

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-2602 of 2024
(Ahsan-ul-Iqbal versus Province of Sindh & others)

Date	Order with signature of Judge
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Before :-
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order:- 04.02.2026

Mr. Tanveer Aftab advocate for the petitioner
Mr. Ali Safdar Depar, Assistant AG
Mr. Faheem Mahmood advocate for respondent No.6
Mr. Miandad Rahoojo, Accountant General Sindh
Mr. Allah Ditto Khoso, Litigation Officer, SE&LD

ORDER

Adnan-ul-Karim Memon, J. – Petitioner Ahsan-ul-Iqbal has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking the following relief: -

- a) Call comments from the respondents;
- b) Direct the respondent No.5 to deposit the pension contribution of the petitioner for the period from 05.05.1983 to 30.09.2009 with the respondent No.6;
- c) Direct the respondent No.6 to revise the pension of the petitioner upon receiving the pension contribution from respondent No.5 of the petitioner for the period from 05.05.1983 to 30.09.2009;
- d) Direct the respondent No.5 to release in favour of the petitioner the proper and complete/entire General Provident Fund that lies in account of the petitioner along with markup interest at bank rate, till the date of realization of amount;
- e) Direct the respondents to release in favour of the petitioner, the proper and complete/entire Benevolent Fund that lies in account of the petitioner along with markup/interest at bank rate till the date of realization of amount;
- f) Direct the respondents to pay the leave encashment of remaining 45 days as well as the group insurance of the petitioner along with markup/interest at bank rate till the date of realization of amount.

2. Learned counsel for the petitioner submits that the petitioner is a retired government servant who rendered unblemished service to the Province of Sindh for more than thirty-six years, initially as a Primary School Teacher under the Education Department and subsequently as an Assistant and later Superintendent

(BPS-17) in the Sindh Board of Technical Education (SBTE). He retired on attaining the age of superannuation on 02-03-2020. It is submitted that the petitioner's past service from 05-05-1983 to 29-10-2009 was duly rendered under the Government of Sindh and that such service was neither forfeited nor interrupted. The competent authority, i.e., Respondent No.6 (SBTE), after due consideration, explicitly approved the counting of the petitioner's previous government service for pensionary purposes vide office order dated 20-05-2020, subject only to the transfer of pension contribution by the Education Department through the Accountant General, Sindh. Therefore, the respondents are estopped from resiling from the said approval at this belated stage. Learned counsel further submits that the objection raised by Respondent No.5, relying upon Rule 9(20) of the Sindh Civil Services Rules, 1973, is misconceived and misplaced. The petitioner was absorbed through a lawful process, with prior No Objection Certificate from the parent department, through proper channel, and against a sanctioned post. His absorption cannot be treated as a fresh appointment so as to disentitle him from the benefit of past service, particularly when pension contribution for the said period has already been deducted and duly deposited with the Accountant General, Sindh, as reflected in the computerized pension contribution statement dated 08-09-2021 issued by Respondent No.5 itself. It is further submitted that Respondent No.5 has acknowledged that the pension calculation statement was forwarded to the administrative department for confirmation/approval from the Finance Department, yet no decision has been taken thereon for years, for reasons best known to the respondents. The petitioner cannot be penalized for inter-departmental correspondence, delays, or failure of statutory authorities to perform their lawful duties. With regard to the General Provident Fund, learned counsel submits that the petitioner has consistently contributed to the GP Fund throughout his service, and complete service record, no-dues certificate, and no-enquiry certificate were forwarded to Respondent No.5 as early as 19-04-2022. Despite this, instead of releasing the lawful amount, Respondent No.5 issued an incorrect, non-computerized, and handwritten statement, which is contrary to record and reflects gross maladministration. The allegation that the petitioner refused to provide CNIC or IBAN details is categorically denied. It is submitted that the petitioner has always cooperated with the authorities and has repeatedly visited the offices of the respondents. Any alleged deficiency, even if assumed for the sake of argument, could have been rectified by issuing a formal notice to the petitioner instead of withholding his lifelong savings and retirement benefits. Learned counsel further submits that deductions towards Benevolent Fund and Group Insurance were regularly made from the petitioner's salary throughout his service; however, not a single penny under these heads has been released to him till date. Likewise, the petitioner has been unlawfully deprived of leave encashment for the remaining 45 days, despite

being legally entitled thereto. It is contended that pension, GP Fund, benevolent fund, group insurance, and leave encashment are not bounties but vested and constitutional rights of a retired government servant. The continued failure of the respondents to release these dues amounts to violation of Articles 9, 14, and 25 of the Constitution of Islamic Republic of Pakistan, besides being contrary to settled law laid down by the superior courts. In view of the above submissions, learned counsel prays that the objections raised by Respondent No.5 be rejected, the respondents be directed to complete all formalities expeditiously, and the petitioner be granted all his lawful pensionary and retirement benefits along with mark-up for the inordinate and unjustified delay.

