THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 1634 of 2024

[*Niaz Ali Khoso v. Province of Sindh and others*]

Before:
Justice Arbab Ali Hakro
Justice Muhammad Osman Ali Hadi

Petitioner by	:	Mr. Abdul Naeem Pirzada, Advocate
Respondents by	:	M/s Khuda Bux Chohan, Hamayoun Sheikh, Advocates, Syed Naveed Ahmed Shah, Deputy Attorney General and Shahryar Imdad Awan, Assistant Advocate General Sindh
Date of Hearing	:	**13.08.2026**
Date of Decision	:	**13.08.2026**

O R D E R

ARBAB ALI HAKRO, J. – Through the instant petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner, a former employee of the Sukkur Municipal Corporation, has challenged the respondents' inaction in withholding his pensionary and other post-retirement benefits. He seeks a declaration that such denial, despite his having allegedly rendered thirty-four years of qualifying service in the respondent-department, is illegal, unlawful, malafide and of no legal effect, and a consequential direction to respondents Nos. 4 to 7 to release his gratuity and pensionary benefits and to continue his monthly pension in future without interruption or hindrance.

2. The facts, as set out in the memo of petition, are that the petitioner was appointed as Motor Operator (Water Works) in the Sukkur Municipal Corporation vide Office Order No. SCGA/GA/-1738 dated 06.07.1974 and thereafter served the department, according to him, honestly and to the entire satisfaction of his superiors. After putting in about twenty-four years of service, the petitioner, on his own request, was allowed two years' lien with effect from 13.10.1996, on account of his appointment in Sui Gas Company, vide Office Order No. MSGA/Estt:/-1828 dated 24.10.1996 issued by respondent No.4. On completion of the lien period, he returned from the said company and was allowed to resume duty in the Respondent-department

vide Office Order No. MSGA/Estt:/-1547 dated 04.10.1997. Subsequently, the petitioner applied for earned leave for the period from 15.04.2009 to 07.09.2009 to rejoin Sui Southern Gas Company Limited, which leave was granted vide Office Order No. TMA/GB/Estt:/222 dated 17.04.2009, followed by Office Order No. TMA/GB/Estt:/476 dated 07.09.2009 without pay. The petitioner then tendered voluntary resignation from municipal service, which was accepted by the Taluka Municipal Administration, Sukkur City, with effect from 30.10.2009 vide Office Order No. TMA/GB/Estt:/-607 dated 30.10.2009, enabling him to take up his new assignment in Sui Southern Gas Company; such resignation was confirmed and verified to the said company vide letter No. TMA/GB/Estt:/-645 dated 21.11.2009. It is the case of the petitioner that he had been performing duty with Sui Southern Gas Company Limited since 14.02.2009 and, upon attaining the age of superannuation, retired therefrom on 21.12.2016 as Head Helper, posted at Transport, Distribution, Sukkur, after which the company issued a certificate dated 25.01.2017 in his favour. After retirement, the petitioner repeatedly approached the official respondents for release of his service benefits, amounts wherefor, per his claim, had been deducted during his service, but he was kept on hollow hopes on one pretext or the other, he also moved an application dated 23.07.2017 to respondent No.4 and thereafter filed a complaint before the Regional Director, Provincial Ombudsman (Mohtasib) Sindh, Sukkur, in respect of the delay in grant of his admissible service dues. In response thereto, the Sukkur Municipal Corporation submitted its report vide letter No. SMC/AO:/-50/2024 dated 23.07.2024, declining to release any financial benefit in his favour. The petitioner asserts that his service record remains unblemished, that no departmental enquiry or complaint was ever pending against him, that his entire family is dependent upon his service benefits and that the refusal of the respondents to prepare and release his pensionary benefits is illegal, mala fide and violative of his constitutional rights, hence this petition.

