ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D – 1271 of 2024
(Mst. Neelofar Shakeel Farooqi versus Province of Sindh & others)

Date	Order with signature of Judge

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing & orders: 28.8.2026

Mr. Leela Ram Meghwar, Advocate for the Petitioner.
M/s. Naseer Ahmed and Rehmat-un-Nisa Advocates for KDA.
Mr. Ali Safdar Depar, AAG.

ORDER

Adnan-ul-Karim Memon, J. Petitioner Mst. Neelofar Shakeel Farooqi has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following relief: -

(a) To declare that the Petitioner is legally entitled for the pension of her deceased brother Muhammad Ibtisam Shakil Farooqi from the Respondents being the widow and unsourceable lady.

(b) To direct the Respondents to release/transfer the pension of deceased Muhammad Ibtisam Shakil Farooqi in the name of Petitioner from April 2024 till the life of Petitioner, being the widow and unmarried sister of the deceased.

2. The petitioner has filed the present petition seeking release/transfer of the pension of her deceased unmarried brother, Muhammad Ibtisam Shakil Farooqi, who served as an Assistant Engineer (BPS-17) in the Karachi Development Authority (KDA) and was drawing pension since 12.01.1999. He died unmarried on 18.04.2024.

3. The petitioner claims to be his widowed sister and asserts that she has no independent source of income and is facing serious financial hardship. She submits that despite approaching the concerned respondents through various applications for release/transfer of her deceased brother's pension in her favour, no decision was taken and the matter was unnecessarily delayed. Alleging that the respondents, being statutory authorities, are bound to perform their lawful duties and that their inaction has caused her hardship and violated her constitutional rights, she has invoked the writ jurisdiction of this Court. She therefore seeks a declaration that she is legally entitled to receive the pension of her deceased brother and a direction to the respondents to release/transfer the pension in her favour from April 2024 for the remainder of her life.

4. Learned counsel for the Petitioner submits that being the widow sister of the deceased, she is entitled to the pensionary benefits. However, learned counsel

for KDA contends that Rule 4.10 of the West Pakistan Civil Services Pension Rules, 1963 has been amended vide Gazette notification dated 14.05.2026, whereby widow sister has been excluded from the category of eligible pensioners. Learned counsel relies upon the order dated 02.02.2026 passed in C.P. No.D-824 of 2025 and the judgment reported as *Mst. Gul Baha Vs Sr. General Manager Pakistan Railways and others,* **2024 PLC (C.S.) 811**, wherein the widow sister was granted pensionary benefits. He also relied upon the case of *Province of Sindh Vs Mst Sorath Fatima,* **PLD 2025 SC 856**.

5. Learned AAG, assisted by learned counsel for Respondent/KDA, submitted that in compliance with the order dated 12.05.2026, the matter regarding transfer of family pension in favour of the widowed sister of the deceased employee was examined by the Finance & Accounts Department, KDA. He submitted that, pursuant to the amendments made by the Government of Sindh in Rule 4.10(2)(B) of the West Pakistan Civil Services Pension Rules, 1963, vide Notification dated 07.07.2022, family pension is not permissible to be transferred or paid to the sister of a deceased civil servant. In support, learned AAG placed on record the KDA letter dated 14.05.2026 along with the said Government Notification. They prayed to dismiss the petition.

6. The learned counsel for the petitioner, while rebutting the preliminary objection raised by the learned Assistant Advocate General, submits that the objection is misconceived, contrary to the settled principles governing family pension, and based on an unduly narrow interpretation of the applicable rules. It is contended that the petitioner is the only surviving legal heir of the deceased government servant, as the original pensioner, who was already drawing pension, passed away. Once the entire line of nearer dependents is exhausted, the legal and beneficial object of pension rules requires that the remaining dependent family members be considered for continuation of pensionary benefits, particularly where no other claimant exists. The learned counsel further submits that the reliance placed on Notification No. FD(SR-III)3- 1165/2022 dated 07.07.2022 and the Circular dated 05.12.2022 is misplaced and cannot be applied in a manner so as to defeat accrued pensionary rights in a continuing chain of dependency. It is argued that these amendments and clarifications cannot operate retrospectively to extinguish a legitimate claim arising from an existing pension stream, particularly where the family pension had already been lawfully sanctioned and was in continuous receipt within the family. It is further submitted that pension is a valuable statutory right flowing from service, and although its distribution is governed by rules, such rules must be interpreted in a liberal, benevolent, and purposive manner in favour of the dependents of the deceased employee. The object of family pension is social security and financial protection of the deceased employee's family, and not to create technical impediments to deny subsistence to

