

HIGH COURT OF SIND, CIRCUIT COURT, LARKANA

C.P. No.D-509 of 2020

[Nisar Ahmed vs. Province of Sindh and others]

Present:

Mr. Justice Arbab Ali Hakro,

Mr. Justice Abdul Hamid Bhurgri,

Petitioner by : Mr. Muhammad Rafique Abro, Advocate.

Respondents by : Mr. Liaquat Ali Shar, Additional A.G Sindh, along with Asadullah Solangi, Additional Director, Agriculture Extension, Larkana Division, AND
Mr. Oshaque Ali Sangi, Assistant Attorney General for Pakistan.

Dates of Hearing : **28.10.2025**

Date of Decision : **05.12.2025**

JUDGMENT

ARBAB ALI HAKRO, J:- The petitioner, Nisar Ahmed, is a retired Agriculture Officer of the Government of Sindh. He entered service on 12.08.1981 as a Field Assistant in the Agriculture Extension Department and, after rendering more than thirty-seven years of service, retired voluntarily on 28.02.2019 from the post of Agriculture Officer (BS-17). During his tenure, the petitioner, like all civil servants of the Province, was subjected to compulsory deductions towards the Sindh Civil Servants Welfare Fund Ordinance, 1979, under which the Finance Department notified a group insurance scheme vide Notification dated 29.12.2003. The scheme envisaged insurance coverage continuing for five years after retirement without any further premiums. Subsequently, by Notifications dated 08.01.2004 and 25.08.2008, the Finance Department amended the scheme, enhancing the sum assured but introducing paragraph No. 7, which stipulated that claims of retired government servants could be lodged only with the State Life Insurance Corporation in the event of

death within five years of retirement. The petitioner asserts that this clause unlawfully excluded payment of the assured sum upon retirement itself. The petitioner maintains that such a restriction is repugnant to fundamental rights, violates the principles of natural justice, and is inconsistent with constitutional guarantees. He further alleges mala fide collusion between the Finance Department and the State Life Insurance Corporation in withholding the assured sums. In support of his contention, the petitioner relies upon the Notification dated 19.09.2007 issued by the Government of Balochistan, which explicitly provides that all employees of that Province are entitled to payment of the insured sum upon retirement or death during service. He submits that denial of similar treatment to employees of Sindh amounts to discrimination inter se provinces, contrary to the equality clause. The petitioner avers that, despite repeated approaches, the respondents have not adjudicated his claim, resulting in the denial of the insurance amount lawfully due to him. He characterizes this inaction as maladministration, unconstitutional deprivation, and violative of Shariat injunctions. On these premises, the petitioner seeks relief from this Court by way of:

- a) declaration that para No.7 of the impugned Notifications dated 08.01.2004 and 25.08.2008 is null and void;
- b) direction to the respondents to pay him the insured amount upon retirement, in parity with civil servants of Balochistan Province; and
- c) any other relief deemed just and proper in the circumstances.

2. Upon issuance of notice of this petition, Respondent No.3 (Secretary Finance Department, Government of Sindh) entered appearance through the Additional Finance Secretary (B&E) and filed para-wise comments. In the said reply, Respondent No.3 has contended that the group insurance scheme under the Sindh Civil Servants Welfare Fund Ordinance, 1979 and Rules, 1980 is a risk-cover facility only, meant to provide financial assistance to the legal heirs of civil servants who expire during service or within five years after retirement or up to the age of sixty-five years, whichever is earlier.

It was categorically stated that there is no concept of payment of group insurance amount to the civil servant himself upon retirement. It is further submitted that the sum assured under the scheme is substantially higher than the total contribution made by employees during service and is payable even if the full contribution has not been made, including in cases of early death. It was emphasized that the scheme is collectively beneficial and not intended as a retirement payout. It was also pointed out that, besides group insurance, the Government of Sindh provides a separate financial assistance package to the families of civil servants who die in service, without any deduction from salaries, and that retired civil servants are already entitled to pension, commuted value of pension, gratuity, leave preparatory to retirement (LPR), medical allowance, and reimbursement of medical charges. Respondent No.3 placed reliance upon the Judgment of the High Court of Sindh, Karachi, dated 10.11.2021, in similar petitions, wherein it was held that the issue had already been adjudicated and that the competent forum for redress is the Welfare Board, while any legislative change lies within the domain of the Government. It was further apprised that, pursuant to the said Judgment and advice of the Advocate General Sindh, the matter was placed before the Provincial Cabinet in its meeting dated 10.05.2022 (Agenda Item-18), which after detailed deliberations decided to continue the existing policy of group insurance, limiting payment to legal heirs in case of death during service or within five years post-retirement and resolved that no modification was required.

3. In rejoinder, the petitioner contends that the comments filed by Respondent No.3 (Finance Department) are evasive and fail to meet the settled requirement of para-wise rebuttal, which amounts to admission of the petitioner's stance; he asserts that the petition is not only for his personal relief but also for all employees of the Government of Sindh and emphasizes that unlike other provinces such as Balochistan, Sindh has withheld group insurance payments upon retirement despite compulsory deductions, thereby

discriminating against its civil servants and violating constitutional guarantees of equality, and therefore prays that the petition be allowed in the interest of justice.