3. Upon notice, respondent No.4 filed his comments, in which the appointment of the petitioner to the Corporation in 1974, the grant of a two-year lien with effect from 13.10.1996, and his resumption of duty on 04.10.1997 were not disputed. It was, however, averred that, vide Office Order dated 30.10.2009, the petitioner’s resignation, tendered by him willfully, was accepted by the Administration, and the same was confirmed by

Sui Southern Gas Company vide letter dated 21.11.2009; that in 2009 all employees who had been removed from service with Sui Southern Gas Company in 1998, including the petitioner, were reinstated with all back benefits of salary since 1996; that the petitioner retired from Sui Southern Gas Company after attaining the age of sixty and received all pensionary benefits from the said company; and that his complaint before the Provincial Ombudsman, wherein the department had also filed its comments, was not entertained. Placing reliance upon Rule 12(B) of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, under which a resignation once tendered by a civil servant, accepted by the competent authority and communicated to him, is final and irrevocable, as well as upon Rule 2.11 of the West Pakistan Civil Services Pension Rules, under which a Government servant forfeits his past service upon resignation of a post unless it is to take up another post, service in which counts for pension, it was prayed that the petition, being not maintainable and filed without clean hands, be dismissed.

4. Respondent No.6 filed para-wise comments stating that the contents of the petition relate to an administrative matter not dealt with by the office of the Assistant Director, Local Fund Audit, District Sukkur, and, as such, no comments are required on its behalf; nevertheless, insofar as the rule position regarding resignation is concerned, reference was likewise made to Rule 12(B) of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, and Rule 2.11 of the West Pakistan Civil Services Pension Rules. Responding to the prayer clause, it was submitted that it is the primary responsibility of the Local Council to sanction, prepare and submit the relevant bills, after which the Audit is only to check and scrutinize such bills in accordance with law and procedure, and that the Local Fund Audit Department has no function or responsibility to initiate any expenditure, including the release of pensionary benefits, of its own accord.

5. Respondent No.9 filed para-wise comments on behalf of the Sui Southern Gas Company Limited, contending that the petitioner did not disclose his employment with the Sukkur Municipal Corporation to the company at the time of his initial engagement in 1996 as a Temporary Assignee, when he was offered a temporary assignment as Helper for the Sui Southern Gas Rehabilitation and Expansion Project vide letter dated 01.10.1996; that his services with the company stood terminated with effect

from 30.09.1997; that upon his reinstatement in pursuance of the Sacked Employees (Reinstatement) Ordinance, 2009, and thereafter the Act of 2010, the petitioner again failed to disclose his employment status in the Form "Information for Reinstatement" dated 13.03.2009, notwithstanding the declaration contained therein that any omission or false statement would render him liable to disciplinary action, including dismissal; that he thereby also violated Clause 9 of the Sacked Employees (Reinstatement) Act, 2010, the Surety Bond/Undertaking executed by him, and Sections 1(III) and (VIII) of the company's Business Principles and Ethics Policy, which prohibit an employee from engaging in any other job, trade, profession or business; that the petitioner thus remained in dual employment with the company and the Sukkur Municipal Corporation during two periods, i.e., from 14.10.1996 to 30.09.1997 and again from 15.04.2009 to 30.10.2009, and concealed this material fact; that on coming to know of such dual employment, the company withheld his salary and advised him to submit a copy of his resignation from the previous organization, which letter of resignation was received by the company on 08.03.2010, whereafter his withheld salary was released; that the petitioner served the company for seven years and eight months, and his terminal dues, as per his eligibility, were duly paid to and received by him against acknowledgment slips appended with the comments, and that the remaining paragraphs of the petition do not pertain to the company. It was accordingly prayed that the petition, being devoid of factual position and founded upon baseless and misleading grounds, be dismissed.