the only surviving dependent. The learned counsel also submits that the interpretation advanced by the learned AAG ignores the factual matrix that the petitioner's brother, who was already receiving the pension, has also passed away, thereby creating a fresh situation of complete cessation of earlier dependency. In such circumstances, the petitioner, being the sole surviving member of the deceased employee's family, is entitled to step into the shoes of the last beneficiary for continuation of pensionary benefits. It is further argued that the interpretation of the rules, when read harmoniously with their welfare objective, supports the petitioner's entitlement rather than negates it. The learned counsel emphasizes that a hyper-technical interpretation restricting entitlement only to a rigid list of beneficiaries, without considering the exhaustion of prior dependents and absence of any competing claimant, would defeat the very purpose of family pension rules. He submits that where ambiguity exists, the rules must be construed in favour of extending social security benefits rather than curtailing them. In view of the above, it is prayed that the preliminary objection raised by the learned AAG be rejected, and the petition be held maintainable, with directions for transfer of family pension in favour of the petitioner along with release of all admissible arrears.

7. This matter involves determination of entitlement to family pension under Rule 4.10 of the West Pakistan Civil Servants Pension Rules, 1963, as amended, read with Notification dated 07.07.2022 and relevant clarification issued vide Circular dated 05.12.2022, which requires further factual verification regarding dependency of the petitioner after the death of her brother, who was admittedly the last recipient of the pension.

8. The core controversy raised in the present petition pertains to whether the petitioner, being the sister of the deceased government servant and claiming to be widow and dependent after the death of her brother, can be considered for continuation/transfer of family pension in light of the restrictive definition of "family" introduced through the amended pension regime and the legal position laid down by the Honourable Supreme Court in Province of Sindh v. Mst. Sorath Fatima (PLD 2025 SC 865).

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

10. Article 260 (1) of the Constitution of the Islamic Republic of Pakistan, 1973, the term "pension" is broadly defined to include any kind of pension or gratuity payable to or in respect of any person, including retired pay and provident fund benefits. Pension is a recurring post-retirement payment made under statutory rules to a retired employee or his legal heirs in recognition of past service. The amount is usually calculated based on qualifying service and the last pay drawn. Pension is a continuing statutory right; whereas gratuity is a one-time

lump-sum terminal benefit payable upon retirement or death. Both are retirement benefits earned through service, differing only in their nature and mode of payment. Gratuity generally does not continue after payment, though death gratuity may be payable to heirs.

11. Under the service laws and pension rules, a pension ordinarily includes a superannuation pension, retiring pension, compensation pension, invalid pension, family pension, and gratuity and commutation benefits where applicable.

12. Pension, being a legal right of the bereaved family, cannot be denied casually or mechanically. However, questions for determination are whether the petitioner, being the unmarried and dependent sister of the deceased government servant Muhammad Ali, is entitled to transfer and continuation of family pension under the West Pakistan Civil Services Pension Rules, 1963, particularly in view of the omission of Rule 4.10(2)(B)(iv) vide Notification dated 07.07.2022 and the scope of the expression "family" under Rule 4.7, as well as the law laid down by the Hon'ble Supreme Court in Province of Sindh v. Mst. Sorath Fatima, supra, and whether the respondents have lawfully denied the said benefit to the petitioner despite completion of codal formalities.

13. It would be appropriate, at the outset, to refer to the relevant statutory framework governing pensionary benefits. The right of a civil servant to a pension is recognized under Section 20 of the Sindh Civil Servants Act, 1973, which provides that upon retirement, a civil servant is entitled to such pension or gratuity as may be prescribed under the applicable rules. The said provision further stipulates that in the event of the death of a civil servant, whether before or after retirement, his family becomes entitled to receive pension, gratuity, or both, in accordance with the prescribed rules. It also clarifies that no pension is admissible where a civil servant is dismissed or removed on disciplinary grounds; however, compassionate allowance may be granted at the discretion of the Government. Additionally, where there is a delay in the determination of pension or gratuity, provisional anticipatory payment may be made to the çivil servant or his family, subject to final adjustment.

14. The term "family" is capable of bearing both a narrow and a broader meaning. In its restricted sense, it refers to the immediate household comprising the father, mother, and children, representing the traditional nuclear family structure. In a wider sense, it extends to include all persons living under the authority and control of the head of the household, and may even encompass servants and other dependents forming part of the domestic unit. Thus, the legal understanding of "family" is flexible and context-dependent, ranging from the core blood relations to a broader household-based conception depending upon the circumstances in which the term is applied.

