

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No.D-824 of 2025
(Raheela Noor versus Pakistan & others)

| Date | Order with signature of Judge |
|--|--|
| | Mr. Justice Adnan-ul-Karim Memon Mr. Justice Zulfiqar Ali Sangi |
| Date of hearing and order:- 02.02.2026 | |

Ms. Saima Anjum advocates for the petitioner
Mr. Matloob Hussain Qureshi Advocate for the Respondent Nos. 2 and 3
Ms. Mahreen Ibrahim DAG

O R D E R

Adnan-ul-Karim Memon, J. – The petitioner has filed the captioned Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer.

“Direct the respondents to immediately release the payment of family pension to the petitioner who is unmarried real sister of deceased Sarfaraz Ahmed Siddiqui, with all back benefits by setting aside the impugned letter No.DG-1(1)/2023 dated 26.12.2023, whereby the petitioner was denied the family pension”

2. Learned counsel for the Petitioner submitted that the Petitioner is the unmarried real sister of late Sarfraz Ahmad Siddiqui, who served the Pakistan Broadcasting Corporation (PBC) for 42 years and retired on 01.07.2007. After his death on 14.06.2021, the Petitioner, being wholly dependent and unmarried, was lawfully sanctioned family pension after fulfillment of all codal formalities, issuance of Pension Payment Order (PPO), and scrutiny under the relevant Government of Pakistan Finance Division O.Ms and Rule 4.10(2)(B)(iv) of the West Pakistan Civil Services Pension Rules, 1963. It was contended that despite repeated submission of life and non-marriage certificates, the Respondents unlawfully stopped the pension and, through the impugned letter dated 26.12.2023, not only denied the Petitioner’s lawful entitlement but also demanded a refund of the pension already paid, coupled with threats of criminal proceedings. Learned counsel argued that the denial of family pension merely on the ground that the Petitioner’s name was not mentioned in the family list provided by the deceased during service is illegal, arbitrary, and contrary to settled law, as nomination is not required for the grant of a family pension. Reliance was placed on Rule 4.10 of the Pension Rules and the judgment of the Lahore High Court reported as 2024 PLC (C.S.) 811 (Mst. Gul Baha case), wherein an unmarried sister was held entitled to family pension. It was further submitted that pension is a vested right and not a bounty, and the impugned action violates the principles laid down by the Supreme Court.

3. Learned DAG assisted by the learned counsel for the Respondents submitted that PBC has initiated a comprehensive verification and digitization process of pensioners in collaboration with NADRA and FBR, during which serious irregularities were detected in the Petitioner's case. It was argued that, as per the official record, the Petitioner was not declared as a family member by the deceased in the list of family members submitted shortly before retirement, which was duly signed, attested, and acted upon while issuing PPO, and therefore has binding legal effect. It was further contended that under the relevant rules, only a *dependent* unmarried sister is entitled to a family pension, and the Petitioner failed to produce any reasonable proof of dependency on the deceased. It is submitted that NADRA records show that the Petitioner has been residing separately and is recorded as a family member of another brother, thereby negating her claim of dependency. Learned DAG also submitted that the Petitioner unlawfully received inflated and unauthorized payments during the relevant period, causing financial loss to PBC, and disciplinary action has already been initiated against the responsible officials. On these grounds, it was prayed that the petition be dismissed.

4. Heard the learned counsel for the parties and perused the record with their assistance. The controversy revolves around the Petitioner's entitlement to a family pension under Rule 4.10(2)(B)(iv) of the West Pakistan Civil Services Pension Rules, 1963, as an unmarried real sister of the deceased pensioner.

5. The record shows that the Petitioner was initially sanctioned family pension after due processing, scrutiny of eligibility, and issuance of a Pension Payment Order (PPO). Such a sanction could not have been granted without the satisfaction of the competent authority regarding her eligibility. Once a vested right accrued in favour of the Petitioner, the same could not be withdrawn retrospectively without lawful justification, due process, and cogent reasons. It is well settled that Pensionary benefits are not a bounty of the State but a statutory right protected by law, as consistently held by the Supreme Court in its various pronouncements.

6. The sole ground taken by the Respondents for the denial of family pension is that the Petitioner was not mentioned in the family list submitted by the deceased before his retirement and that she failed to prove dependency. This objection is untenable for the reason that Rule 4.10 of the Pension Rules does not make nomination or prior declaration of an unmarried sister as a condition precedent for the grant of family pension. Rather, the Rule itself enlarges the definition of "family" specifically for family pension. This legal position has been authoritatively settled by the Lahore High Court in *Mst. Gul Baha v. Senior General Manager, Pakistan Railways* (2024 PLC (C.S.) 811), wherein it was held

that the omission of the name of an unmarried sister from the service record or the absence of nomination does not defeat her statutory entitlement under Rule 4.10.