6. Learned counsel for the petitioner contended that the petitioner served the Sukkur Municipal Corporation from 06.07.1974 onwards for more than three decades, and that pension is not a bounty but a vested right earned through long, continuous and faithful service, which cannot be withheld or refused arbitrarily; that throughout his service, deductions were made from his emoluments towards pensionary benefits; that his resignation from municipal service was tendered only to take up employment with Sui Southern Gas Company Limited, and the department itself accepted it in that very context; therefore, in view of the exception carved out in Rule 2.11(a) of the West Pakistan Civil Services Pension Rules, such resignation does not entail forfeiture of past service; that neither any delay in applying for pensionary benefits nor the principle of laches, nor any provision of the Limitation Act, can operate as a disentitlement to a pensionary claim; and

that the departmental refusal, communicated only through the report dated 23.07.2024 submitted before the Provincial Ombudsman, is without lawful authority. In support of his submissions, learned counsel relied on the cases of *Muhammad Usman v. Federation of Pakistan through Secretary Finance, Finance Division, Islamabad and others* **(2026 SCMR 429)**, *Shamshad Hussain and others v. Senior General Manager/CEO Pakistan Railways Headquarter Office, Lahore and 2 others* **(2026 PLC (C.S.) 653)**, *Muhammad Abbas Halephoto v. Federation of Pakistan through Secretary Finance, Government of Pakistan, Islamabad and another* **(2025 PLC (C.S.) 1559)**, *Muhammad Anwar Ali v. Lahore High Court, Lahore through Registrar* **(2024 PLC (C.S.) 198)** and *Muhammad Khan v. State Life Insurance Corporation of Pakistan through Chairman and 3 others* **(2024 PLC (C.S.) 445)**.

7. Conversely, learned counsel for respondents Nos. 4, 5 and 7 submitted that the petitioner, of his own free will, tendered his resignation from municipal service, which was accepted with effect from 30.10.2009 and duly communicated and confirmed to Sui Southern Gas Company; that, in terms of Rule 12(B) of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, such a resignation, once accepted and communicated, attains finality and is irrevocable; that, under Rule 2.11 of the West Pakistan Civil Services Pension Rules, resignation from a post entails forfeiture of past service, and the petitioner does not fall within the exception thereto; that the petitioner has already retired from Sui Southern Gas Company on attaining superannuation and has received his pensionary/terminal benefits from the said company, and cannot claim such benefits twice over; and that the petitioner, having suppressed material facts and approached this Court with unclean hands, is not entitled to any discretionary relief. He, therefore, prayed for dismissal of the petition.

8. Learned counsel appearing for respondents Nos. 8 and 9 (SSGC) adopted the stance taken in the para-wise comments and argued that the petitioner has claimed no relief against the company, the entire prayer being directed against respondents Nos. 4 to 7; that the petitioner remained in dual employment with the company and the Corporation during the two periods noted above and deliberately concealed this fact, amounting to gross misconduct; that upon detection of the dual employment, the company withheld his salary until he furnished his resignation from the municipal

service, which the company received on 08.03.2010; and that whatever terminal dues were admissible to the petitioner for his seven years and eight months' service with the company have been paid to and acknowledged by him, leaving nothing outstanding against the company. He, too, sought dismissal of the petition.

9. Learned Deputy Attorney General, appearing for the Federation (respondent No.10), submitted that no cause of action has been disclosed and no relief has been claimed against the Federation, and supported the contentions advanced on behalf of respondent-SSGC.

10. Learned Assistant Advocate General, representing the official respondents of the Province, adopted the arguments of learned counsel for respondents Nos. 4, 5 and 7 and added that the petitioner's willful resignation from municipal service, accepted and communicated in accordance with the rules, resulted in forfeiture of his past service. The petition, involving as it does disputed questions of fact regarding the length and character of his qualifying service, is not amenable to determination in the constitutional jurisdiction of this Court.

11. We have heard learned counsel for the parties, as well as the learned law officers, at considerable length, and have perused the material on record with their able assistance. Upon careful consideration of the pleadings, the para-wise comments of the contesting respondents, and the submissions made at the bar, the controversy resolves itself into four questions, namely (i) whether the petition is maintainable in the constitutional jurisdiction of this Court; (ii) whether the petitioner's resignation from municipal service, accepted with effect from 30.10.2009, entailed forfeiture of his past service so as to disentitle him from pension, gratuity, and other terminal benefits in respect of the service actually rendered by him; (iii) whether the allegations of dual employment and concealment levelled by the Respondent-SSGC, and the terminal benefits received by the petitioner from it, operate as a bar to the relief claimed; and (iv) whether the delay on the part of the petitioner in approaching the department, and thereafter this Court, is fatal to his claim.