15. The term "family" under Rule 4.7(1) of the West Pakistan Civil Services Pension Rules, 1963, is defined for the payment of gratuity and includes certain specified relatives of a government servant. In the case of a male government servant, it includes his wife or wives, while in the case of a female government servant, it includes her husband. It further extends to the children of the government servant, as well as the widow or widows and children of predeceased son. Significantly, the definition also includes a divorced daughter and sister within its ambit, thereby expressly recognizing certain dependent female relatives for pensionary benefits. The definition thus reflects an inclusive approach, recognizing a range of dependent family relationships for pensionary benefits.

16. Clause (d) of Rule 4.8 of the West Pakistan Civil Services Pension Rules, 1963 provides that where a government servant dies leaving no eligible family, any remaining gratuity becomes payable in equal shares to the surviving close relatives. These include brothers below 21 years of age, unmarried and widowed sisters, as well as the father and mother. The provision ensures that in the absence of an immediate family, the admissible benefits are still distributed among near relatives, thereby securing financial protection for them.

17. Clause (2)(B) of Rule 4.10 of the West Pakistan Civil Services Pension Rules, 1963 prescribes a residual order of entitlement where family pension is not payable under Clause (2)(A). In such cases, the pension may first be granted to the father, failing him, to the mother, and thereafter to the eldest surviving brother below 21 years of age. If none of these are available, the benefit extends to the eldest surviving unmarried sister, followed by the next eldest sister if the first is married or deceased, and thereafter to the eldest widowed sister. However, through Notification No.FD(SR-III)3-1165/2022 dated 07.07.2022, the Government of Sindh omitted Clauses (2)(B)(iii) to (v), including the provision relating to unmarried sisters. As a result, the entitlement previously available to an unmarried sister under the said clause has been withdrawn under the amended pension regime.

18. Clause (3) of Rule 4.10 of the West Pakistan Civil Services Pension Rules, 1963 sets out conditions under which family pension ceases or is not payable. It provides that an unmarried female family member becomes ineligible upon 8 marriage, and a widowed female member loses entitlement upon remarriage. Similarly, a brother's entitlement ceases upon attaining the age of 21 years. The Rule further clarifies that no pension is payable to any person who does not fall within the definition of "family" of the deceased government servant.

19. A reasonable classification under Rule 4.7 of the Pension Rules, defining the expression "family" for family pension, is justified under Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973, as it is based on an intelligible differentia between dependents and non-dependents of the deceased

government servant. The Rule lawfully restricts the scope of "family" to those legal heirs who were actually financially dependent upon the deceased during his lifetime, thereby excluding other relatives who, though related, were not dependent upon him. This classification has a clear and rational nexus with the object of the pension regime, which is to provide post-retirement social security and financial protection to those persons who were genuinely reliant on the earnings of the deceased government servant. By limiting the benefit to dependents, the Rule ensures that family pension serves its intended welfare purpose rather than operating as a general inheritance right. Such classification also serves to prevent misuse of public funds and ensures the financial sustainability and orderly administration of the pension system by avoiding extension of benefits to remote or non-dependent heirs. Family pension, being a welfare-oriented statutory benefit, the State is competent to define its beneficiaries through reasonable restrictions. Accordingly, Rule 4.7 is based on a reasonable and constitutionally valid classification, having a direct nexus with the object sought to be achieved, and, therefore, does not offend Article 25 of the Constitution.

20. Through the Notification dated 07.07.2022, the Government of Sindh amended Rule 4.10(2)(B) by omitting Clauses (iii) to (v), including the clause relating to unmarried sisters, thereby restricting the category of eligible family members for family pension. The legislative intent behind this omission is to rationalize the scope of beneficiaries and to confine family pension strictly to those dependents who fall within the legally defined "family" under Rule 4.7. However, rule 4.7, on the other hand, defines the expression "family" for the purpose of family pension and limits it to close dependents of the deceased government servant, who were either financially dependent or recognized within the permissible statutory category. The principle of Rule 4.7 is that a family pension is not an inheritance right but a welfare benefit, intended to provide financial protection only to those dependents who were actually maintained by the deceased during his lifetime. The omission of clauses relating to categories such as unmarried sisters, read with Rule 4.7, reflects a reasonable classification based on intelligible differentia between dependents and non-dependents. The classification is founded on the principle that only those individuals who had a direct financial dependency on the deceased government servant form part of 9 "family" for pensionary benefits, whereas extended relatives; including unmarried sisters, are excluded unless they satisfy the condition of dependency.

