THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 1594 of 2025

[*Karimullah Khaskheli v. The Province of Sindh and others*]

Before:
Justice Arbab Ali Hakro
Justice Muhammad Osman Ali Hadi

Petitioner by	:	Mr. Athar Ali Mirani, Advocate
Respondents by	:	Mr. Israr Ahmed Shah, Assistant Advocate General Sindh
Date of Hearing	:	**08.09.2026**
Date of Decision	:	**08.09.2026**

O R D E R

ARBAB ALI HAKRO, J. – Through this petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner, a retired Sub-Inspector of Police, calls in question the refusal of the respondents to release his retirement dues and prays that the withholding of his monthly pension, General Provident Fund, commutation and the amount of Leave Preparatory to Retirement be declared illegal, without lawful authority and of no legal effect, with a consequential direction for their release.

2. Briefly stated, the petitioner entered the service of the Police Department as a Constable on 13.04.1983 and, over a career spanning more than four decades, rose to the rank of Sub-Inspector in BPS-14. For a considerable period preceding his retirement, he was posted as Incharge Kot (Arms and Ammunition Store) at the Police Headquarters, District Khairpur. On attaining the age of superannuation, he was retired from service with effect from 14.05.2024 by order of the Deputy Inspector General of Police, Sukkur Range, bearing No. E-I/6663-70/2024 dated 03.05.2024, whereby he was simultaneously granted 365 days' lump sum pay as encashment in lieu of Leave Preparatory to Retirement in terms of the Finance Department's letter No. FD(SR-IV)15-26/2012 dated 03.10.2012. His grievance is that, despite more than two years having passed and his having approached

respondents Nos. 2 and 3 in person more than once, not a rupee has been paid to him in respect of pension or any other retirement benefit.

3. Learned counsel for the petitioner contends that the pension is no bounty in the hands of the department, but a right earned by long and satisfactory service; that the petitioner retired on superannuation with nothing whatever pending against him on that date; that the withholding of his dues rests upon no order at all, but upon inaction alone; and that the registration of a criminal case against him more than fourteen months after his retirement can furnish no warrant for divesting him of what had already vested in him on 14.05.2024. He adds that the General Provident Fund is the petitioner's own money and that its retention is indefensible on any view of the matter.

4. Learned Assistant Advocate General, Sindh, has supported the department's stand on two grounds, identical to those taken in the para-wise comments of respondent No. 3 dated 20.10.2025, in the statement of respondent No. 2, in the comments filed on behalf of respondent No. 1 on 08.04.2026, and in the fresh progress report of respondent No. 3 dated 08.09.2026, called for by this Court through the learned Additional Advocate General. The first ground is that the petitioner has not furnished the Clearance Duty Certificate from his successor as Incharge Kot, for want of which his pension case has not been prepared. The second ground is that F.I.R. No. 227 of 2025 under section 409 P.P.C. stands registered against him at Police Station Shaheed Murtaza Mirani in respect of arms and ammunition found missing, and that the matter now lies with the Anti-Corruption Establishment, Sukkur.

5. We have heard learned counsel for the parties and, with their assistance, have gone through the record.

6. The material dates are not in dispute and may be set out at the threshold. The petitioner retired on 14.05.2024. His successor, HC-1827 Muhammad Khan Maitlo, was posted as Incharge Kot on the same day by order No. OB/758 dated 14.05.2024. An enquiry into the alleged shortage was entrusted to the DSP/SDPO, Kotdiji, by letter No. EO/Arms-2825 dated 01.10.2024, and he submitted his report No. 104 on 29.01.2025. A committee for checking arms and ammunition was thereafter constituted

under order No. EO/Arms/3094 dated 12.06.2025. On the respondents' own showing, its report is still awaited. The F.I.R. was lodged on 28.07.2025, and the papers were transmitted to the Deputy Director, Anti-Corruption Establishment, Sukkur, on 04.08.2025. What is conspicuously absent from this chronology is any statement of allegations, any charge-sheet, any show-cause notice, and any order at any time withholding the petitioner's pension. Respondent No. 3 has stated in terms that the pension case has simply not been prepared.