12. Taking the question of maintainability first, the substantive relief in this petition is directed against the Sukkur Municipal Corporation and the functionaries of the Provincial Government and the Local Fund Audit, all of

whom are persons performing functions in connection with the affairs of the Province or of a local authority within the contemplation of Article 199 of the Constitution. The petitioner neither seeks reinstatement in service nor the enforcement of any contractual term of employment; his grievance is confined to the withholding of pensionary benefits which, according to him, stand accrued and vested. It is now firmly settled that a claim for pension is not a dispute of master and servant but the enforcement of a statutory and public-law obligation and that arbitrary withholding of such benefits offends Articles 4, 9, 14 and 24 of the Constitution. In ***Government of N.W.F.P.***[1] the Supreme Court held, more than half a century ago, that pension, like the salary of a civil servant, is no longer a bounty but a right acquired after satisfactory service for the prescribed minimum period, which cannot be reduced or refused arbitrarily except to the extent and in the manner provided in the relevant rules. In ***Haji Muhammad Ismail Memon***[2] it was declared that the Government or a department has no lawful power to withhold, seize or arbitrarily deny pensionary or gratuity benefits, that all departments shall not cause unnecessary hurdles or delays in finalizing payment of pensionary and retirement benefit cases and that violation of these directions amounts to criminal negligence and dereliction of duty exposing the head of the department concerned to proceedings in contempt. The petitioner invoked the statutory forum of the Provincial Ombudsman; the record shows that the exercise bore no fruit, the department merely filing a report dated 23.07.2024 declining the claim, after which the matter progressed no further. Where the alternate remedy has been pursued and has proved illusory, and where the surviving dispute is essentially one of law arising upon an admitted service record, the constitutional jurisdiction of this Court is properly attracted. The objection to maintainability is accordingly repelled.

13. Adverting to the merits, the foundational facts are not in dispute. They stand admitted in the comments of respondent No.4 itself and are reiterated in the Corporation’s report dated 23.07.2024, submitted to the Provincial Ombudsman. The petitioner was appointed as Motor Operator (Water Works) on 06.07.1974 vide Office Order No. SCGA/GA/-1738 and served the Corporation continuously until 13.10.1996, when, on his own request, he was

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[1] Government of N.W.F.P. v. Muhammad Said Khan (PLD 1973 SC 514)
[2] Haji Muhammad Ismail Memon v. Government of Sindh (PLD 2007 SC 35)

relieved on two years' lien to take up an assignment with Sui Southern Gas Company, his lien being expressly kept intact vide Office Order No. MSGA/ Estt:/-1828 dated 24.10.1996. It is equally admitted that he returned well within the sanctioned period and was allowed to resume duty vide Office Order No. MSGA/Estt:/-1547 dated 04.10.1997, effective from 01.10.1997, whereafter he rendered further continuous and unblemished service until his voluntary resignation was accepted with effect from 30.10.2009 vide Office Order No. TMA/GB/Estt:/-607, duly confirmed to the company vide letter No. TMA/GB/Estt:/-645 dated 21.11.2009. No adverse entry, enquiry, complaint or disciplinary proceeding of any description is shown to have ever existed against him. Computed even with caution, excluding the lien period of about a year and the period of leave without pay in 2009, the petitioner had rendered upwards of three decades of actual municipal service before the date his resignation took effect, far in excess of any minimum qualifying threshold for pension prescribed under the applicable rules, whether reckoned at ten, twenty or twenty-five years.

14. The real question for determination, and the one upon which the fate of this petition turns, is the effect of resignation upon the pensionary rights of an employee. The respondents' stance rests on the premise that resignation, without more, results in an absolute forfeiture of all service benefits. That premise requires close examination of the statutory scheme and the authoritative pronouncements upon it, for, in our experience, the misconception underlying it is widespread in the departments and is responsible for needless litigation of the present kind.

