ghafoor, who also filed a Family Suit for restoration of conjugal rights bearing No.03 of 2021 against her before Family Judge, Faiz Ganj, District Khairpur. Both the Suits were consolidated and vide judgment dated 11.02.2022 have been decided. The Suit of petitioner Mst. Safooran has been decreed, whereas, Suit of Abdul Ghafoor has been dismissed, and it has been

declared that she was not wife of Abdul Ghafoor. After obtaining such a decree, she has filed this petition claiming a right to her late father's pension.

4. After the notice, the respondents have filed comments. Mst. Hazooran, stepmother of petitioner, is also represented by her Counsel, who was, vide order dated 12.12.2023, directed to bring on record any proof of appeal against the judgment and decree in favour of petitioner Mst. Safooran, so that her right to family pension of her late father can be adjudicated accordingly. In response, he claims to have received some information about the appeal but without making any definitive statement in this regard. In any case, before us there is a judgment and decree in favour of petitioner Mst. Safooran declaring that she is not wife of Abdul Ghafoor, and against such judgment and decree, no order of the competent Court setting aside the same has been brought on record.

5. District Accounts Officer, Khaipur is present, submits that after the demise of late Abdullah, case for pension to his legal heirs was processed. Petitioner Safooran along with her stepmother both were found entitled to pension and, therefore, the pension to both were released according to their share. But after the order of this Court in CP No. D-986 of 2020, pension of petitioner Mst. Safooran was stopped. Be that as it may, since that impediment on the basis of which the order was passed by this Court has been crossed over by the judgment and decree of the Family Court, we are of the view that petitioner Mst. Safooran is also entitled to family pension of her father, until and unless aforesaid judgment and decree is in field and is set aside by the appellate Court or by any other forum competent to do so.

6. Hence, while disposing of this petition, we direct District Accounts Officer, Khaipur to calculate share of petitioner Mst. Safooran to family pension of her father and start releasing the same to her accordingly. The arrears shall also be calculated and accordingly paid to petitioner Mst. Safooran. In the course of which, if the same are found to have been paid to her stepmother wrongly, the District Accounts Officer shall recover the same from stepmother by adopting a legal course including but not limited to making certain deductions from the pension being paid to her monthly, and pay the same to petitioner Mst. Safooran.

CP No.1157 of 2023 along with pending application(s), if any, and the pending application(s) in CP No. D-986 of 2020 are **disposed of** in above terms. Office to place a signed copy of this order in the captioned connected matter.

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