

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA  
C. P. No.D-598 of 2024  
(Mst.Tabasum v. P.O Sindh and others)

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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**BEFORE:**

*Mr.Justice Muhammad Saleem Jessar.*  
*Mr.Justice Adnan-ul-Karim Memon.*

**Date of hearing and Order 13.03.2025**

Mr. Wakeel Ali Shaikh, advocate for the petitioner.  
Mr. Liaquat Ali Shar, Addl. A. G assisted by Mr. Aftab Ahmed Bhutto, Asstt. A. G.  
Abdul Rasool Soomro, District Accounts Officer, Kamber is present.

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**ORDER**

**Adnan-ul-Karim Memon, J:-** Petitioner seeks the following relief;

- a) *To direct respondent No.3 to immediately clear/pass the pension case of the petitioner in respect of her service/retirement benefits, i.e. Commutation. G.P.Fund final payment so also release the monthly pension along with all the arrears of monthly pension alongwith all the arrears of monthly pension and to regularize the monthly pension of the petitioner without further delay.*
- b) *To direct respondents No.01 to 03 to clear/pass the arrears of the monthly salaries of petitioner stopped from 2015 till the month of retirement.*

2. Learned counsel, inter alia, contended that the law does not prohibit payment of pension and gratuity to a retired Civil/Government/Public servant against whom criminal proceedings were/are pending until the delinquent employee is found to be guilty of grave misconduct in departmental or judicial proceedings or to have caused pecuniary loss to the Government by misconduct or negligence. He further submitted that a Government servant, who retires from service qualifying for retirement benefits, pension being a material part of it, does not get the same as a bounty of the State but as a right acquired after putting in satisfactory service, The grant of pension cannot be refused arbitrarily and if refused, it has to be under the relevant rules

3. The Additional Advocate General (AAG) stated that the National Accountability Bureau (NAB) had included the petitioner in Case No. 12/2019 (The State v. Abdul Jabbar Waggan & others), leading to the department's Secretary blocking her identification (ID). However, the petitioner's lawyer

presented a court order dated December 5, 2024, from Accountability Court-I Sukkur. This order showed that the case had been transferred to the Anti-Corruption Court. While the petitioner is listed as a beneficiary in the Anti-Corruption Court proceedings, she is not named as an accused.

4. We have heard the parties present in court and perused the record with their assistance.

5. Compulsory Retired Teacher Mst. Tabassum Abro is petitioning for the release of her withheld pension and salary arrears as per law. Despite retiring on February 29, 2024, she has not received her pension, GP fund payment, commutation, or salary arrears dating back to 2015. She claims the District Accounts Officer and Accountant General Sindh are unlawfully denying her benefits accrued in terms of compulsory retirement order dated 29.02.2024, and has provided documents supporting her appointment and service history. However, her SAP ID was blocked due to allegations of fraudulent IDs and appointments, prompting a NAB investigation. The Accountant General and the District Accounts Officer are now requesting the court to compel the School Education & Literacy Department (SE&LD) to conduct and provide the results of an inquiry into the legitimacy of her employment.

6. The core issues are the disputed validity of her appointment, and subsequent initiation of disciplinary proceedings culminated into her compulsory retirement order dated 29.02.2024, the ongoing NAB investigation, and the resulting delays in her retirement benefits. She is seeking immediate release of all owed funds and regularization of her pension as per law.

7. While the general principle is that a pension should not be withheld simply because a criminal case is pending. In our view, the pension is not to be treated as a bounty payable on the sweet will and pleasure of the Government and the right to superannuation pension including its amount is valuable right vesting in a government servant and denying the pensioner right to receive pension affects the fundamental right of the pensioner under Articles 4, 9, 10-A, 11, 14, 18, 24, 25, 27, 37(f) of the Constitution of the Islamic Republic of Pakistan 1973.

8. Rule 2307 (C.S.R. 351) states that a pension can be withheld or withdrawn by the Governor General if the pensioner is convicted of a serious crime or guilty of grave misconduct. The Governor General's decision on this



matter is final. However, in the present case, the respondent-department retired her compulsorily and issued such order, which means she is entitled to the service benefits under the law, which cannot be withheld by the respondent-department.

