

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**  
**C. P No. D – 1948 of 2024**

**Present:**

Mr. Justice Zulfiqar Ali Sangi  
Mr. Justice Nisar Ahmed Bhanbhro

Petitioner : Mst. Shah Khatoon Bhatti, through Mr. Abdul Naeem Pirzada, Advocate

Respondents : Province of Sindh and others through Mr. Ali Raza Baloch, Additional Advocate General Sindh

Date of hearing : 25.03.2025  
Date of order : 25.03.2025

**ORDER**

**Nisar Ahmed Bhanbhro, J**;- Through instant Constitutional Petition, the Petitioner has sought for the following relief;-

(a) *That this Honourable Court may graciously be pleased to issue directions to the official Respondents to immediately release monthly pension of the petitioner, which has been stopped by them without any rhyme or reason and necessary action in accordance with law may be taken against the Accounts Officials so they may never give mental as well as physical agony to any senior citizen.*

**2.** Case of the Petitioner is that her father deceased Dhani Bux Bhatti was employed as Field Assistant in Agriculture Department, Government of Sindh, who retired from services on 31.07.1997. The deceased father of the Petitioner was drawing pension, who expired on 30.10.2020, leaving behind the Petitioner as surviving legal-heir being widowed daughter to receive the monthly pension. The Respondent-department granted monthly pension in her favour till July, 2024 and thereafter declined the payment since August, 2024 on the account that her children have become major.

**3.** The District Accounts Officer, Naushahro Feroze on notice appeared before this Court and filed his Written Statement, wherein he disclosed that an Application was filed by one Mushtaque Ali Bhatti, the real brother of the Petitioner wherein it was stated that the Petitioner is a married lady having five sons and two daughters aged above 21 years, she is drawing the monthly pension illegally, therefore, her monthly pension was withheld. The petitioner after stoppage of monthly pension approached the office of District Accounts Officer, Naushahro Feroze, where she was directed to furnish the Family Registration Certificate (FRC), Dependency Certificate, No Marriage Certificate, Death Certificate of his father deceased Dhani Bux, Death Certificate of Mst. Begum, Death Certificate of Khan Ali, Heirship Certificate of Dhani Bux Bhatti and Heirship Certificate of Khan Ali Bhatti so that the proper course could be adopted for release of monthly pension to her.

**4.** The Additional District Accounts Officer, Naushahro Feroze has also filed a statement in Court today and submitted that the sons of the petitioner, namely Ramz Ali, Raza Ali, Hub Ali and Suhib Ali have attained the age of 21 years and as per the dependency certificate issued by the Finance Department in its letter dated 21.02.2024, the petitioner cannot be said to be dependent upon the pension of her deceased father, therefore, petitioner, namely Mst. Shah Khatoon is not entitled for the monthly pension of her deceased father, in terms of Rule 302(b)(6) of CSR, which stipulates "on the cessation of the pension through death, marriage, or other cause, Government may, at their discretion, re-grant it in whole or in part of members of the family lower down in the scale prescribed who may have been dependent on it for support, and for such period as they may consider desirable."

**5.** We have heard the learned Counsel for the parties and examined the material available on record.

**6.** Rule 4(10) 2(A) of the West Pakistan Civil Services Pension Rules though categorize the entitlement of the family members of the deceased pensioner, wherein the widow of the deceased

pensioner is entitled to receive the pension as a matter on priority and in her absence the unmarried daughters in absence of unmarried daughter, the eldest widowed daughter shall be entitled to receive the pension. This entitlement shall continue unabated until remarriage of the widowed or divorced daughter. Rule 4.10(A) of the West Pakistan Civil Services Pension Rules, 1963 is reproduced as under;-

*"...4.10.(1) Family for the purpose of payment of family pension shall be as defined in sub-rule (1) or rule 4.7. It shall also include the Government servant's relatives mentioned in clause (d) of the 4.8.*

*4.10.2(A) A family pension sanctioned under this section shall be allowed as under:-*

