

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P No.D-5760 of 2023

[Muhammad Ghulam Mohiuddin v. Federal Government and others]

C.P No.D-5203 of 2023

[Muhammad Rafique and others v. Federal Government and others]

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Before;
Mr. Justice Yousuf Ali Sayeed;
Mr. Justice Abdul Hamid Bhurgri.

For hearing of main case.

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Date of hearing:- 06.10.2025

Date of Decision:- 31.10.2025

Mr. Mushtaq Ahmed Awan, Advocate for the petitioners.
M/S Syed Shayan Ahmed and Ahmed Magsi, Advocates for
respondent No.2.
Mr. Bakht Ali Langah, Law Officer, State Life Insurance Corporation.
Mr. Bashir Hussain Shah, Assistant Attorney General.

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Abdul Hamid Bhurgri, J.- The petitioners, who served in the State Life Insurance Corporation of Pakistan (Respondent No. 2) and retired upon attaining the age of superannuation, have invoked the constitutional jurisdiction of this Court seeking direction against the respondents for grant of pensionary benefits in accordance with Circular No. P&GS/PO/003/2012 dated 19.04.2012.

2. Learned counsel for the petitioners submits that the aforesaid circular was issued by Respondent No. 2 in compliance with the judgment of the Lahore High Court, Lahore, which was later upheld by the Honourable Supreme Court of Pakistan. Through that circular, the Board of Respondent No. 2 resolved to extend pensionary benefits to retired officers and existing permanent officers, to be calculated on the basis of last drawn pay as per the State Life Employees (Pension) Regulations, 1986, as amended in 1988. It is asserted that although Circular dated 12.02.2001 stood withdrawn to the extent of pensionary benefits by virtue of the said Circular of 2012, the petitioners were neither extended the option to avail pension nor granted pensionary benefits. The petitioners claim that despite repeated representations

made during service, seeking the option to avail pension after promotion from staff cadre to officer cadre in light of the Third Wage Commission Award, the respondents failed to respond or comply. It is further averred that similarly-placed retirees, who had approached the Lahore High Court in Writ Petition No. 9183/2006, were granted relief, and denial of the same to the present petitioners amounts to discrimination and violation of Articles 4, 9, 25 and 27 of the Constitution of the Islamic Republic of Pakistan. The petitioners contend that an identical petition (Const. Petition No. 5203/2023) is already pending adjudication before this Court, and therefore they have rightly approached this Court for the same relief.

3. Learned counsel for the petitioners argued that respondent No. 2, having issued the circular in 2012 pursuant to judicial pronouncements, was bound to offer the same pensionary benefits to all similarly-placed employees including the petitioners and non-extension of such benefit constitutes unequal treatment and violates Article 25 of the Constitution. He further argued that the petitioners were promoted from staff to officer cadre and thus became entitled to exercise the option of pension and denial of such opportunity despite repeated requests is arbitrary and contrary to the principles laid down by superior courts. Lastly, he contended that since other retirees have been granted similar benefits, the petitioners too are entitled to parity of treatment.

4. Conversely, learned counsel appearing for Respondent No. 2 opposed the petition and submitted that the petitioners were repeatedly afforded the opportunity to exercise their option between gratuity/provident fund and pensionary scheme under the 3rd Wage Commission, but they deliberately and willfully chose not to opt for pension and upon retirement, their final settlements were made on the basis of gratuity, which they accepted without any protest or reservation. He further contended that a complaint subsequently filed by the petitioners on

22.02.2022 was duly responded to vide letter dated 24.03.2022, wherein they were informed that the option to elect between gratuity and pension had been discontinued and that staff cadre employees promoted to officer cadre were not eligible to exercise the said option. According to him, the judgment of the Lahore High Court relied upon by the petitioners is inapplicable, as those petitioners were directly appointed in officer cadre and had already opted for pension; their grievance concerned the revision of pension, not the initial election of the scheme; and having voluntarily accepted gratuity and received all dues in full and final settlement, the petitioners are now estopped in law from seeking pensionary benefits, and the petition is thus devoid of merit and liable to dismissal.