7. Before turning to the merits, we may dispose of the objection raised in the comments of Respondent No.1 that the petition is not maintainable. The objection was not pressed with any vigour at the bar and rightly so. The petitioner ceased to be a civil servant on 14.05.2024. No order in the field from which he could have appealed to the Service Tribunal; his grievance is directed against inaction and against inaction alone. Payment of pension, moreover, touches the right to life and to dignity guaranteed by Articles 9 and 14 of the Constitution and is on that account justiciable in this jurisdiction. In ***Muhammad Yousaf***,[1] the Supreme Court entertained and allowed a petition arising out of a constitutional petition decided by this Court upon precisely such a controversy under Rule 1.8(a) of the Pension Rules. The decision in ***Brig. (Rtd.) Zulfiqar Ahmad Khan***,[2] upon which reliance is at times placed, is distinguishable, for there the entitlement to pension was itself in dispute upon the score of qualifying service and the matter had travelled through the Wafaqi Mohtasib, whereas here entitlement is admitted and only disbursement is refused. The objection is accordingly overruled.

8. The field is governed by Rule 1.8 of the West Pakistan Civil Services Pension Rules, 1963, as applicable in the Province of Sindh, a copy whereof has been placed on the record by the petitioner. Clause (a) provides that good conduct is an implied condition of every kind of pension and that Government may withhold or withdraw a pension or any part of it "*if the pensioner be convicted of serious crime or be found to have been guilty of grave misconduct either during or after the completion of his service, provided that before any order to this effect is issued, the procedure*

[1] *Muhammad Yousaf v. Province of Sindh*, 2024 SCMR 1689.
[2] *Federation of Pakistan v. Brig. (Rtd.) Zulfiqar Ahmad Khan*, 2007 SCMR 1313.

regarding imposition of the penalty of removal from service shall be followed".[3] Clause (b) reserves to Government the right of recovery from the pension "*on account of losses found in judicial or departmental proceedings to have been caused to Government by the negligence, or fraud of such Government pensioner during his service, provided that such departmental proceedings shall not be instituted after more than a year from the date of retirement of the Government pensioner*".[4]

9. Two conditions alone are thus prescribed for the withholding of a pension: conviction for a serious crime or a finding of guilt of grave misconduct arrived at after following the procedure prescribed for the imposition of the penalty of removal from service. Neither is present here. The petitioner stands neither convicted nor even charged; the case registered against him is admittedly still under investigation with the Anti-Corruption Establishment, and no challan or reference has been shown to have been submitted to the competent Court. An F.I.R. is an accusation; it is not an adjudication. To treat the mere lodging of a criminal case as though it were a conviction would be to invert the presumption of innocence and to read into Rule 1.8(a) a third condition which its framers did not put there. Upon facts closely resembling the present, pensionary benefits withheld on the ground of a pending criminal case were ordered to be released in ***Abdul Hameed***,[5] it being observed that nothing may be recovered from the pension of a retired employee without a show-cause notice and an opportunity of defence and in ***Ch. Haider Ali***[6] it was said that the law does not contemplate a retired government servant being deprived of his retirement benefits endlessly. The one reported case in which such withholding has been sustained, ***Akhtar Ali***,[7] was a case of actual conviction and sentence of imprisonment for life and even there the rule was restated as resting upon the two conditions noticed above.