9. Primarily, the long and unjustified delay in the payment of pension to the pensioner amounts to humiliation to the retiring official and his family, despite the strictures and orders passed by the Honorable Supreme Court of Pakistan in its various pronouncements and simplified guidelines laid down by the Government; the petitions on account of delay persist.

10. The Supreme Court in the case of Federation of Pakistan through General Manager of Pakistan Railways Vs. Shah Muhammad 2021 SCMR 1249 has interpreted Rule 2307 of General Conditions Governing Pension (C.S.R.351), and held that the rules provide that to get the pension the pensioner has to maintain future good conduct as an implied condition for the grant of pension. The two instances have been given in the said rule, which gives power to the Government to withhold or withdraw a pension or any part of it, i.e. where the pensioner is convicted of a serious crime or is guilty of a grave misconduct. The judgment of the Honorable Supreme Court is clear in its terms that in case of conviction, pension can be stopped; however, in the present case, we have been informed that there is no conviction in the field. The Honorable Supreme Court in the case of The Government of N.W.F.P., through the Secretary to the Government of N.W.F.P., Communications and Works Department, Peshawar v. Mohammad Said Khan and another (PLD 1973 Supreme Court 514), while considering Rule 1.8 of Pakistan Civil Service Pension Rules, 1963, which to some extent is similar to Rule 2307 (C.S.R-351) *ibid* observed as follows: -

*“On the other hand under clause (a) maintenance of good conduct throughout his life is an inflexible obligation of a pensioner so that if he is found guilty of a serious crime or gross misconduct even after his retirement he is liable to suffer a diminution in the amount of his pension, no matter how long it happens after his retirement.”*

11. The Supreme Court has held that for being entitled to pension, a civil servant has to have good conduct throughout his life. This means that the civil servant has to have and maintain good conduct before entering service, during the period of service, and even after retiring from service, for being paid pension. This Rule is an exception to the general rule which entitles the civil servant to a pension as of right after having rendered satisfactory qualifying service. The Supreme Court has interpreted the terms standard of good

conduct, which a civil servant was/is required to have for being entitled to payment of pension. The term "good conduct" is not defined in the rules, thus, it seems to have been left to the judgment of the authority, who is entitled to decide the matter. However, the said Rule itself has provided two specific instances where the authority reserves to itself the right of withholding or withdrawing a pension or any part of it, i.e., if the pensioner be convicted of a serious crime or be guilty of grave misconduct, thus the ratio of the judgment rendered in the case of Federation of Pakistan through General Manager of Pakistan Railways supra wherein the Supreme Court was dealing with the question of conviction of serious crime. Here the question is altogether different as the petitioner has not been convicted yet, however, she is facing the criminal charges on account of corruption and corrupt practices being beneficiary while working in the department, which are yet to be proved by the competent court of law. However, it is made clear that if the department proves the allegations against the petitioner before the competent court of law in the shape of conviction then the ratio of the judgment rendered in the case of Federation of Pakistan through General Manager of Pakistan Railways supra will be fully applicable in his case and consequences will follow.

12. It is well settled that the right to pension cannot be taken away by a mere executive fiat or administrative instruction. Pension and gratuity are not mere bounties or given out of generosity by the employer. An employee earns these benefits through his long, continuous, faithful, and unblemished service. The right to receive the pension of a civil/public servant has been held to be covered under the "right to property" and the pensioner could be deprived of the same only by authority of law and that pension does not cease to be property on the mere denial or cancellation of it. Even the character of pension as "property" cannot possibly undergo such mutation at the whim of a particular person or authority.

13. The Supreme Court in the case of Haji Muhammad Ismail Memon, advocate/complainant; in the matter of (PLD 2007 SC 34) at Paragraph 07 has held that it is a pathetic condition that Government Servants after having served for a considerable long period which they give their blood sweat to the department had to die in a miserable condition on account of non-payment of pension/pensionary benefits, etc, such conduct on their behalf is highly condemnable and cannot be encouraged in any manner and directed all the Government Departments, Agencies, and officers deployed to serve the general public within the limit by the Constitution as well as by the law shall not cause