15. Two provisions are invoked by the contesting respondents. The first is Rule 12(B) of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, which provides that a resignation, once tendered by a civil servant, accepted by the competent authority and communicated to the civil servant, shall be final and irrevocable. The second is Rule 2.11 of the West Pakistan Civil Services Pension Rules, which provides that a Government servant forfeits his past service in the following cases: (a) resignation from a post, unless it is to take up another post, service in which counts for pension; (b) removal or dismissal from service; and (c) absence from duty without leave. The provision is in *pari materia* with Regulation 418 of the Civil Service Regulations, which appears in Chapter XVII under the

heading "Rules for Reckoning Service" and provides that resignation from the public service, or dismissal or removal from it for misconduct, insolvency, inefficiency not due to age, or failure to pass a prescribed examination, entails forfeiture of past service, while resignation of an appointment to take up another appointment, service in which counts, is not a resignation of the public service.

16. Upon a plain reading of this scheme, the general rule undoubtedly is one of forfeiture: an employee who resigns midway, before completing the service qualifying him for pension, abandons his incomplete service and cannot thereafter build a pension claim upon it. The rule, however, is neither absolute nor punitive; it is subject to a built-in exception and, more importantly, to a principle of construction now authoritatively settled by the Supreme Court, each of which is considered in turn.

17. The exception is enacted in Regulation 418(b) and in the saving words of Rule 2.11(a) itself: resignation of an appointment to take up another appointment, service in which counts for pension, is not a resignation of the public service at all and no forfeiture follows. In ***Chief Engineer, Hydel (North), WAPDA***[3], the Supreme Court, contrasting the two limbs of Regulation 418, observed that the regulation recognizes different kinds of resignations entailing different consequences: those arising from misconduct, insolvency, inefficiency, or failure to pass a prescribed examination entail forfeiture of past service, whereas where an employee resigns one appointment to take up another in which his service counts, the public service continues and, in the words of their Lordships, this principle of common sense is enunciated in Regulation 418(b) declaring in unequivocal words that such resignation is not a resignation of the public service. To the same effect is ***Federation of Pakistan***[4], which explains that the office of Regulation 418 is the counting of earlier service rendered by a civil servant towards another service for the purpose of claiming pensionary benefits. The condition for the exception, it must be emphasized is that the later employment be one in which past service counts in law that is, service under the State or a statutory dispensation with a counting or pension-contribution arrangement and not merely any subsequent employment however described.

[3] Chief Engineer, Hydel (North), WAPDA v. Zafarullah Shah (2003 SCMR 686)
[4] Federation of Pakistan v. Muhammad Mubarak (PLD 1990 SC 346)

18. The principle of construction, which is decisive of the present case, has been laid down in the recent judgment of a three-member Bench of the Supreme Court in ***Muhammad Usman***[5]. There, a civil servant who had completed more than twenty years of qualifying service resigned in September 2007 and applied for his pension only in 2020; the department and the Federal Service Tribunal non-suited him on the twin grounds of resignation and delay. Reversing that view, the Supreme Court held that pension is a vested, constitutional right and not a bounty given out of generosity by the employer, earned by the employee through his long, continuous, faithful and unblemished service; that pensionary benefits devolve upon a civil servant soon after his resignation followed by its acceptance, the formal application being required only to keep the record streamlined; that delay of any kind in claiming pensionary benefits is not to be counted as a disentitlement, neither does the principle of laches apply, as indeed no one else has any claim over the money, nor any provision of the Limitation Act coming in the way, and, as to Regulation 418, that the regulation finds its place in the chapter on reckoning of service and is to be read as meant for the counting of service and not otherwise, an isolated reading divorced from its chapter being a distraction from its true application. The Court concluded, in words which bear reproduction, that *"the understanding of the said regulation as an independent application to oust a civil servant from a contest to claim pensionary benefits on successful completion of requisite length of service would be misconceived and legally untenable in the eye of law."* The forfeiture contemplated by Rule 2.11(a) and Regulation 418(a) thus operates upon incomplete service; its purpose is to prevent an employee from tacking together broken or abandoned spells of service to manufacture a qualifying period that was never actually earned. It is not and was never intended to be an instrument of confiscation by which an employee who has already crossed the qualifying threshold may be stripped of a pension that has vested in him by operation of law.

