HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.D-3572 of 2022

[Late Rab Nawaz Narejo through legal heirs vs. Province of Sindh and others]

Before:

JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE MUHAMMAD JAFFER RAZA

Petitioner:	Through Mr. Ilyas Mangrio, advocate
Respondent No.1	Through Mr. Rafique Ahmed Dahri Additional A.G Sindh
Respondents 2&3:	Through Barrister Unaib Kamal advocate
Date of hearing	03.11.2026
Date of Decision	03.11.2026

O R D E R

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ADNAN-UL-KARIM MEMON J The petitioner, a retired employee of the University of Sindh, was appointed as Clerk on 04.10.1974 and subsequently promoted to Junior Assistant Librarian. During service, a criminal case, Crime No.314/2009 was registered against him, resulting in his conviction by the trial Court on 24.04.2012. However, the conviction was set aside by this Court vide judgment dated 31.03.2016, which was maintained by the Supreme Court on 04.12.2017. Subsequently, in the proceedings arising out of a supplementary challan, the petitioner was again acquitted vide judgment dated 18.11.2021, which has attained finality.

2. Learned counsel for the petitioner contends that following his acquittal, he was reinstated in service but was denied salary, allowances and other service benefits for the period of detention from 24.08.2009 to 19.04.2016. Although the Syndicate, in its 198th meeting held on 23.09.2017, approved the grant of back benefits, the decision was not implemented. Subsequently, the Syndicate, in its 205th meeting held after couple of year on 04.10.2022 after completion of requisite years, declined his request without assigning any cogent reasons. He emphasized that the petitioner before such decision in 2022 was retired on 07.03.2017 before such decision in the year 2022, therefore seeks payment of all consequential benefits, including salary, increments, allowances and promotion, with recasting of his pay and pension on the premise that such decision could not be made after his retirement in the year 2017.

3. Learned counsel for the respondents-university, while denying the petitioner's claim, submits that promotion is governed by seniority, fitness and satisfactory performance, whereas the petitioner rendered no service during the period of detention/conviction and, therefore, was/is not entitled to promotion for that period. He, however, does not dispute the relevant judgments of acquittal, the Syndicate's earlier approval dated 23.09.2017, or its subsequent decision dated 04.10.2022 after his retirement. He further contends that the latter decision has not been challenged and remains operative. This could not be called in question at this stage. However, he asserts that, except for promotion, all other admissible back benefits were granted to the petitioner upon his retirement, in 2017.

4. Learned A.A.G. has supported the stance of the counsel for respondent-university.

5. We have heard learned counsel for the parties and perused the record with their assistance and the case law cited at the bar.

6. The petitioner was reinstated on 19.05.2016 following his acquittal in Criminal Appeal No.358/2012, and his designation was corrected to Junior Assistant Librarian (BPS-16) vide order dated 25.05.2016. His pay was subsequently re-fixed with effect from 19.05.2016, while arrears for the preceding period were expressly declined. He retired on superannuation on 07.03.2017 and was granted encashment of 285 days' unavailed LPR, followed by sanction of commutation amounting to Rs.1,695,000/- and monthly pension of Rs.42,570/-. His subsequent claim for back benefits and treatment of the period from 24.08.2009 to 19.04.2016, during which he remained detained without his fault, as he was allowed by the 204th Syndicate meeting held on 23.9.2017 and ultimately rejected vide Resolution No.18 dated 04.10.2022, after his retirement in 2017 communicated through letter dated 26.10.2022.

7. The controversy essentially revolves around the legal consequences of the petitioner's reinstatement following his acquittal, particularly his entitlement to salary, allowances and other consequential service benefits for the period during which he remained detained and out of service without his fault as led in acquittal orders. It is an admitted position that the petitioner's conviction was set aside by this Court and his acquittal attained finality. Consequently, his reinstatement cannot be viewed in isolation from the legal consequences flowing therefrom in such benefits. Where an employee is reinstated pursuant to the setting aside of his conviction, the question of pay and allowances for the intervening period is required to be determined in accordance with the applicable service rules, particularly Fundamental Rule 54, rather than by mechanically denying all benefits merely because the employee did not actually perform duties during that period, as he was formally detained under circumstances which was lateron recalled by his acquittal.