An excerpt of the rule is reproduced as under:-

"4.10. (1) Family for the purpose of payment of family pension shall be as defined in sub-rule(I) of rule 4.7. It shall also include the Government servants relative mentioned in clause (d) of rule 4.8.

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

(1) (a) To the widow of the deceased; if the deceased is a 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 widows and children together is more than 4, 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 that has predeceased him in addition to the widow and her children, if any

(c) In the case of a 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 1/4th of the pension and the remaining amount distributed equally among the eligible children.

(ii) Failing a widow or husband as the case may be the pension shall be divided equal among the surviving sons not above 24 years and unmarried daughters.

Note. In working out the share of the various heirs under sub clause(A)(1) and(ii), the amount should be calculated to the nearest paisa:-

(iii) Failing (1) and(ii), to the eldest widowed daughter.

(iv), Failing (i) to (iii), to the eldest widow of a deceased son of the Government servant.

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

(vi) Failing (i) to(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.

(B) If the family pension is not payable under clause(A), it may be granted:- (i) to the father:

(ii) failing the father, to the mother;

(iii) failing the father and the mother, to the eldest surviving brother below the age of 21 years;

(iv) failing(i) to (iii), to the eldest surviving unmarried sister, if the eldest sister married or dies than the next eldest;

(v) failing(i)to(iv), to the eldest surviving widowed sister.

(3) No family pension shall be payable under this section:-

(a). to an un-married female member of a Government servant family in the event of her marriage:

(b). to a widowed female member of a Government servant's family in the event of her remarriage;

(c). to the brother of a Government servant on his attaining the age of 21 years.

(d). to a person who is not member of a Government servant's family.

(4) A family pension awarded under this section shall not be payable to more than one member of a Government servant's family at the same time except as provided for in sub-clause(A)(i), and(ii), of sub-rule(2) above.

(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 falling under sub-clause (A) (i) and (ii) of sub-rule (2) above, the amount shall be granted to other recipients in equal shares.

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

(6) Government shall have discretion to make such modification in the mode of allotment or conditions of tenure set forth in sub-rules (2) to (5) above as they may consider desirable to suit the special circumstances of the beneficiaries.

(7) A family pension sanctioned under this section shall be payable in addition to any extra-ordinary pension or gratuity that may be granted to the members of a Government servant's family under any other rules in force for the time being.

(8) Further good conduct of the recipient is an implied condition of every grant of a family pension under this section."

7. The plea of lack of dependency, based solely on separate residence or NADRA record, is equally misconceived. Dependency is a question of fact and cannot be negated merely based on address or the presence of other surviving brothers. It remains undisputed that the Petitioner is unmarried, advanced in age, and has no independent source of livelihood. Moreover, the Respondents themselves, after due scrutiny, sanctioned a family pension in her favour, which operates as an acknowledgment of dependency. The subsequent volte-face by the Respondents, without any lawful inquiry or adjudication, is arbitrary and violative of Articles 4 and 25 of the Constitution.

8. The demand for refund of pension already paid and the threat of criminal proceedings, without establishing fraud or misrepresentation on the part of the Petitioner, is also unsustainable in law. The Supreme Court has repeatedly held that recovery of pensionary benefits, once lawfully granted, cannot be made from a beneficiary who is not guilty of misrepresentation or fraud, particularly where such recovery would cause undue hardship.

9. The reliance placed by the Respondents on administrative instructions, digitization processes, or internal verification exercises cannot override statutory rules framed under law. Where a conflict exists, statutory pension rules shall prevail over executive instructions.

10. In view of the above, this Court finds that the impugned letter dated 26.12.2023 is without lawful justification, suffers from misreading of the Pension Rules, and is the result of an arbitrary exercise of discretion. The same is hereby declared illegal, void ab initio, and of no legal effect.

11. Consequently, the petition is allowed. The Respondents are directed to restore and release the family pension in favour of the Petitioner forthwith, along with all admissible arrears from the date of its unlawful stoppage, within a period of 30 days from receipt of a certified copy of this order. Failure to comply shall entail consequences in accordance with the law.

JUDGE

JUDGE