3. We have noticed with reference to the comments submitted by the Sindh Board of Technical Education (SBTE), which is an autonomous statutory body established to regulate examinations in technical education and to award diplomas and certificates to successful candidates of technical institutions across the Province of Sindh. It is urged that the petitioner's primary grievance does not lie against Respondent No.6. The petitioner initially served under Respondent No.2/ Education Department, where deductions towards pensionary and other service benefits were made from his monthly salary up to 30-10-2009. The accumulated funds relating to that period are retained by Respondent No.5, for want of instructions from Respondent No.4. however he added that despite repeated efforts by the petitioner, the matter has remained unresolved, resulting in the petitioner being shuttled between Respondents No.1 to 5. It is submits that Respondent No.6 has duly discharged all its legal obligations. The petitioner is receiving his monthly pension regularly in respect of services rendered to SBTE, and all admissible dues upon his superannuation on 02-03-2020 have already been cleared to his satisfaction. It is also pointed out that the issues relating to the petitioner's initial appointment and service prior to 30-10-2009 do not concern Respondent No.6. Regarding leave encashment, Respondent No.6 expresses readiness to rectify any grievance upon receipt of a formal request from the petitioner. The allegations regarding non-payment of benevolent fund and group insurance are denied, it being submitted that all dues admissible at the time of superannuation were paid in accordance with rules. As far as group insurance is concerned, it is submitted that that the insurance company has not been impleaded as a party. It is further reiterated that the petitioner's claim primarily lies against Respondents No.1 to 5, who exercised control over his service and deductions prior to his absorption in SBTE. Respondent No.6 has already paid all dues relating to the period of service under its control and remains bound to comply with any direction issued by this Hon'ble Court. Accordingly, it is prayed that the petition may be decided on merits in light of the foregoing submissions, and any order deemed appropriate by this Court be passed.

4. The Accountant General, Sindh, present in Court, submitted that the petitioner joined the School Education & Literacy Department, Government of Sindh in 1983 and served there until 2005, after which he was sent on deputation to the Sindh Board of Technical Education (SBTE), an autonomous body. In 2009, the petitioner was permanently absorbed in SBTE. Upon such absorption, his service ceased to be foreign service and became service outside the cadre and revenue of the Sindh Government. Consequently, under Rule 9(20) of the Sindh Civil Services Rules, 1973, no pension contribution is payable by the Government of Sindh for the period after his permanent absorption in SBTE. It was further submitted that for the period of service rendered by the petitioner prior to his absorption in SBTE, this office had already prepared and forwarded the pension contribution calculation statement to the administrative department, i.e., the School Education & Literacy Department, vide letter dated 08-09-2021, for onward submission and approval from the competent authority and Finance Department. The matter is presently pending at the level of the administrative and finance departments. With regard to the General Provident Fund, it was submitted that the petitioner's GPF deductions commenced in 1987, as no proof of deductions for the non-compulsory period from 1983 to 1986 was available. A GPF slip issued in 1991 showed a balance of Rs.3,914/-, which was never objected to by the petitioner in terms of Rule 35(2) of the Sindh G.P. Fund Rules, 1938. The petitioner later availed refundable and non-refundable advances in 2001 and 2004, respectively, without raising any objection to the maintained balance. He submitted that after his deputation to SBTE in 2005, GPF subscriptions were adjusted on the basis of challans up to 2009. Upon his permanent absorption in SBTE, the consolidated GPF account for the period 1987 to 2009 was finalized, reflecting a closing balance of Rs.123,455/-. Accordingly, the GPF final payment authority was issued by this office on 06-06-2023 under Rule 28 of the Sindh G.P. Fund Rules, 1938. It was submitted that upon submission of the requisite GPF bill by the concerned Drawing and Disbursing Officer, the payment shall be processed without delay. Accordingly, it was prayed that, in view of the petitioner's permanent absorption in SBTE, pension contribution after absorption is not admissible under the Sindh Civil Services Rules, and that the concerned department be directed to submit the GPF bill for early release of the finalized GPF amount.

5. After hearing learned counsel for the parties at length, it is observed that the petitioner is a retired government servant who rendered long service to the Government of Sindh, initially under the Education Department and subsequently under SBTE. The petitioner's grievance primarily concerns the release of pensionary and retirement benefits relating to his service prior to absorption in SBTE. The Accountant General, Sindh, and SBTE have clarified their respective

positions, and both parties have agreed that the respondent departments will coordinate to disburse any outstanding pensionary and retirement benefits to the petitioner within one week, with the petitioner extending necessary cooperation.

6. It is well-settled that pension, General Provident Fund, leave encashment, benevolent fund, and other retirement benefits are statutory/legal rights of a government servant, and once entitlement is established, such dues must be disbursed promptly without undue delay.

7. Accordingly, this petition is disposed of in terms of the settlement reached by the parties. The concerned departments are directed to ensure compliance immediately. In the event of non-compliance, action shall be taken under Article 204 of the Constitution against the delinquent officials. Let a copy of this order be communicated to all concerned for compliance.

JUDGE

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