8. In this regard, the law is very clear that where a government / public servant is removed from service based on a criminal conviction and is subsequently acquitted and reinstated, the competent authority is required to examine his entitlement to back benefits in the light of Fundamental Rule 54. Under clause (a) thereof, an honourably acquitted employee is entitled to the full pay to which he would have been entitled had he not been dismissed or removed, together with such allowances as may be admissible under the rule, while the intervening period is to be treated as spent on duty as earlier rightly held by the syndicate in 2017. Although the benefit under F.R. 54 does not accrue automatically or mechanically, once reinstatement is granted following acquittal, the competent authority is obliged to consider the claim in accordance with the said rule and record cogent reasons for its decision as in the present case decision was made in 2017 in favour of the petitioner by the syndicate.

9. Applying the above principle to the facts of the present case, we find that the petitioner was reinstated on 19.05.2016 following the setting aside of his conviction, whereas his pay was re-fixed only with effect from the date of reinstatement and the arrears for the intervening period were excluded. More importantly, the petitioner's claim for back benefits had earlier received approval in 198th meeting of the Syndicate held on 23.09.2017. Such approval was a relevant and material circumstance which could not have been disregarded without examining its legal effect and the reasons necessitating its subsequent reversal or non-implementation. The subsequent decision of the Syndicate in its meeting dated 04.10.2022, rejecting the petitioner's claim, therefore, required a meaningful reconsideration of the earlier approval, the judgments of acquittal, the order of reinstatement and the applicability of F.R. 54. Mere rejection of claim, without addressing these material aspects and recording legally sustainable reasons, cannot be regarded as a proper determination of the petitioner's entitlement.

10. We are further of the view that the subsequent rejection of the petitioner's claim by the Syndicate meeting cannot, by itself, defeat an entitlement which may have accrued under the applicable service rules. An administrative or statutory authority is required to act consistently, fairly and in accordance with law. It appears that the petitioner's request had already been approved by the Syndicate in its earlier meeting, any subsequent decision reversing or withdrawing such approval was required to disclose the reasons for doing so, particularly when no independent departmental misconduct proceedings or adverse findings against the petitioner have been brought to our notice, as the petitioner died during the pendency of the petition and his legal heirs were brought on record and an amended title was filed on 21.4.2026 and now his legal heirs are contesting the matter for back benefits of deceased.

11. The fact that the petitioner remained in custody and did not physically perform his duties cannot, in itself, constitute a sufficient legal justification for denying back benefits where the applicable rule specifically provides for treating the intervening period as duty following honorable acquittal when the respondent reinstated his services without any restriction on the grant of back benefits.

12. Reinstatement and treatment of the intervening period as duty may carry consequential benefits of pay fixation, increments, pension and other admissible allowances, but promotion cannot be claimed as an automatic consequence thereof. The same would remain subject to the applicable recruitment and promotion rules, eligibility, seniority, fitness and availability of vacancies, as well as the petitioner's entitlement to consideration during the relevant period.

13. We also cannot lose sight of the fact that the petitioner retired on 07.03.2017 and subsequently died on 27.12.2025. His death, however, does not extinguish any monetary claim which had lawfully accrued to him during his lifetime. In the event such entitlement is established upon reconsideration by the syndicate/competent authority afresh, the admissible arrears and consequential pensionary benefits shall be determined and paid to his lawful legal heirs in accordance with law.

14. In view of the foregoing discussion, we are of the considered view that the petitioner's claim ought not to have been rejected without a proper determination of his entitlement under Fundamental Rule 54 or the corresponding applicable service provisions of the University of Sindh. The earlier approval of the Syndicate meeting, the subsequent rejection by the Syndicate meeting, the judgments of acquittal and the petitioner's reinstatement are all material considerations requiring a fresh and reasoned determination by the competent authority of the respondent-university.

15. Accordingly, instead of expressing any final opinion on the exact quantum of back benefits, we deem it appropriate to direct the competent authority/Syndicate of the University of Sindh to reconsider the petitioner's claim afresh, in the light of Fundamental Rule 54, the applicable University statutes and service regulations, and the law laid down by the Supreme Court in Civil Appeal No.680 of 2020, after examining the nature and effect of the petitioner's acquittal and the earlier Syndicate resolutions.

16. In case the said rule is found applicable and the requisite conditions are fulfilled, the legal heirs of the petitioner shall be extended the benefits admissible thereunder, including treatment of the intervening period as duty, arrears of pay, increments and consequential revision of pensionary benefits. A speaking order shall be passed within two months, and any amount found payable shall be released to the petitioner's lawful legal heirs in accordance with law.

17. The petition is disposed of in the above terms, along with pending applications, if any.

JUDGE

JUDGE

Karar Hussain/PS*