19. Rule 12(B) of the Rules of 1974 does not advance the respondents' case. That provision governs the finality of the act of resignation: the employee cannot resile from it, cannot pray for its withdrawal, and cannot seek reinstatement upon it. It addresses the severance of the employment bond, not the fate of benefits already earned. The petitioner accepts, and has

[5] Muhammad Usman v. Federation of Pakistan (2026 SCMR 429)

never questioned, that his municipal employment ended on 30.10.2009; what he claims is deferred compensation for the service he had actually rendered by then. To read into the finality of a resignation a forfeiture of accrued pensionary rights would be to enact, by implication, a confiscation which the legislature has nowhere expressed. It is trite that a provision said to extinguish a vested right must be construed strictly against forfeiture and in favour of the beneficiary.

20. That approach to construction is reinforced by the consistent judgments of the Supreme Court upon the nature of pension. Pension is deferred compensation for service rendered, a right connected with the tenure of service that matures upon completion of the qualifying period; it is neither charity nor a gratuitous payment dependent upon the sweet will of the department, but is in the nature of socio-economic security guaranteed by the Constitution, engaging the right to life and dignity under Articles 9 and 14[6]. Most recently, in ***Government of Khyber Pakhtunkhwa***[7], the Supreme Court, construing the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012, drew a clear conceptual line between "back benefits", compensation for a period spent out of service, which may legitimately be denied upon the principle of no work no pay and pension, which their Lordships described as a separate vested retirement benefit maturing on the eve of superannuation, structured on a different mechanism altogether, which *"cannot be denied or forfeited without cover of law."* It was accordingly held that even where the statute described the reinstatement of a sacked employee as a fresh appointment and expressly excluded back benefits, the service actually rendered before the sacking could not be obliterated for the purpose of pension eligibility, the enactment being beneficial legislation commanding a purposive, dynamic and liberal construction, a canon reiterated in ***Province of Sindh***[8], where it was held that if a provision of beneficial legislation admits of two interpretations, the one which preserves and prospers the benefit is to be preferred over the one which defeats it. The pension rules, being part of precisely such a beneficial dispensation, are governed by the same canon.

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[6] (I.A. Sharwani v. Government of Pakistan, 1991 SCMR 1041; PLD 2013 SC 829; Muhammad Yousaf v. Province of Sindh, 2024 SCMR 1689)

[7] Government of Khyber Pakhtunkhwa v. Nisar Ahmed and connected matters (Civil Petitions No.856-P, 857-P, 5393 and 5469 of 2024, decided on 05.03.2026)

[8] Province of Sindh v. Azhar Ali (2026 SCLR 6)

21. From the foregoing survey, the legal position that emerges, and which we would state for the guidance of the departments, is as follows. Where an employee tenders resignation, his entitlement to pension depends, first, on whether he had completed the minimum qualifying service on the date the resignation took effect: if he had, the pension stands vested and is payable notwithstanding the resignation, and neither the finality of the resignation, nor delay in applying, nor the label attached to his mode of exit, can defeat it. If he had not completed the qualifying service, the second question is whether the resignation was tendered in order to take up another appointment in which his past service counts for pension under a statutory rule or sanctioned arrangement: if so, the past service is preserved and carried forward to be reckoned with the later service. It is only where both questions are answered in the negative, i.e., incomplete qualifying service coupled with a simple exit from public service, that the forfeiture enacted by Rule 2.11(a) and Regulation 418(a) operates. Gratuity and other terminal benefits earned for service actually rendered stand on the same footing as pension for the purposes of this analysis, while the provident fund, comprising the employee's own contributions, is in no circumstances liable to forfeiture.

