

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No. D-4068 of 2023
(Mst. Ghazala Yasmeen v Province of Sindh & others)

Date	Order with signature of Judge(s)
------	----------------------------------

Before:
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Adnan Iqbal Chaudhary

Date of hearing and Order: 13.07.2026

Syed Amir Ali Shah advocate for the petitioner.
Syed Ali Ahmed Zaidi Adl. AG along with
Muhammad Nawaz SDPO Gulberg,
Adil Ansari Deputy DEO Primary Education,
Kashif Zafar Operation Manager NBP Branch Nazimabad.

ORDER

Adnan-ul-Karim Memon, J. – Petitioner seeks release of his pensionary benefits, and pension is currently being deposited in the missing person's account, and a request is made to transfer the same in favour of the petitioner/wife.

2. Learned counsel for the petitioner submits that the petitioner's husband, Mirza Abdul Mateen, a government primary school teacher, went missing on 23.01.2017 while proceeding to his school and has remained untraced despite registration of an FIR and continuous investigation. It is submitted that earlier constitutional petitions were filed, pursuant to which this Court directed the authorities to trace the missing person and subsequently ordered release of his salary to the petitioner for the maintenance of the family. Counsel contends that the missing employee has now reached the age of superannuation, but unless directions are issued by this Court, the respondents may neither complete the retirement formalities nor release pensionary and other retiral benefits. It is argued that discontinuation of salary without commencement of pension would deprive the petitioner and her family of their only source of livelihood, thereby violating their fundamental rights. The petitioner, therefore, seeks directions for payment of pension and all retiral benefits in the same manner as salary has been released under the earlier orders of this Court.

3. Learned AAG, relying upon the progress reports submitted by the police, submits that FIR No. 26/2017 under Sections 365/34 PPC was registered regarding the disappearance of Mirza Abdul Mateen and extensive efforts have been undertaken to trace him. It is submitted that several Joint Investigation Team (JIT) meetings were convened, notices and letters were issued to law enforcement agencies, intelligence organizations, hospitals, prisons, CPLC, FIA, Edhi, Chhipa, Awqaf Department and police authorities across Pakistan, while CDRs, travel history and other available evidence were also examined. He further submits that

all inquiries and responses received from the concerned departments have remained negative and no clue regarding the whereabouts of the missing person has yet been found. However, the investigation has not been closed, and practical efforts are continuing to trace and recover the missing person.

4. The representative of the National Bank of Pakistan (NBP) submits that Mirza Abdul Mateen has been maintaining Salary Account No. 3107411700 with NBP Nazimabad Branch since 07.12.2007. It is submitted that, according to the information provided by his legal heirs, the account holder has remained missing since 2017. The representative further submits that the account is presently dormant with a balance of Rs. 621,357.12. It is stated that salary was credited to the account up to August 2024, while pension was credited from September 2024 till June 2025. It is further submitted that, in compliance with the earlier orders of this Court, the salary amount had been released to the petitioner's wife through payment orders up to August 2024.

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

6. Firstly, we address the issue of the missing person, followed by the entitlement of his wife/legal heirs to service benefits, if any.

7. Learned AAG informed that FIR No. 26/2017 under Sections 365/34 PPC was registered regarding the disappearance of the husband of the petitioner, Mirza Abdul Mateen, since 2017 and that extensive efforts have been made to trace him. He submits that several JITs were constituted, inquiries were conducted by various law enforcement, intelligence, and other concerned agencies, and CDRs, travel history, and other evidence were also examined. He adds that despite exhaustive efforts, no clue regarding the missing person has been found. However, the investigation remains open, and efforts to recover him are continuing.

8. In such circumstances of the case, we are of the considered view that under Article 124 of the Qanun-e-Shahadat Order, 1984, where a person remains missing and unheard of by those who would naturally have heard from him for a continuous period of seven years, a legal presumption of death arises. However, it is well settled now that no declaration of death can be made before the expiry of the statutory seven-year period, as the law provides this waiting period to safeguard the missing person's legal and property rights in case he reappears; although a missing person is presumed dead after seven years, Article 124 does not determine the actual date of death. The probable date of death must be inferred from the facts and circumstances of each case.

9. Considering the circumstances of the case, the probable death of the missing civil servant may be presumed around the date of registration of FIR No. 26/2017 on 20.02.2017, rather than the date of disappearance, i.e., 23.01.2017, or after the expiry of seven years.

10. Prima facie, the petitioner's family is entitled to the salary for the period of his disappearance as his salary has been credited to his account till he reached the age of superannuation and, upon his attaining the age of superannuation, to pensionary benefits, which shall be calculated from the date of the superannuation.

11. In view of the foregoing discussion, there is no dispute that Mirza Abdul Mateen has remained missing since 23.01.2017 and despite registration of FIR No.26/2017, constitution of several Joint Investigation Teams (JITs), and exhaustive efforts by the police and other law enforcement and intelligence agencies, his whereabouts could not be ascertained. The investigation reports placed before this Court demonstrate that all possible avenues have been exhausted and no tangible clue regarding the missing person has surfaced.

12. The Hon'ble Supreme Court in Perveen Shoukat v. Province of Sindh (PLD 2019 SC 710) has authoritatively held that after the expiry of seven years, a presumption of death arises under Article 124 of the Qanun-e-Shahadat Order, 1984, though the probable date of death is to be determined by the Court based on the attending facts and circumstances of each case. The Supreme Court further held that while Article 124 creates a legal presumption of death, it does not fix the actual date of death, which must be inferred from the surrounding circumstances to ensure that the legal heirs are not deprived of their lawful rights.

13. Applying the above principle to the present case, where the missing person has remained untraced for more than nine years despite persistent investigation, this Court is satisfied that the statutory presumption under Article 124 of the Qanun-e-Shahadat Order, 1984 squarely applies. Considering the facts of the case, particularly the prompt registration of FIR No.26/2017 and the complete absence of any trace thereafter, the probable date of death can reasonably be taken around the date of registration of the FIR, i.e., 20.02.2017, for the limited purpose of regulating the civil and service rights of the petitioner and the legal heirs. Such determination shall not preclude the investigating agency from continuing its investigation or from taking appropriate action should the missing person be traced alive.

14. It is an admitted position that, pursuant to the earlier orders of this Court, the petitioner continued to receive the salary of the missing employee until his retirement on attaining the age of superannuation. The National Bank of Pakistan

has also confirmed that pension has already been credited into the account of the missing employee. In these circumstances, withholding access to the pensionary and retiral benefits merely because the employee remains a missing person would be contrary to law and would unjustly deprive the petitioner and the legal heirs of their only source of livelihood. Such deprivation would offend the guarantees contained in Articles 4, 9, 23 and 24 of the Constitution, which protect the right to be treated in accordance with law and safeguard lawful proprietary and pensionary rights.

15. Consequently, the respondents are directed to complete all pension papers and release the pensionary and other retiral benefits of late Mirza Abdul Mateen in accordance with the applicable service rules. The salary of a certain period already lying in the account of the missing employee, as well as future pension, shall, after completion of the requisite legal formalities and indemnities, be released and transferred in favour of the petitioner/widow, being the legally entitled spouse, or any other lawful legal heirs, strictly in accordance with law. The investigating agency shall, nevertheless, continue its efforts to trace the missing person and submit periodical progress reports before the competent court where the case is pending until the investigation reaches its logical conclusion.

16. Petition bearing No. 4068 of 2023 stands disposed of in the above terms.

JUDGE

JUDGE