*(i)(a) To the widow of deceased, if the deceased is male Government servant, or to the husband, if the deceased is a female Government servant.*

*(b) If the Government servant had more than one wife, and the number of his surviving widows and children does not exceed 4, the pension shall be divided equally among the surviving widows and eligible children. If the number of surviving widow and children together is more than 3, the pension shall be divided in the following manner, viz, each surviving widow shall get 1/4th of the pension and the balance(if any) shall be divided equally among the surviving eligible children. Distribution in the above manner shall also take place whenever the Government servant leaves behind surviving children of a wife who has predeceased him in addition to the widow and her children if any.*

*(c) In the case of female Government servant leaving behind children from a former marriage in addition to her husband and children by her surviving husband, the amount of pension shall be divided equally among the husband and all eligible children. In case the total number of beneficiaries exceeds four, the husband shall be allowed 1/4 of the pension and the remaining amount distributed equally among the eligible children.*

*(ii) Failing a widow of husband, as the case may be the pension shall be divided equally among the surviving sons not above 25 years and unmarried daughter.*

*(iii) Failing (i) and (ii), to the eldest widowed daughter.*

*(iv) Failing (i) and (iii), to the eldest widowed of the deceased son of the Government servant.*

*(v) Failing (i) and (iv), to the eldest surviving son of deceased son of the Government servant.*

*(vi) Failing (i) and (v), to the eldest unmarried daughter of a deceased son of the Government servant.*

*(vii) Failing these, to the eldest widowed daughter of a deceased son of the Government servant.*

*4.10.5.(a) If the pension ceases to be granted before the expiry of the period for which it is admissible on death or marriage of the recipient or on account of other causes, to persons failing under sub-clauses A(i) and (ii) sub-rule (2) above, the amount shall be granted to other recipients in equal shares.*

*(b) If a family pension awarded under the section other than the mentioned in clause (A)(i) and (ii) of sub-clause (2) of this rule ceases to be payable before the expiry of the period up to which it is admissible on account of death or marriage of the recipient or other causes, it shall be regranted to the persons next lower in order mentioned in sub-rule(2)."*

**7.** The Respondents initially issued the monthly pension to the Petitioner after proper verification of the record that she was widowed daughter of the deceased pensioner Dhani Bux Bhatti and there was no any objection raised on her entitlement. The pensionary benefits were stopped to the petitioner on an application allegedly moved by one Mushtaque Ali Bhatti, the brother of the Petitioner. It appears from the record that no any notice was given to the Petitioner regarding the said application and an order dated 18.09.2024 mentioning the word stopped was endorsed on the said application. The District Accounts Officer was required to issue a notice of hearing to the Petitioner and thereafter on scrutiny of record to conduct proper inquiry, he was required to pass an speaking order regarding the entitlement of the Petitioner to receive the pensionary benefits of her deceased father.

**8.** The order passed by the District Accounts Officer, Naushahro Feroze on the face of it appears to be illegal and passed in violation of settled norms of the law as no one can be condemned unheard while passing any adverse orders against him. The right of fair trial has been recognized as the fundamental rights under Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973, and the impugned order violates such rights guaranteed to an individual.

**9.** Rule 4.10 of the Pension Rules, 1963 does not speak about the dependency of a family member to receive the family

pension. Had it been the case a widow might not have been eligible to receive the pension in case the deceased pensioner was also survived by major sons to support their mother. The entitlement of the petitioner to receive the family pension cannot be denied on any other ground. It is guaranteed right of an individual to receive such benefits, which have been granted under the statutory backing.

**10.** This Court under Article 199 of the Constitution is the custodian of fundamental rights of the individuals and cannot close its eyes when the executive authorities pass orders through a colourful exercise of the powers. Since the Respondents have failed to support the impugned order of the stoppage of the pension through backing of law. Therefore, the order cannot sustain, and same is set-aside with direction to the respondents to resume the monthly pension to the Petitioner from August, 2024 when it was stopped within a period of one month of this order.

The petition is disposed of in the above terms.

Judge

Judge

*ARBROHI*