21. Now coming to the term dependent, the term "dependent" refers to a person who relies on another for support, whether financial, emotional, or physical, and is unable to sustain themselves independently. Such dependency may arise due to factors such as age, illness, disability, or financial hardship. For

example, children depend on their parents for care and upbringing, while elderly or ill persons may depend on caregivers for daily assistance. The concept of dependency thus reflects the interdependence of individuals within society, where support from others is often necessary for survival and well-being.

22. Primarily, a "dependent" in the context of family provision is a person who is financially reliant on the deceased and, therefore, entitled to claim maintenance or provision from the estate. This typically includes spouses, children, and other close relatives such as parents or siblings who were actually maintained by the deceased, and may, in some cases, extend to non-relatives who were financially dependent. From this definition, it is evident that dependency is determined on the basis of actual financial reliance rather than mere relationship. In the present case, it is acknowledged that the petitioner is not a government employee and/or in receipt of a salary/or payment from another source, and therefore, financially dependent upon the pension of her brother after his death, to her father, and after his death, she used to receive the pension.

23. In Secretary, Finance Department, Government of the Punjab v. Kanwal Rashid (2021 SCMR 730), the Supreme Court clarified that "family pension" is a unified benefit and is subject strictly to the conditions prescribed under the relevant Rules. The Supreme Court held that sons and daughters of deceased civil servants may claim family pension unless they are disqualified under the Rules on grounds such as age, marriage, or acquiring an independent source of income. It was further observed that entitlement is not absolute and ceases where a claimant becomes self-sufficient or otherwise disentitled under the statutory framework. In the present case, since the petitioner is not in receipt of any amount and has no independent source of income, she can be treated as a dependent beneficiary for the family pension. Family pension is a composite statutory benefit payable to eligible dependents unless expressly disqualified under the Rules. Any restriction on this right must originate from a competent rule-making authority and not through executive clarification. Accordingly, the principle laid down in the above judgment does support her claim.

24. We have been informed, with reference to Circular No.F.D. (PCDC)3(225)/2022, dated 05.12.2022, issued by the Finance Department, Government of Sindh, states that the department has issued certain clarifications regarding the interpretation of Rule 4.10 of the West Pakistan Civil Services Pension Rules, 1963. Prima facie, the circular does not amend the Rules but only clarifies the timing and conditions of entitlement of widowed and divorced 10 daughters / sisters in specified situations. These clarifications broadly provide that entitlement is to be determined with reference to the status of the beneficiary at the time of death of the pensioner, and that subsequent changes in status, such as widowhood, divorce, or remarriage, do not create or revive entitlement. These

principles are stated to apply equally to widowed and divorced daughters and sisters, including cases of remarriage.

25. From the statutory scheme of the Sindh Civil Servants Act, 1973, and the West Pakistan Civil Services Pension Rules, 1963, it is evident that pension is not a bounty but a legally protected entitlement of the deceased civil servant and, upon his death, devolves upon his "family" as defined under the Rules. Section 20 of the Act expressly recognizes the right of the family to receive pensionary benefits, while Rule 4.10, read with Rule 4.7 and Rule 4.8, lays down a structured and preferential mechanism for the determination of such entitlement.

26. A conjoint reading of the relevant provisions shows that the concept of "family is not static or narrowly confined, but extends to a wider class of dependents in a prescribed order of succession, including sisters in the residual category. Although by Notification dated 07.07.2022, certain clauses relating to 11 unmarried sisters were omitted, the substantive framework of Rule 4.7 defining "family" remains intact, and Rule 4.8 continues to recognize dependent female relatives.

27. It is well-settled that omission of a distributive or procedural clause cannot be construed to extinguish the underlying substantive right of eligible dependents, particularly in welfare-oriented pensionary legislation which must receive a liberal and purposive interpretation.

