

IN THE HIGH COURT OF SINDH AT KARACHI
C.P.No.D-5192 OF 2024

Date

Order with Signature of Judge

PRESENT:

MR. JUSTICE ADNAN-UL-KARIM MEMON, J.
MR. JUSTICE ZULFIQAR ALI SANGI, J.

Lt. Commander (Rtd) P.N
Through his Attorney

Versus

Karachi Port Trust and others

Date of Hearing 11-03-2026.

Mr. Muhammad Iqbal Chaudhary Advocate for the Petitioner
Ms. Nasima Mangrio advocate for Respondents/KPT.
Ms. Wajiha Mehdi, Assistant Attorney General.

ORDER

ZULFIQAR ALI SANGI, J: Through the instant petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner has sought directions against the respondents for payment of his post-retirement service benefits including gratuity, pension for the alleged period of 25 years of service, encashment of earned leave and other consequential dues in accordance with law.

2. Learned counsel for the petitioner submits that the petitioner is a retired Lieutenant Commander of the Pakistan Navy who joined the naval service in the year 1983 and served for more than ten years before his release in the year 1993. It is contended that thereafter the petitioner applied for the post of Electrical Engineer in the respondent organization, namely Karachi Port Trust (KPT), and was appointed on 16.10.1996 as Assistant Electrical Engineer (BPS-17) on ad-hoc basis. According to the learned counsel, despite possessing the requisite qualifications and experience, the petitioner was not placed in BPS-18 though other similarly placed officers from the Pakistan Navy were appointed or placed in higher grades. It is further submitted that the

petitioner had to pursue several litigations before different forums including this Court and the Supreme Court of Pakistan for protection of his service rights. Learned counsel submits that the petitioner was terminated from service on two occasions but was subsequently reinstated through court orders with back benefits. It is argued that eventually this Court in C.P. No. D-1400 of 2015 directed the respondents to regularize the services of the petitioner and to consider his case for promotion commensurate with his credentials and experience. According to the learned counsel, the petitioner's services have been regularized in compliance with the said order; however, the respondents have refused to grant pensionary and other service benefits by counting the petitioner's entire service from the date of his initial appointment in 1996. It is contended that once the petitioner's service has been regularized, his entire past service including the period spent on ad-hoc basis becomes qualifying service for the purpose of pension and other benefits under the relevant service regulations as well as the Civil Service Regulations and the West Pakistan Pension Rules. Learned counsel therefore prays that the respondents be directed to calculate and pay pension, gratuity, leave encashment and all other service benefits on the basis of the petitioner's entire length of service.

3. Conversely, learned counsel appearing on behalf of the respondents and AAG have opposed the petition and submits that the petitioner was initially appointed in KPT on ad-hoc basis in BPS-17 on 16.10.1996 and his appointment itself was not made through the regular recruitment process. It is further submitted that the petitioner's services were terminated in the year 2000 after it was found that his appointment was irregular; however, he was subsequently reinstated pursuant to directions of the competent authorities. Learned counsel submits that the petitioner again faced disciplinary proceedings in connection with allegations of misconduct which ultimately resulted in his termination in the year 2012; however, he was reinstated through an order of this Court in 2014. Learned counsel contends that throughout his service career the petitioner remained an ad-hoc employee and it was only pursuant to the order passed by this Court in C.P. No. D-1400 of 2015 that the respondents were directed to regularize his service. According to the learned counsel, the said order merely required the respondents to treat the petitioner as a regular employee and consider his case for promotion if a vacancy existed. It is argued that the said order did not

confer any right upon the petitioner to claim pensionary benefits for the entire period of service rendered on ad-hoc basis. Learned counsel further submits that the petitioner had already been drawing pension from the Pakistan Navy and the applicable rules governing re-employment of retired armed forces officers place restrictions on the grant of additional pension from civil organizations. It is therefore contended that the petitioner is not entitled to claim pension or other service benefits for the entire period of alleged service and the instant petition is liable to be dismissed.

4. We have heard the learned counsel for the parties and have perused the material available on record.

5. During the course of hearing, learned counsel for the petitioner placed on record a letter dated 08.09.2020 and contended that in compliance with the earlier judgment passed by this Court on 22.11.2019 in C.P. No. D-1400 of 2015, the competent authority had approved the regularization of the services of the petitioner with effect from 22.11.2019 and that the said approval was granted on 14.04.2020. However, when the said document was confronted to the learned counsel for the respondents, she, after seeking instructions from the concerned department, categorically denied the issuance of such letter and disputed its authenticity. In these circumstances, the said document cannot be safely relied upon at this stage without verification from the concerned authority.

