

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No. D-6228 of 2025

[Shamim Khan v Cantonment Board Clifton & another]

Date	Order with signature of Judge(s)
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Before:
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Hasan Akbar

Date of hearing and Order: 21.05.2026

Mr. Imtiaz Ali Solangi advocate for the petitioner
Mr. Abdullah Munshi advocate for respondent No.1
Ms. Bushra Salahuddin advocate for respondent No.2
Mr. Akbar Khan, Assistant Attorney General

ORDER

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

- i) **To direct the respondent No.1 (CBC) to release the pensionary benefits as well as the monthly pension as per the given similar placed employees in view of Article 25(1) of the Constitution;**
- ii) **To direct the respondent NO.1 to dispose of the application dated 17.07.2025**
- iii) **To pass any other relief which may be deemed fit.**

2. The case of the Petitioner is that he was appointed as a Pump Operator on 24.08.1985 and was subsequently regularized on 24.11.1985 after completion of probation under the rules of the Respondent No.2/DHA. In 2009, the Department of Water Supply & General Services was merged into Respondent No.1/CBC, along with its staff; however, the service benefits of the employees, including the Petitioner, were not formally regularized by CBC at that stage. It is further submitted that similarly placed employees had earlier approached this Court in Constitutional Petition No.435/2010, whereupon the Respondent No.1, through a statement dated 20.11.2013, assured that their services would be regularized in accordance with rules and that seniority issues would also be considered. Subsequently, vide office order dated 11.12.2013, the Respondent No.1 regularized the services of the concerned employees, including the Petitioner whose name appears at Serial No.45 of the said order. It is urged that the Petitioner retired from service on attaining the age of superannuation on 30.06.2025 vide office order dated 26.06.2025, and his pension case was forwarded to the pension establishment. Thereafter, on 17.07.2025, the Petitioner submitted an application before Respondent No.1 for the grant of pensionary benefits, which has remained pending without any decision for approximately five months despite repeated requests. It is also submitted that similarly placed

employees, namely Abdul Qayoom and Malik Muhammad Khan, have been granted pensionary benefits despite having lesser qualifying service, whereas the Petitioner, who has rendered longer service, has been arbitrarily denied the same. This discriminatory treatment violates Articles 4, 9, and 25 of the Constitution of the Islamic Republic of Pakistan, 1973. Hence, the Petitioner seeks direction to Respondent No.1 to release his pensionary benefits and monthly pension at par with similarly placed employees, and to decide his pending application dated 17.07.2025 in accordance with law.

3. The learned counsel for Respondent No.1/Cantonment Board Clifton referred to the comments filed by Cantonment Board Clifton and submits that the present petition is misconceived, not maintainable, and liable to be dismissed as the Petitioner seeks pensionary benefits in clear violation of Rule 44(3) of the Pakistan Cantonment Servants Rules, 1954, which mandates completion of 25 years of qualifying service as a condition precedent for pension. It is contended that the Petitioner has admittedly rendered only about 16 years of qualifying service under Respondent No.1, which is insufficient to establish any enforceable right to pension. It is further submitted that a pension is a statutory entitlement governed strictly by service rules and cannot be granted in contravention of mandatory legal requirements. The determination of pension involves verification of service record, pay fixation, audit clearance, and scrutiny by competent authorities; therefore, disputed factual questions regarding past service, absorption, and reckoning of qualifying service cannot be adjudicated in constitutional jurisdiction. Respondent No.1 further contends that any claim regarding the counting of pre-absorption service (DHA/PDOHA period) is legally untenable unless expressly authorized by the competent authority (HQ ML&C). It is also submitted that alleged parity with other employees is misconceived, as pension is an individual statutory right and cannot be claimed based on comparison with allegedly similarly placed employees. Moreover, even if any irregular benefit was extended in another case, it does not create a legal right in favour of the Petitioner. It is further stated that the Petitioner's application dated 17.07.2025 is under process and shall be decided in accordance with law after completion of the requisite verification and audit formalities. The petition is also assailed on the ground of the availability of alternate statutory remedies before the competent appellate forums under the Cantonment laws, rendering constitutional jurisdiction inappropriate. The learned counsel for Respondent No.1, therefore, prays for dismissal of the petition with costs.

4. On behalf of Respondent No.2/DHA Karachi, it is submitted by the learned counsel that the petition is not maintainable against DHA as the Petitioner's grievance relates entirely to service matters after his absorption in the Cantonment Board Clifton. DHA is an independent statutory authority governed

by its own service structure, under which no pension scheme exists, and employees are only entitled to terminal benefits such as a provident fund and final settlement. It is further submitted that the Petitioner voluntarily opted in 2009 to join Respondent No.1 and subsequently accepted final settlement in 2014 without protest, thereby estopping him from re-agitating settled matters after an inordinate delay of approximately 16 years. The petition is therefore barred by laches and delay. Respondent No.2's counsel further contends that upon exercising the option to join CBC, the Petitioner ceased to be its employee; therefore, no cause of action survives against DHA. All service-related grievances now lie exclusively against Respondent No.1. Accordingly, Respondent No.2's counsel prays that the petition be dismissed in limine as being misconceived, time-barred, and without any cause of action.

5. We have heard the learned counsel for the parties and perused the record with their assistance.

6. In view of the facts and circumstances of the case, it transpires that the core controversy involved in the present petition pertains to the determination of the Petitioner's entitlement to pensionary benefits, which in turn hinges upon the reconciliation of his service record, particularly about his pre-absorption service, date of regularization, and reckoning of qualifying service under the applicable rules.

7. It is an admitted position that the Petitioner was initially appointed in 1985 and subsequently absorbed in the establishment of Respondent No.1 pursuant to the administrative arrangement following the merger/transfer of services in 2009. It is also not disputed that his pension claim has not yet been finally adjudicated, and his application dated 17.07.2025 remains pending consideration.

8. The principal objection raised by Respondent No.1 relates to the requirement of 25 years qualifying service under Rule 44(3) of the Pakistan Cantonment Servants Rules, 1954, whereas the Petitioner asserts entitlement based on his total service and parity with similarly placed employees. Respondent No.2, on the other hand, disclaims liability on the ground that the Petitioner, after his voluntary option and settlement, ceased to be its employee.

9. Without expressing any opinion on the merits of the respective claims or on the correctness of the rival interpretations of service rules, we have noticed that the dispute essentially arises from service record interpretation, inter-departmental allocation of liability, and computation of qualifying service, which require a holistic, coordinated, and fact-based determination by the competent authorities of both Respondents.

10. In such circumstances, it would be appropriate, just, and in conformity with the principles of fair play and administrative propriety that the matter be resolved through a joint exercise by the competent authorities of Respondent No.1 Cantonment Board Clifton and Respondent No.2 DHA, so that the Petitioner's entire service record is examined comprehensively, including the question of reckoning of prior service, and a clear, reasoned and speaking order is passed after affording him proper opportunity of hearing. The exercise shall be conducted strictly in accordance with law, without discrimination, and keeping in view the principles of equality enshrined under Article 25 of the Constitution.

11. Accordingly, both Respondents are directed to convene a joint meeting of their competent authorities, consider the Petitioner's claim in its entirety, hear the Petitioner or his representative, examine all relevant service records, and pass a speaking and reasoned order within a period of three (03) weeks from the date of receipt of this order. It is further observed that upon completion of the aforesaid exercise and passing of a speaking order, the Petitioner shall be at liberty to avail his remedies in accordance with law, if still aggrieved.

12. In view of the above, the instant Constitution Petition, along with all pending applications, stands disposed of in the above terms.

JUDGE

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