28. The Supreme Court in Province of Sindh v. Mst. Sorath Fatima, supra, has authoritatively held that pension is a vested constitutional right protected under Articles 14 and 25 of the Constitution, and that pensionary laws must be interpreted in a manner advancing dignity, equality, and social protection, while rejecting rigid or discriminatory exclusions based on marital status. The Supreme Court further emphasized that entitlement cannot be defeated through narrow or technical constructions where dependency and constitutional protection are otherwise established. An excerpt of the judgment passed in Mst. Sorath Fatima's case is reproduced as under:

> *- "5. ...... The statutory framework is such that Section 20 of the Sindh Civil Servants Act, 1973 (Act of 1973) provides that on retirement from service, a civil servant shall be entitled to receive such pension or gratuity as may be prescribed. Subsection (2) thereof provides that in the event ofthe death of a civil servant, whether before or after retirement, the family shall be entitled to receive such pension, or gratuity, or both as may be prescribed. Consequently, the statutory right of pension is the right of the civil servant and in the event of death, this right devolves on the family of the deceased civil servant. The Rules prescribe for the mode and manner in which pension is to be granted. Rule 4.10 of the Rules provides for family pension but does not define family, which is defined in Rule 4.7(1) which states that family, for the purposes of payment of gratuity, includes the wife (or wives) for a male government servant, husband of a female government servant, children of the government servant, the widow (or widows) and children of a deceased son of a government servant and a divorced daughter and sister. As per Rule 4.10(2)(A), family pension is given to the widow or widower of the deceased government servant and where there is no widow or widower, as the case may be, pension is divided equally amongst the surviving sons who should not be older than 21 years of age and unmarried daughters. In case family pension is not granted under Rule 4.10(2)(A), then it may be grunted under Rule 4.10(2) (B) to the father or mother of the deceased government servant, as the case may be, and in the event that neither the father or mother*

> *are available, to the divorced daughter. Rule 4.10(3) provides that family pension shall not be payable to an unmarried female member of the deceased pensioner's family in the event of her marriage. The Rules make it clear that family pension is granted to an unmarried daughter or a divorced daughter. Although both these terms are not defined in the Rules, there is no apparent distinction between them; however, the meaning attributed to the terms unmarried and divorced by the Petitioners is that an unmarried daughter is one who has never been married, and a divorced daughter is one who was married and subsequently divorced. However, we find that this distinction is simply in furtherance of the argument that, as per Rule 4.10(3), family pension is not payable to the female member if she gets married."*

29. Similarly, in Secretary, Finance Department v. Kanwal Rashid, supra, the Hon'ble Supreme Court held that family pension is subject to statutory conditions but continues so long as the claimant is not disentitled under the Rules by reason of age, marriage, or acquisition of independent financial means. The principle that emerges is that dependency and financial need are central determinants of entitlement, and where such dependency persists, denial of pension is contrary to law.

30. In the present case, it is an admitted position that the petitioner is not employed and has no independent source of income, as shown by the respondents. She has remained financially dependent. Upon demise of her brother, she has been left without any source of livelihood. Her case, therefore, falls squarely within the concept of "dependent family member" as recognized under the pensionary framework. It appears that the respondents have also not denied the petitioner's version that after the death of her brother, no earning person is living with her and she is totally dependent upon the pension of her deceased brother.

31. The reliance placed by the respondents on the omission of Rule 4.10(2)(B)(iv) cannot defeat her claim, as the omission does not alter the definition of "family" under Rule 4.7 nor does it abrogate the beneficial and welfare-oriented object of the pension scheme. A beneficial statute must be interpreted in favour of the class it seeks to protect, and not in a restrictive manner to render eligible dependents destitute. For convenience sake, Rule 4.7 is reproduced hereunder:-

> *"4.7. (1) The term "family" for the purpose of payment of gratuity under this section shall include the following relatives of the Government servants - (a) Wife or wives, in the case of a male Government servant: (b) Husband in the case of a female Government servant: (c) Children of the Government servant: (d) Widow or widows and children of a deceased son of the Government servant (e) Divorced daughter and sister."*

32. Furthermore, Article 189 of the Constitution makes the law declared by the Hon'ble Supreme Court binding on all Courts, and the principles laid down in Mst. Sorath Fatima (supra) mandatorily requires a liberal interpretation of pensionary nights, free from discriminatory exclusion based on marital status or technical omission of procedural clauses.

33. In view of the above constitutional mandate, statutory framework, and binding judicial precedents, it is held that the petitioner, being widow and financially dependent sister of the deceased government servant, falls within the

ambit of "family" under the applicable pensionary regime and is legally entitled to be considered for family pension of her deceased brother as per law discussed supra.

34. Accordingly, the petition is, therefore, disposed of with the directions and observations recorded hereinabove. All pending application(s) are disposed of in the above terms. The aforesaid exercise shall be completed within three weeks' time.

JUDGE

JUDGE

Nadeem Qureshi *PA*