4. Learned Counsel for the Petitioner reiterated the same stance as delineated in the above facts, submitting that compulsory deductions towards group insurance from the salaries of Sindh Government employees create a vested right to payment of the assured sum upon retirement; denial of such payment constitutes discrimination vis-à-vis employees of other provinces, particularly Balochistan, and violates the constitutional guarantees of equality and fundamental rights.

5. Learned Additional Advocate General, Sindh contended that under the Sindh Civil Servants Welfare Fund Ordinance, 1979 and Rules, 1980, group insurance is a risk-cover scheme only, payable to legal heirs in case of death during service or within five years after retirement and not a maturity benefit; the Provincial Cabinet has recently reaffirmed this policy after deliberation, finding it collectively beneficial and financially sustainable.

6. Learned Assistant Attorney General of Pakistan adopted the stance of the Provincial Government, submitting that the matter squarely falls within the legislative and executive domain of the Province and that the Federal Government has no direct role in the framing or modification of the Sindh group insurance scheme.

7. Having heard the learned counsel for the petitioner, the learned Additional Advocate General Sindh, as well as the learned Assistant Attorney General of Pakistan and having perused the record with meticulous circumspection.

8. The gravamen of the petitioner's plea is that deductions made from his salary throughout his service tenure towards the Group Insurance

Scheme engendered a vested entitlement to the assured sum upon retirement. He predicates his claim on the principle of equality, asserting that employees of other provinces, notably Balochistan, are accorded such benefits, and that denial of such benefits to Sindh employees constitutes invidious discrimination violative of Articles 4 and 25 of the Constitution.

9. The respondents, conversely, have taken refuge under the statutory architecture of the Sindh Civil Servants Welfare Fund Ordinance, 1979 read with the Rules of 1980, contending that the scheme is quintessentially a risk-cover mechanism, designed to provide solace to the legal heirs of civil servants who expire during service or within five years post-retirement, up to the age of sixty-five years. They have emphasized that the scheme does not contemplate disbursement of the assured sum on maturity or superannuation and that the Provincial Cabinet has, after deliberation, reaffirmed the extant policy as collectively beneficial.

10. The dialectical tension between the petitioner's claim and the respondents' defence thus crystalizes into a singular question: whether deductions made from the salaries of civil servants under the rubric of group insurance create an enforceable right to payment of the assured sum upon retirement or whether such deductions are merely contributions towards a collective risk-pool, payable only upon the contingency of death within the prescribed period.

11. It is imperative to underscore that the jurisprudential substratum of group insurance has been dissected in earlier pronouncements of this Court, notably in **Karim Bux and others¹**, wherein a Division Bench categorically held that group insurance, by its very nature, constitutes a form of risk coverage, alien to the notion of maturity-based disbursement. The Bench observed that the employer is the policyholder, and the benefit accrues

¹ Karim Bux and others v. Province of Sindh (2022 P.L.C. (C.S.) 1182)

exclusively to the legal heirs of the insured employee upon death, whether during service or within the agreed post-retirement period.

12. The reliance placed by the petitioner upon the Judgment of the Peshawar High Court in **Fida Muhammad Durrani v. Government of KPK (W.P. No.1355-P/2013)** is misplaced, for the legislative framework in Khyber Pakhtunkhwa was amended in 2014 to provide for retirement-based disbursement expressly. No analogous amendment has been enacted in Sindh, and the statutory substratum here remains unaltered. To import principles from a distinct legislative regime would be jurisprudentially untenable and constitutionally incongruous.

13. The petitioner's invocation of Articles 4 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973, though rhetorically resonant and facially appealing, cannot in law be permitted to eclipse or supplant the express statutory framework that governs the matter at hand. Article 4, which enshrines the right of every citizen to be dealt with in accordance with the law, and Article 25, which guarantees equality before the law and equal protection of the law, are undoubtedly foundational to our constitutional order. However, these provisions do not operate in a legal vacuum; they are to be construed in harmony with the broader constitutional architecture, including the federal scheme that vests legislative competence in the provinces over matters such as welfare schemes for civil servants.

14. It is a cardinal principle of constitutional interpretation that equality before law does not connote absolute uniformity across all jurisdictions. Rather, it presupposes parity of treatment within the same legal regime. The doctrine of equality is not a blunt instrument to obliterate all distinctions; it is a nuanced principle that prohibits arbitrary discrimination within a given statutory framework, but does not mandate homogenisation across distinct legislative enactments duly enacted by competent authorities.

In a federal polity such as ours, where each province enjoys plenary legislative authority within its domain under the Fourth Schedule to the Constitution, it is both legally and constitutionally permissible for different provinces to adopt divergent policies in respect of group insurance, pensionary benefits or other welfare measures for their employees.

15. To insist that the Province of Sindh must mirror the legislative choices of Balochistan or Khyber Pakhtunkhwa in the matter of group insurance would be to conflate the constitutional guarantee of equality with a demand for uniformity, which the Constitution neither contemplates nor compels. Such an interpretation would amount to judicial overreach, trenching on the legislative prerogatives of the provinces and undermining the principle of provincial autonomy, which is not merely aspirational but constitutionally entrenched.