10. There is a further obstacle in the respondents' path and, to our mind, an insuperable one. Rule 1.8(b) permits recovery from a pension only of a

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[3] Rule 1.8(a), the West Pakistan Civil Services Pension Rules, 1963, as applicable in the Province of Sindh.
[4] Ibid., Rule 1.8(b).
[5] *Abdul Hameed v. General Manager (Operation), Pakistan Railway Headquarter Office, Lahore*, 2012 PLC(CS) 209.
[6] *Ch. Haider Ali v. Director Administration, WASA*, 2007 PLC(CS) 691.
[7] *Akhtar Ali v. Post Master General*, 2024 PLC(CS) 234.

loss found in judicial or departmental proceedings to have been caused by the pensioner's negligence or fraud and forbids the institution of departmental proceedings more than a year after retirement. In ***Province of the Punjab***[8] the Supreme Court held that a finding of such loss in judicial or departmental proceedings is a condition precedent to recovery and that no inquiry could be conducted after one year of the pensioner's retirement. That year expired in the present case on 14.05.2025. The committee was constituted on 12.06.2025; the F.I.R. was lodged on 28.07.2025, and the Accountant of the office of respondent No.3, by his letter No. Accts:/-1403 dated 10.03.2026, was still asking that departmental proceedings be initiated against the petitioner. Each of these steps falls outside the period the Rule allows.

11. To the like effect is Rule 54-A of the Fundamental Rules,[9] under which disciplinary proceedings not concluded before superannuation abate and the civil servant retires with full pensionary benefits. That rule was applied by this Court in ***Abdul Lateef***,[10] where the whole of the emoluments of a retired civil servant had been withheld on account of pending departmental proceedings, and it was held that an employee cannot be penalised for an inquiry that was not completed before his retirement. The present case stands on a stronger footing, for on 14.05.2024 there were no proceedings at all, whether concluded or pending.

12. The second ground, that of the Clearance Duty Certificate, is even less substantial. Neither the Pension Rules nor any other provision to which our attention has been invited makes a clearance or no-demand certificate a condition precedent to the accrual of a pension. The duty to maintain the Kot register, to supervise the handing and taking over of charge, and to obtain the certificate at the time of relinquishment lies with the department itself; the successor was posted on the very day the petitioner demitted office, and it was for the office of respondent No.3 to ensure that the transaction was completed then and there. Having omitted to take action in the matter for upwards of fourteen months, the respondents cannot now convert their own

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[8] *Province of the Punjab v. Munir Hussain Shah*, 1998 SCMR 1326.
[9] Rule 54-A, the Fundamental Rules.
[10] *Abdul Lateef v. Services, General Administration and Coordination Department*, 2025 PLC(CS) 732.

default into a disability of the petitioner. A departmental formality devised to safeguard public revenue may not be pressed into service as an instrument for defeating a right that same body of rules confers. The Federal Constitutional Court lastly held that a beneficial regime of this description is not meant to deprive an employee of pensionary benefits on account of marginal, technical or inadvertent deficiencies, and that a denial resting on such a footing works grave hardship, arbitrariness and manifest injustice.[11]

13. We are constrained to observe, further, that the record of the respondents does not speak with one voice. The F.I.R. alleges the disappearance of two S.M.G. rifles, one M.P-5 rifle and quantities of ammunition. Yet the enquiry held by the DSP/SDPO, Kotdiji and reported on 29.01.2025, annexed by respondent No. 3 himself, records that the M.P.-5 rifle bearing No. B-27542, with a magazine and thirty live rounds, though shown as issued to HC-2111 Ali Murad Sodhro, was, on enquiry, found to have been deposited back in the Kot store. It traces the entries in question to 2009, long before the period presently under scrutiny. The committee constituted to check the arms and ammunition has, after more than a year, reported nothing. Upon such a record it cannot be said that any loss has been fastened upon the petitioner even provisionally, far less that it has been "found in judicial or departmental proceedings" within the meaning of Rule 1.8(b).[12]

14. So far as the General Provident Fund is concerned, no ground has been shown for its retention. It is the accumulation of the petitioner's own deductions, held by the State in trust for him and at no stage does it become the property of the department. In ***M. Asghar Janjua***[13] it was held that gratuity, provident fund and pension are inherent and vested rights of every retired employee which the employer is bound to discharge immediately on the eve of retirement, rather than shelving them for an indefinite period or leaving the obligation in a state of uncertainty. The encashment in lieu of Leave Preparatory to Retirement stands on an even narrower footing, for it was sanctioned by the self-same order of 03.05.2024 by which the petitioner