6. The undisputed facts of the case are that the petitioner was appointed in the respondent organization on 16.10.1996 as Assistant Electrical Engineer (BPS-17) on ad-hoc basis. It also appears from the record that the petitioner remained involved in prolonged service litigation and on two occasions his termination from service was set aside by competent forums, including this Court, resulting in his reinstatement with back benefits. It further transpires that in C.P. No. D-1400 of 2015 this Court disposed of the petition with directions to the respondents to regularize the services of the petitioner and also to consider his case for promotion in case any suitable vacancy was available commensurate with his credentials and experience. In compliance with the said order the respondents have regularized the services of the petitioner; however, a dispute has arisen regarding the extent of benefits that accrue to the petitioner after such regularization.

7. The principal question requiring determination in the present petition is whether the petitioner, after regularization of his service pursuant to the order of this Court, is entitled to have his entire past service counted for the purpose of pension and other retirement benefits. It is a settled principle of service jurisprudence that once an employee's services are regularized, the past service rendered by him in temporary or ad-hoc capacity, if followed by regular appointment without break, may in appropriate cases be counted towards qualifying service for pensionary benefits. The rationale behind this principle is that the benefit of long and continuous service rendered by an employee should not ordinarily be ignored merely on account of technical irregularities in the mode of appointment, particularly where the employee has been allowed to serve the organization for a substantial period with the knowledge and consent of the competent authority.

8. At the same time, it is equally well settled that the grant of pension and other retirement benefits is subject to the relevant statutory rules and regulations governing the service of the employee. Pension is not payable as a matter of course but is regulated by the applicable service framework, which prescribes the conditions under which an employee becomes entitled to pensionary benefits and the manner in which qualifying service is to be computed.

9. In the present case, the respondents have not disputed the fact that the petitioner remained in the service of KPT for a considerable period and that ultimately his service has been regularized in compliance with the directions issued by this Court. The record also reflects that the petitioner's earlier terminations were set aside and he was reinstated with back benefits, which prima facie indicates that the continuity of his service was preserved.

10. The respondents, however, have taken the position that the petitioner's service prior to the date of regularization cannot be treated as qualifying service for pension, particularly in view of the fact that he was initially appointed on ad-hoc basis and was already drawing pension from the Pakistan Navy. The question whether the petitioner's entire service is to be treated as qualifying service for pension or whether any restriction applies under the relevant rules is essentially a matter which requires examination of the applicable statutory

provisions governing employees of Karachi Port Trust as well as the rules relating to re-employment of retired armed forces officers in civil organizations.

11. The material placed before this Court shows that the respondents themselves had sought legal opinions regarding the implementation of the order passed in C.P. No. D-1400 of 2015 and the question whether the petitioner could be considered for pensionary benefits. It also appears that the matter involves interpretation of the KPT Service Regulations, the Civil Service Regulations, the West Pakistan Pension Rules and the policy governing re-employment of retired armed forces officers. In such circumstances, it would be appropriate that the competent authority of the respondent organization examine the petitioner's claim in the light of the relevant statutory provisions and determine the extent of benefits to which the petitioner may lawfully be entitled.

12. It is also a settled principle that a public functionary, while exercising statutory powers relating to service benefits of an employee, is required to act fairly, reasonably and strictly in accordance with law. Any decision affecting the rights of an employee must be supported by proper reasoning and must reflect due consideration of the applicable rules and the orders passed by the competent courts. In the present case, although the respondents have declined to grant pensionary benefits to the petitioner, it appears that the matter has not been examined through a reasoned order which clearly addresses the effect of the earlier judgments of this Court and the applicability of the relevant service rules.

13. In view of the above circumstances, we are of the opinion that the ends of justice would be adequately met if the respondents are directed to reconsider the petitioner's claim for pensionary and other service benefits in the light of the applicable rules and the observations made herein.

14. Consequently, the instant petition is *disposed of* with the direction to the respondents, particularly Respondent No.1, to examine the petitioner's claim regarding pension, gratuity, leave encashment and other post-retirement benefits by taking into account the entire service record of the petitioner, the orders passed by this Court in earlier proceedings, and the relevant statutory rules governing such

benefits. A speaking order shall be passed by the competent authority within a period of three months from the date of receipt of this order.

15. In case the petitioner is found entitled to any service benefits in accordance with law, the same shall be calculated and paid to him expeditiously.

JUDGE

JUDGE