22. When the law as stated is applied to the admitted facts, the petitioner's case falls squarely within the first category and is unanswerable. On the department's own record, he had rendered continuous qualifying service from 06.07.1974, over twenty-two years by the time of the lien in 1996 and well over thirty years by 30.10.2009. His right to pension and gratuity for his municipal service had therefore vested long before his resignation; the resignation brought his employment to an end but, consistently with the law declared in the **Muhammad Usman** case, could not operate retrospectively to confiscate what he had already earned. We may make it clear that this conclusion does not rest on treating the petitioner's move to Sui Southern Gas Company as falling within the exception in Rule 2.11(a); whether service under the respondent-company, whose service regulations are non-statutory, could ever count towards municipal pension is a question that does not arise, for the petitioner's municipal service, standing alone, comfortably satisfies the qualifying requirement, and no tacking of the company service is either necessary or claimed. Equally, for the same reason, the petitioner cannot claim that his municipal service counts towards

any benefit from the company, nor that the company service counts towards his municipal pension.

23. Nor does the intervening lien of 1996-97 assist the respondents. A lien, by its very nature, preserves the employee's title to his substantive post; it is the antithesis of resignation, and the petitioner, in fact, resumed duty within the sanctioned period under the department's own office order. Nothing in the Pension Rules treats a lien or a return from it as an event of forfeiture or a break in service. At the highest, the period spent away may be excluded from the calculation of qualifying service if the rules so require a matter of computation for the departmental authorities, but it cannot fracture the continuity of service from 1974 to 2009. The judgment of this Court in ***Muhammad Abbas Halephoto***[9], in which prior service rendered in the district judiciary was directed to be counted towards the pension of an employee who had proceeded, through proper channel, to the State Bank of Pakistan upon a purposive reading of Articles 358, 371-A, 423 and 474(b) of the Civil Service Regulations, proceeds upon the same beneficial approach to continuity of service.

24. Turning to the case set up by the respondent-company, its comments travel, in substance, a different road altogether. The allegation is that the petitioner, at the time of his engagement as a Temporary Assignee in 1996 and again upon his reinstatement in 2009 under the Sacked Employees (Reinstatement) Ordinance, 2009, and the Act of 2010, failed to disclose his municipal employment and thereby remained in dual employment during two windows, from 14.10.1996 to 30.09.1997 and from 15.04.2009 to 30.10.2009, in breach of the declaration in his reinstatement form, Clause 9 of the Act of 2010, his undertaking, and the company's Business Principles and Ethics Policy. Three short answers dispose of this contention insofar as the present petition is concerned. First, the prayer clause is directed against respondents No.4 to 7 alone; no monetary relief is sought against the company, whose own comments affirm that the terminal dues admissible for the petitioner's roughly seven years and eight months of company service have been paid to and duly acknowledged by him, nothing remaining outstanding on either side; to the extent of respondents No.8 and 9, the petition is thus substantially infructuous. Secondly, whatever be the merits of the concealment allegation,

[9] Muhammad Abbas Halephoto v. Federation of Pakistan (2025 PLC (C.S.) 1559)

upon which we express no opinion, it concerns, at its highest, the propriety of the petitioner's engagement with the company and the benefits attaching to that discrete employment; it does not, and in law cannot, reach back to extinguish pensionary rights separately and independently earned from the Municipal Corporation over the preceding decades. The distinction drawn by the Supreme Court in the judgment of 05.03.2026 ***(Government of Khyber Pakhtunkhwa)*** supra between the consequences visited upon a contested period of employment and the vested pension earned by actual service admits of no confusion between the two, and misconduct alleged in one employment furnishes no cover of law for forfeiture of pension earned in another. Thirdly, to the extent the two employments are said to have overlapped between 15.04.2009 and 30.10.2009, the petitioner was, on the municipal record itself, first on earned leave and thereafter on leave without pay; if upon verification any part of that period is found not to qualify under the rules, the departmental authorities are at liberty to exclude it from the computation of qualifying service. Exclusion of a few months from the arithmetic is, however, a far cry from the wholesale confiscation of some thirty-four years of service which the respondents' stance entails.