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[11] *Employees Old-Age Benefits Institution, Lahore v. Muhammad Rafique*, 2026 PLC 107 (Federal Constitutional Court).
[12] Supra note 4.
[13] *M. Asghar Janjua v. Federation of Pakistan*, 2026 SCMR 267.

was retired and nothing done since has recalled that sanction. As to pay for duty actually performed, it is settled that an employee may not be deprived of lawful remuneration without express legal sanction.[14]

15. The principle which governs the whole of this controversy has been laid down too often to admit doubt. Pension ceased long ago to be a bounty and became a right acquired by satisfactory service.[15] More recently, in ***Shakeel Ahmed Kayani***,[16] it has been held that pension is not a matter of bounty, charity or benevolence but a right protected by Articles 9 and 14 of the Constitution, being deferred wages earned by years of faithful service and that to withhold it is to leave the pensioner exposed to indignity, vulnerability and want. In ***Muhammad Yousaf***,[17] dealing with Rule 1.8(a) itself, their Lordships held that pension could not be denied without a show-cause notice and an opportunity of hearing and deprecated the treatment of a long-serving official who at the eve of his retirement gets nothing upon the pretext of a misconceived reading of some rule. In ***Haji Muhammad Ismail Memon***[18] delay in finalising pension cases was characterised as amounting to criminal negligence. Here, a man who served the Police Department for one-and-forty years and is now past sixty-two years of age has been left without a rupee for over two years, on grounds the Rules do not recognise.

16. For the foregoing reasons, this petition is **allowed**. We declare that the withholding of the petitioner's monthly pension, General Provident Fund, commutation, encashment in lieu of Leave Preparatory to Retirement, and admitted pay, in the absence of any conviction, any finding of grave misconduct recorded after due process, and any departmental proceedings instituted within one year of 14.05.2024, is without lawful authority and of no legal effect. Consequently, we direct as follows:

i. Respondents Nos. 2 and 3 shall finalise the pension papers of the petitioner and transmit the Pension Payment Order and Last Pay Certificate to respondent No. 4 within thirty days of receipt of this order, the want of a Clearance Duty Certificate notwithstanding;

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[14] *Federal Board of Revenue v. Irshad Hussain Qaisrani*, 2026 SCMR 1095.
[15] *Government of N.-W.F.P. v. Muhammad Said Khan*, PLD 1973 SC 514; *I.A. Sharwani v. Government of Pakistan*, 1991 SCMR 1041.
[16] *Shakeel Ahmed Kayani v. Managing Director/Chief Executive Officer*, 2026 SCMR 449.
[17] Supra note 1.
[18] *Haji Muhammad Ismail Memon, Advocate*, in the matter of Cr. Misc. Application No. S-226 of 2026, PLD 2007 SC 35.

ii. Respondent No. 4 shall, within fifteen days of receipt of the papers, release to the petitioner his pension, together with arrears with effect from 14.05.2024, his General Provident Fund, commutation, and the amount of encashment in lieu of Leave Preparatory to Retirement sanctioned by order dated 03.05.2024, together with such pay as may, on verification, be found outstanding;

iii. Nothing in this order shall be read as expressing an opinion on the merits of F.I.R. No. 227 of 2025, or as impeding its investigation or trial in accordance with law and

iv. Should the petitioner hereafter be convicted of a serious crime, or should any loss be found against him in judicial proceedings to have been caused by his negligence or fraud, it shall be open to the competent authority, after notice to him and an opportunity of hearing, to take such action under Rule 1.8 of the Pension Rules as the law permits.

17. The Inspector General of Police, Sindh, shall have it examined why the petitioner's pension case was allowed to remain unprocessed for more than two years, and shall take such administrative action as he considers appropriate.

Office to communicate a copy of this order to Respondents Nos. 2 to 4, as well as to the Inspector General of Police, Sindh, for information and compliance.

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Naveed Ali