16. Moreover, the doctrine of equality cannot be invoked to invalidate a statutory scheme merely because another province has chosen to confer a more generous benefit. The Constitution does not prohibit differentiation per se; it prohibits invidious discrimination. Where the differentiation is based on intelligible differentia and bears a rational nexus to a legitimate governmental objective, such as fiscal sustainability or actuarial viability, it passes constitutional muster. The Sindh Civil Servants Welfare Fund Ordinance, 1979, and the Rules of 1980 constitute a complete code in themselves, and the policy choices embedded therein, including the limitation of group insurance benefits to cases of death during service or within five years post-retirement, are the product of legislative deliberation and executive assessment of financial implications.

17. In this context, the petitioner's reliance on Articles 4 and 25, while emotionally evocative, cannot be permitted to override the clear text and intent of the governing statute. The constitutional guarantee of equality

does not empower the Court to rewrite legislation or to impose upon one Province the policy choices of another. To do so would be to transgress the limits of judicial review and to arrogate unto the judiciary a legislative function, which is antithetical to the doctrine of separation of powers.

18. Accordingly, while the petitioner's grievance may be rooted in a sense of comparative disadvantage, it does not translate into a justiciable claim of constitutional violation. The legislative distinctions drawn by the Province of Sindh in its group insurance scheme are not only within its constitutional competence but also immune from challenge under the equality clause, absent a showing of manifest arbitrariness or hostile discrimination, which is conspicuously lacking in the present case.

19. The argument that salary deductions ipso facto create a contractual nexus between the employee and the insurer is equally fallacious. The juridical framework of group insurance is operationalised through a Master Policy executed between the employer and the insurance provider. The contributions deducted from employees' salaries are pooled to finance collective coverage; they do not entitle individuals to maturity-oriented payouts. To hold otherwise would be to transmogrify a risk-cover scheme into a savings instrument, which the law neither envisages nor permits.

20. We are not unmindful of the petitioner's grievance, which, at its core, is animated by a sense of perceived unfairness that deductions made compulsorily from his salary throughout the span of his public service have culminated in no tangible benefit upon retirement. To the lay observer, such an outcome may appear inequitable. However, in the realm of constitutional adjudication, sentiment cannot be permitted to eclipse statutory clarity, nor can perceived hardship be allowed to distort the settled contours of legislative intent.

21. It is a settled axiom of jurisprudence that equity follows the law; it does not override it. Courts of constitutional jurisdiction are not forums of abstract benevolence; they are guardians of legality. The maxim *dura lex sed lex* (the law may be harsh, but it is the law) finds full application in the present context. Where the statutory framework is unambiguous, the judicial function is interpretive, not creative. The Court cannot, under the noble guise of doing equity, arrogate to itself the legislative function of rewriting or expanding the scope of a duly enacted statute.

22. The Sindh Civil Servants Welfare Fund Ordinance, 1979, and the Rules framed thereunder constitute a self-contained code. They delineate with precision the circumstances under which group insurance benefits are payable and to whom. Nowhere within this framework is there any provision for disbursement of the assured sum to a civil servant upon retirement, absent the contingency of death within the prescribed post-retirement window. To judicially graft such a benefit into the scheme would not be an act of interpretation; it would be an act of legislation and thus constitutionally impermissible.

23. This Court is acutely conscious of the moral and financial expectations that retiring civil servants may harbour. Yet, fidelity to the rule of law demands that such expectations be measured against the text of the law, not its perceived spirit. If the legislative wisdom of the Province of Sindh, in its institutional capacity, deems it appropriate to extend group insurance benefits to retirees, it lies within its sovereign competence to amend the law accordingly. Until such time, the Court must refrain from judicially engineering outcomes that, however desirable in equity, are unsustainable in law.

24. In sum, while the petitioner's grievance may evoke sympathy, it cannot be transmuted into a legal entitlement in the absence of a statutory foundation. The constitutional jurisdiction of this Court is not a reservoir of

unbounded discretion; it is tethered to the law as enacted, not as imagined. To hold otherwise would be to blur the institutional boundaries between the judiciary and the legislature and to invite a jurisprudence of expediency over one of principle.

25. The Provincial Cabinet's decision dated 10.05.2022, reaffirming the existing policy after threadbare deliberation, further fortifies the respondents' stance. The Cabinet noted the colossal fiscal implications of extending group insurance as a retirement payout, given that the Government of Sindh already expends approximately Rs.150 billion annually on pensions, with over 151,000 additional retirements anticipated by 2029-30. To impose further liability without legislative sanction would be fiscally imprudent and administratively unsustainable.

26. In the totality of circumstances, we are constrained to hold that the petitioner has failed to demonstrate any legal or equitable basis for the relief sought. His claim, though emotionally resonant, is legally untenable. The deductions made from his salary were contributions to a collective risk pool, not deposits towards an individual retirement benefit. The statutory framework, judicial precedents, and Cabinet decision all converge to negate the petitioner's plea.

27. Accordingly, the petition stands **dismissed**, with no order as to costs.

JUDGE

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