

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

CP No. D-867 of 2023

PRESENT:

MR. JUSTICE ARBAB ALI HAKRO

MR. JUSTICE RIAZAT ALI SAHAR

Mr. Arif Ali Bhatti advocate for petitioner.

Mr. Ghulam Sarwar Baloch, Assistant Attorney General for Pakistan along with Syed Iftikhar Ali District Accounts Office Hyderabad on behalf of Controller General of Accounts Pakistan.

Date of hearing & decision: 13.03.2025.

ORDER

RIAZAT ALI SAHAR, J: - Through this petition, the petitioner has prayed as under:-

- a). That this Honourable Court may be pleased to direct the respondents to issue the retirement order to the petitioner with immediate effect.*
- b). That this Honourable Court may be pleased to direct the respondents to issue/release the encashment in lieu of LPR and other benefits etc to the petitioner fairly, properly with all back benefits and surplus charges.*
- c). Any other relief.....*

2. The principal grievance of the petitioner in this case is that he was serving as an Assistant Accounts Officer (BPS-17) in the Accountant General Sindh, Karachi, but was suspended following his arrest in an alleged case concerning bogus retirements, GP Fund, and pension payments. According to the petitioner, he subsequently secured bail in the said case. Upon

attaining the age of superannuation, i.e., 60 years, his retirement became due on 02.02.2021. However, despite the completion of his service tenure, the respondents failed to issue his retirement notification along with the corresponding order for encashment in lieu of Leave Preparatory to Retirement (LPR) and pension. The petitioner formally submitted an application on 10.03.2021, requesting the issuance of his retirement benefits. In response, respondent No.2 issued a letter seeking guidance from respondent No.1 regarding the matter. Subsequently, on 15.02.2022, respondent No.2 formally requested respondent No.1 to issue the retirement order and encashment order in lieu of LPR. However, despite these communications, no effective action was taken by the respondents.

3. Aggrieved by this unjustified inaction, the petitioner has now approached this Honourable Court by filing the present petition, seeking judicial intervention for the enforcement of his lawful entitlements.

4. In response to the notice of this petition, respondent No.1 submitted parawise comments, stating that the petitioner was arrested pursuant to an order issued by the Special Court of the Anti-Corruption Establishment, Larkana. It was further contended that, as the criminal proceedings against the petitioner are still ongoing, his pension case has not been finalized, as it remains contingent upon the outcome of the pending court cases.

5. The learned counsel for the petitioner mainly contends that pensionary benefits cannot be withheld solely due to the pendency of a criminal case. The mere involvement of a government servant in a criminal case, without its conclusion finally, does not justify the denial of pensionary benefits. He further contends that the respondents have even failed to issue

the petitioner's retirement notification despite his superannuation on attaining the age of 60 years. Accordingly, he prays for necessary directions to be issued to the respondents.

6. On the other hand, the learned Additional Advocate General (A.A.G.) argues that the petitioner is implicated in a major corruption scandal, and as a result, his pension case cannot be finalized. Referring to Article 351(1) of the Civil Service Regulations (C.S.R.), he submits that both the Local Government and the Government of Pakistan possess the statutory authority to withhold or withdraw a pension, either partially or entirely, if the pensioner has been convicted of a serious crime or found guilty of grave misconduct. In view of these contentions, he prays for the dismissal of the petition.

7. We have heard the learned counsel for both parties and have carefully examined the available record.

8. It is an undisputed fact that the petitioner has not been convicted in connection with the alleged corruption case. Since he has already attained the age of superannuation, i.e., 60 years, the department in which he served is legally obligated to issue his retirement notification. However, respondent No.1 has not finalized the petitioner's pension case on account of pending court proceedings.

9. Regarding Article 351(1) of the Civil Service Regulations (C.S.R.), it unequivocally stipulates that the grant of pension is contingent upon the pensioner maintaining good conduct in the future. The provision empowers the government to withhold or withdraw a pension only in two distinct circumstances: **(i)** when the pensioner has been convicted of a serious crime, or **(ii)** when the pensioner has been found guilty of grave misconduct. In the present case, the proceedings against the petitioner remain inconclusive. Therefore, he cannot

be deprived of his pension rights solely on the basis of administrative directives, as such an action would lack legal justification. It is imperative to recognize the fundamental distinction between an employee merely being *implicated* in a corruption case and one who has been formally adjudged guilty by a court of law. Mere allegations or pending proceedings do not suffice to disentitle a civil servant from pensionary benefits, which are in the nature of a vested right unless lawfully curtailed under the prescribed conditions.

10. It is essential to underscore that pensionary benefits are earned by an employee after rendering long and dedicated service to the department. Such benefits are not a mere privilege but a vested right, which cannot be withheld arbitrarily. The act of the respondents in keeping the petitioner's retirement order in abeyance and depriving him of his pensionary entitlements solely on account of his involvement in a pending criminal case is legally untenable and devoid of justification. Mere pendency of criminal proceedings does not, in itself, constitute a valid ground for withholding retirement benefits, particularly in the absence of a final conviction or a finding of grave misconduct by a competent authority in accordance with due process of law.

11. It is important to highlight that, in the past, a government servant who had retired after serving for a significant period tragically passed away in miserable conditions due to the non-payment of pension and other pensionary benefits. Such an unfortunate practice cannot be encouraged in any manner. Similarly, in the present case, the petitioner's retirement has been due since February 2021, yet he has been deprived of his rightful pensionary entitlements.¹

Haji Muhammad Ismail Memon, advocate/complainant (PLD 2007 SC 34).

12. In light of the above discussion, this petition is allowed. The respondents are directed to immediately issue the petitioner's retirement notification, recognizing his superannuation on attaining the age of 60 years, and to release the entire pensionary benefits within 30 days without further delay.

13. The instant petition is accordingly disposed of in the above terms.

JUDGE

JUDGE