

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No.D-4437 of 2025
(Zahid Kalam versus Federation of 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	

Mr. Ghulam Asghar Pathan advocate for the petitioner
MR. Usman Tufail Shaeikh Advocate for respondent Nos. 2 to 4
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.

- a) *Declare that (a) past salaries from August 2019 arising out of promotion from BPS-9 to BPS-14, (b) Salary from April 2024, (c) LPR payments, and (d) pension funds after reaching the age of superannuation are fundamental rights of the petitioner.*
- b) *Declare that the respondent(s) cannot discriminate by withholding the property (Pension and past salaries) of the petitioner.*
- c) *Declare that the respondent(s) have acted against the principles enshrined in the case of Prof. Ghazi Khan Jakhrani case, PLD 2007 SC 35, hence, acted against the law.*
- d) *Direct the respondent to immediately complete the pension process so that the (a) retirement/gratuity funds could be released (b) secondly issuance of past short salary of petitioner which is remaining over the respondent(s) from the day of petitioner promotion as Assistant Revenue Superintendent BPS-14 since August 2019, (c) thirdly salary that is stopped from the month April 2024 till the age of superannuation (d) lastly the LPR payments be released.”*

2. Learned counsel for the Petitioner contended that the Petitioner joined service as a Lower Division Clerk in 1986 and, after protracted litigation, was lawfully promoted from BPS-9 to BPS-14 as Assistant Revenue Superintendent pursuant to a court order and departmental notification issued in July 2019. Despite rendering service, the Respondents unlawfully failed to fix and release his salary in BPS-14 from August 2019, subsequently stopped his salary from April 2024, withheld his LPR, and failed to process his pension and retirement benefits, even though the Petitioner attained the age of superannuation on 10-06-2025 as there were no disciplinary proceedings against him during the intervening period. It was further argued that the Petitioner's transfer order dated 28-03-2024 was challenged before this Court and remained sub judice. However, during this period, the Respondents acted mala fide by showing the Petitioner as relieved retrospectively, withholding his LPR application, and falsely claiming that he was no longer on their strength, despite documentary evidence of continued service, handing/taking over of record, and receipt of official payments. The learned

counsel submitted that pension and salary are vested rights and cannot be withheld arbitrarily, and that the Respondents' conduct violates settled law and fundamental rights, including the principles laid down in *Prof. Ghazi Khan Jakhrani v. Federation of Pakistan* (PLD 2007 SC 35). He prayed to allow this petition.

3. Conversely, learned DAG assisted by the learned counsel for Respondent No.4 raised a preliminary objection regarding maintainability, submitting that the Petition is defective due to non-joinder of the Kharian Cantonment Board, which is the competent authority after the Petitioner's transfer. It was argued that upon issuance of the transfer order dated 28-03-2024, the Petitioner ceased to remain on the strength of Respondent No.4, and his complete service record and personal file were forwarded to the Kharian Cantonment Board under acknowledgment. Consequently, Respondent No.4 no longer retained any administrative or financial control over the Petitioner, nor any authority to decide his service or pensionary matters. It was further contended that the Petitioner's lien with Respondent No.4 stood terminated in accordance with service law, and no cause of action survives against this Respondent. Learned counsel also argued that since the competent authority is situated in Punjab, the present petition is beyond the territorial jurisdiction of this Court. On these grounds, it was/is prayed that this petition may be dismissed and Respondent No.4 be struck off from the array of parties.

4. Having heard the learned counsel for the parties and examined the record, we have noticed that the core controversy revolves around the withholding of salary, LPR, and pensionary benefits of the Petitioner, who has already attained the age of superannuation on 10-06-2025. It is a settled principle of law that salary for work performed and pensionary benefits upon retirement are not bounties but vested and accrued rights, protected under the Constitution and service jurisprudence, as such the petitioner is entitled to his formal notification of retirement if not earlier issued and other allied service benefits as *prima-facie* there is nothing on record that petitioner was subjected to any disciplinary proceedings including dismissal from service.

5. The record *prima facie* shows that the Petitioner was promoted from BPS-9 to BPS-14 pursuant to a court order and a duly issued departmental notification in July 2019, and that his pay was neither fixed nor released accordingly from August 2019. It further appears that the salary was completely stopped from April 2024, and the LPR application was not decided, despite the Petitioner having completed the requisite qualifying service and ultimately superannuated as discussed *supra*. The Respondents have not placed on record any lawful order of suspension, misconduct proceedings, or penal action which could legally justify stoppage of salary or withholding of retirement benefits.

6. The objection of Respondent No.4 regarding non-joinder of the Kharian Cantonment Board and territorial jurisdiction does not, at this stage, defeat the Petitioner's substantive claim. Even if the Petitioner was transferred vide order dated 28-03-2024, the said transfer order itself was sub judice before the Court. Moreover, pensionary benefits are determined based on the entire length of service rendered and cannot be made hostage to inter-departmental or inter-provincial correspondence. It is equally well-settled that an employee cannot be left remediless merely because the Respondents dispute internal jurisdiction or control, particularly when the withholding of benefits is *prima facie* arbitrary.

7. The Supreme Court in *Prof. Ghazi Khan Jakhrani v. Federation of Pakistan* (PLD 2007 SC 35) and recent judgment has categorically held that pension is a property right and cannot be withheld without lawful justification and it has been consistently held that delay or denial of pension and retirement benefits amounts to violation of fundamental rights and is liable to be corrected by constitutional jurisdiction. It has further been held that salary cannot be stopped retrospectively or otherwise in the absence of lawful authority or disciplinary proceedings; as such, the respondents are equally, fully, and severally responsible for releasing the same benefits of the petitioner by issuing his retirement notification if not earlier issued.

8. In view of the above, the conduct of the Respondents in withholding the Petitioner's salary, LPR, and pensionary benefits, despite his promotion, continued service, and eventual superannuation, appears to be arbitrary, unreasonable, and violative of Articles 4, 9, and 25 of the Constitution. Preliminary objections raised by Respondent No.4 relate to inter-se administrative arrangements and cannot override the Petitioner's vested rights; as such, the Petitioner is entitled to the service benefits of all his periods under the law.

9. Accordingly, the petition merits acceptance and is disposed of to the extent that the Respondents are jointly responsible and under a legal obligation to finalize the Petitioner's pay fixation in BPS-14, release his withheld salary, decide and pay his LPR, and complete the pension and gratuity process including issuance of relevant notification if not earlier issued expeditiously, in accordance with law. Any internal issue regarding jurisdiction or responsibility between the Respondents shall not prejudice the Petitioner's accrued and constitutional rights.

JUDGE

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