25. The plea of delay merits no further treatment. The petitioner applied in writing to respondent No.4 on 23.07.2017, within months of his superannuation, and thereafter approached the Provincial Ombudsman; the department communicated its refusal only through the report dated 23.07.2024, and the petition was instituted in October, 2024. In any event, the law laid down in ***<u>Muhammad Usman</u>*** is categorical that a belated claim for pension does not result in disentitlement, that laches does not run against a pensionary claim, and that the Limitation Act interposes no bar; a claim to pension is, by its nature, a recurring cause of action arising month to month. If a delay of thirteen years could not defeat the claimant in **Muhammad Usman**, the interval attributable to the present petitioner, punctuated as it was by repeated departmental approaches, can hardly do so. At the most, the matter of arrears may be regulated in accordance with the applicable rules at the stage of computation.

26. Before parting with the discussion, three ancillary matters require notice. First, the averments in the comments of respondent No.4 that the petitioner was reinstated in 2009 "with all back benefits of salary since 1996"

and that he "retired from Sui Southern Gas Company in the year 2013" are contradicted by the company's own certificate dated 25.01.2017 on record, which records his joining on 14.02.2009 and retirement on 21.12.2016. These averments, unsupported by any document, are of no avail. Secondly, the stance of respondent No.6 that the Local Fund Audit performs only a scrutinizing function, the preparation and submission of pension bills being the primary responsibility of the Council, is well-founded so far as it goes, but it only to underscores where the default lies: it was for the Municipal Corporation to prepare, sanction and submit the petitioner's pension papers, and its failure to do so for years together, upon a ground now shown to be legally untenable, is precisely the species of inaction deprecated in case of ***Haji Muhammad Ismail Memon***. Thirdly, of the precedents cited at the bar, Muhammad Anwar Ali (2024 PLC (C.S.) 198) and Muhammad Khan v. State Life (2024 PLC (C.S.) 445), concerning premature retirement and salary deductions respectively, have no direct bearing on the present *lis*; ***Shamshad Hussain***[10] reinforces, if reinforcement were needed, that even fiscal constraint a plea not advanced here affords no justification for withholding retirement benefits, any delay in payment of the pensionary right being violative of the vested fundamental rights of the employee.

27. The upshot of the foregoing discussion is that the refusal of the official respondents to compute and release the petitioner's pensionary benefits, resting as it does upon a misreading of Rule 12(B) of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, and Rule 2.11 of the West Pakistan Civil Services Pension Rules, is declared to be without lawful authority and of no legal effect. The petitioner's municipal service from 06.07.1974 to 30.10.2009 shall be treated as continuous qualifying service for pension and gratuity, subject only to the exclusion, strictly in accordance with the rules, of such periods (including the lien period of 1996-97 and the period of leave without pay in 2009, if and to the extent the rules so require) as do not count towards qualifying service, an exclusion which, on any computation, leaves the qualifying threshold amply satisfied. Respondents No.1, 2, 4, 5 and 7 shall verify the petitioner's service record, prepare and sanction his pension papers, and compute and release his gratuity, commutation and monthly pension, together with arrears from the date the same fell due, within ninety days of receipt of this order; respondent No.6

[10] Shamshad Hussain v. Pakistan Railways (2026 PLC (C.S.) 653)

shall carry out the requisite scrutiny of the bills so submitted with corresponding promptitude, and respondent No.3 shall ensure compliance. Any amount shown by documentary proof to have already been paid to the petitioner on account of his municipal service, none of which presently appears on record, may be adjusted in the final computation. No direction is warranted against respondents No.8 and 9, the petitioner's terminal dues from the Respondent-company having been paid and acknowledged; to their extent, the petition stands **disposed of** as infructuous, without prejudice to any claim either side may lawfully possess against the other before the appropriate forum.

28. The petition is **allowed** on the above terms, with the observation that the concerned officers of the Sukkur Municipal Corporation shall remain mindful of the caution administered by the Supreme Court ***in Haji Muhammad Ismail Memon*** (supra), that further unexplained delay in finalizing pension cases exposes those responsible to consequences. There shall be no order as to costs. Let a copy of this order be communicated to the Secretary, Local Government Department, Government of Sindh; the Municipal Commissioner, Sukkur Municipal Corporation; and the Director, Local Fund Audit Sindh, for information and compliance.

J U D G E

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Abdul Basit