5. We have heard learned counsel for the parties and perused the material available on record. The record reflects that the petitioners were given multiple opportunities to exercise their option between the pensionary scheme and the gratuity/provident fund scheme under the 3rd Wage Commission. They, however, chose not to avail the pension option. In such circumstances, as per service regulations, the petitioners stood governed by the option last exercised or deemed to have been exercised under the rules. Upon retirement, the petitioners' dues were settled on the basis of gratuity, and they received the same without lodging any protest or reservation. Having voluntarily accepted such settlement, the petitioners are now barred under the doctrine of estoppel from claiming an alternate benefit. Acceptance of gratuity constitutes full and final settlement of service claims. The correspondence placed on record confirms that the petitioners' complaint dated 22.02.2022 was responded to vide letter dated 24.03.2022, wherein it was explicitly conveyed that the option to elect between gratuity and pension had been discontinued, and that staff cadre employees promoted to officer cadre were not eligible for such option. No material has been brought on record to show that this policy decision is either arbitrary or contrary to law.

The precedent relied upon by the petitioners pertains to employees who were directly appointed in officer cadre, had opted for pension, and challenged a subsequent notification revising pensionary benefits. The said judgment, therefore, is factually distinguishable and cannot be extended to the petitioners, who never opted for pension in the first place.

6. It is well-settled that an employee who has voluntarily opted for one benefit and accepted final settlement cannot later claim another benefit on the ground of parity. The principles of estoppel, acquiescence, and finality of settlement fully apply. Reliance is placed on the case of ***Asadullah Khawaja v. Investment Corporation of Pakistan (ICP) through Managing director, 2021 PLC (C.S) 1012***, wherein the Court observed as follows:

“What is applicable to the facts of present case is, is the principle of acquiescence. This doctrine has been evolved, amongst other, also through the interpretation of Article 114 of the Evidence Law. The crux of which is that if an individual does not assert his known right or remain quite by way of his conduct or otherwise, then it will be construed that he has waived / relinquished such right. This rule is explained in various Judgments, including 2014 SCMR page-1573 (Ministry of IPC through Secretary and others v. Arbab Altaf Hussain and others), 2002 CLC page-166 (Karachi) (Messrs Dadabhoy Cement Industries Limited and others v. Messrs National Development Finance Corporation).

7. It is noted that the fact of the petitioners having availed and received gratuity upon their retirement came to light only through the comments filed by the respondents. The petitioners, however, failed to disclose this material fact in their petitions. Such concealment strikes at the root of their bona fides and amounts to suppression of a material fact. A litigant invoking the constitutional jurisdiction of this Court is required to approach the Court with clean hands and full disclosure of all relevant particulars. The omission to disclose receipt of gratuity disentitles the petitioners to any discretionary or equitable relief, as concealment of such a material fact is contrary to the principles of equity, good faith, and fair play. Reliance is placed on the case of

Muhammad Amir v. Umer Hayat and 5 others, 2010 CLC 1798

Lahore, wherein the Court held as under:-

“The petitioner should approach this court with clean hands. This material concealment of facts not disclosing the filing of civil suit before the learned Senior Civil Judge, Sahiwal by the petitioner is sufficient ground for refusing the relief sought for in this writ petition. The petitioner cannot avail remedies simultaneously. He is bound to choose either to avail the remedy of filing civil suit or filing this writ B petition. At a time petitioner has availed both the remedies”.

8. It is further observed that service benefits such as pension or gratuity are governed by specific statutory rules and internal regulations of the employing organization. Once an employee has exercised or is deemed to have exercised an option under those rules and has received final settlement accordingly, the matter attains finality and cannot be re-opened through a constitutional petition. The constitutional jurisdiction of this Court under Article 199 cannot be invoked to revisit or alter a concluded contractual or service relationship, particularly where no element of mala fide, violation of law, or breach of statutory duty is demonstrated. The petitioners have failed to establish any such illegality or arbitrariness on the part of the respondents warranting interference by this Court.

9. In view of the foregoing discussion, this Court is of the considered opinion that the petitioners were repeatedly afforded opportunity to exercise option but failed to do so; their final settlements were made and received on the basis of gratuity without protest; the relied-upon judgment is inapplicable to their case; and having accepted gratuity, the petitioners are legally estopped from claiming pensionary benefits at this stage.

10. Accordingly, both the petitions being meritless are dismissed.

JUDGE

JUDGE