

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

C. P. No.D-656 of 2025.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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BEFORE:

**Mr. Justice Muhammad Saleem Jessar,
Mr. Justice Nisar Ahmed Bhanbhro,**

Petitioner : Mst. Rehana,
through Mr. Syed Fida Hussain Shah, advocate.

Respondents : Province of Sindh & others,
Mr. Liaquat Ali Shar, Addl. A. G a/w Inayat Ali Chandio,
DEO (Primary) Kamber-Shahdadkot & Abdul Rauf Soomro,
District Accounts Officer, Kamber-Shahdadkot.

Date of hearing : 30.09.2025.

Date of Decision : 30.09.2025.

ORDER.

MUHAMMAD SALEEM JESSAR, J.- Through instant Petition, the Petitioner has claimed following relief:

- "a. To direct the respondent No.03 and 04 to immediately clear / pass the pension case of the petitioner in respect of her service/ retirement benefits i.e. Commutation, GP Fund final payment so also release the monthly pension from the date of her retirement along with all the arrears of monthly pension and to regularize the same on monthly pension basis without further delay.
- b. To direct the respondents No.01, 03 and 04, to clear / pass the arrears of the monthly salaries of petitioner stopped from March 2015 till the month of retirement.

2. The case of petitioner is that she served as Primary School Teacher in the School Education & Literacy Department, Govt. of Sindh, for a period of 23 years and in the aftermath of departmental disciplinary proceedings was retired compulsorily from the job on 22.02.2024; however, till date the service/ retirement benefits have not been paid to her.

3. Learned Counsel for the petitioner, *inter alia*, contended that the law does not prohibit payment of pension and gratuity to a retired Civil/Government/ Public servant against whom criminal proceedings were / are pending until the delinquent employee is found to be guilty of grave misconduct in departmental or judicial proceedings or to have caused pecuniary loss to the Government by misconduct or negligence. He further submitted that a Government servant, who retires from service qualifying for retirement benefits, pension being a material part of it, does not get the same as a bounty of the State but as a right acquired after putting in satisfactory service. The grant of pension cannot be refused arbitrary and if refused, it has to be under the relevant rules.

4. The learned Addl. Advocate General has filed comments on behalf of respondent No.4/District Accounts Officer, Kamberf-Shahdadkot as well as respondent No.6/District Education Officer (Primary), Kamber Shahdadkot and seeks disposal of instant petition in view of the order dated 13.03.2025 passed by a Division Bench of this Court in C. P. No.D-598 of 2024 *re-Mst. Tabasum v P.O. Sindh and others*.

5. We have heard the parties present in Court and perused the material made available before us.

6. Petitioner, who is compulsorily retired teacher, has alleged that the District Accounts Officer, Kamber and Accountant General Sindh are unlawfully denying her benefits accrued in terms of compulsory retirement order dated 22.02.2024, and has provided documents supporting her appointment and service history. However, her SAP ID was blocked due to allegation of fraudulent IDs and appointments, prompting a

NAB investigation. The Accountant General and the District Accounts Officer are now requesting the Court to compel the School Education & Literacy Department (SE&LD) to conduct and provide the result of an inquiry into the legitimacy of her employment.

7. The core issues are the disputed validity of her appointment and subsequent initiation of disciplinary proceedings culminated into her compulsory retirement order dated 22.02.2024, the ongoing NAB investigation, and the resulting delays in her retirement benefits. She is seeking immediate release of all owed funds and regularization of her pension as per law.

8. While the general principle is that a pension should not be withheld simply because a criminal case is pending. In our view, the pension is not to be treated as a bounty payable on the sweet will and pleasure of the Government and the right to superannuation pension including its amount is valuable right vesting in a government servant and denying the pensioner right to receive pension affects the fundamental right of the pensioner under Articles 4, 9, 10-A, 11, 14, 18, 24, 25, 27, 37(f) of the Constitution of the Islamic Republic of Pakistan, 1973.

9. Rule 307 (C.S.R. 351) states that a pension can be withheld or withdrawn by the Governor General if the pensioner is convicted of a serious crime or guilty of grave misconduct. The Governor General's decision on this matter is final. However, in the present case, the respondent/department retired her compulsorily and issued such order, which means she is entitled to the service benefits under the law, which cannot be withheld by the respondent/department.

10. Primarily, the long and unjustified delay in the payment of pension to the pensioner amounts to humiliation to the retiring official and his family, despite the strictures and orders passed by the Hon'ble Supreme Court of Pakistan in its various pronouncements and simplified guidelines laid down by the Government; the petitions on account of delay persist.

11. The Supreme Court in the case of *Federation of Pakistan through General Manager of Pakistan Railways v. Shah Muhammad* **2021 SCMR 1249** has interpreted Rule 2307 of General Conditions Governing Pension (C.S.R 351), and held that the rules provide that to get the pension the pensioner has to maintain future good conduct as an implied condition for the grant of pension. The two instances have been given in the said rule, which gives power to the Government to withhold or withdraw a pension or any part of it, i.e. where the pensioner is convicted of a serious crime or is guilty of a grave misconduct. The judgment of the Honourable Supreme Court is clear in its terms that in case of conviction, pension can be stopped; however, in the present case, we have been informed that there is no conviction in the field. The Honourable Supreme Court in the case of *The Government of N.W.F.P., through the Secretary to the Government of N.W.F.P., Communications and Works Department, Peshawar v. Mohammad Said Khan and another* **(PLD 1973 Supreme Court 514)**, while considering Rule 1.8 of Pakistan Civil Service Pension Rules, 1963, which to some extent is similar to Rule 2307 (C.S.R-351) *ibid* observed as follows:

"On the other hand under clause (a) maintenance of good conduct throughout his life is an inflexible obligation of a pensioner so that if he is found guilty of a serious crime or gross misconduct even after his retirement he is liable to suffer a diminution in the amount of his pension, no matter how long it happens after his retirement."

12. The Supreme Court has held that for being entitled to pension, a civil servant has to have good conduct throughout his life. This means that the civil servant has to have and maintain good conduct before entering service, for being paid pension. This Rule is an exception to the general rule which entitles the civil servant to a pension as of right after having rendered satisfactory qualifying service. The Supreme Court has interpreted the terms standard of good conduct, which a civil servant was/is required to have for being entitled to payment of pension. The term "good conduct" is not defined in the rules, thus, it seems to have been left to the judgment of the authority, who is entitled to decide the matter. However, the said Rule itself has provided two

specific instances where the authority reserves to itself the right of withholding or withdrawing a pension or any part of it, i.e., if the pensioner be convicted of a serious crime or be guilty of grave misconduct, thus the ratio of the judgment rendered in the case of Federation of Pakistan through General Manager of Pakistan Railways supra, wherein the Supreme Court was dealing with the question of conviction of serious crime. Hence, the question is altogether different, as the petitioner has not been convicted yet; however, she is facing criminal charges on account of corruption and corrupt practices being beneficiary while working in the department, which are yet to be proved by the competent court of law. However, it is made clear that if the department proves the allegations against the petitioner before the competent court of law in the shape of conviction then the ratio of the judgment rendered in the case of Federation of Pakistan through General Manager of Pakistan Railways supra will be fully applicable in her case and consequences will follow.

13. It is well-settled that the right to pension cannot be taken away by a mere executive fiat or administrative Instruction. Pension and gratuity are not mere bounties or given out of generosity by the employer. An employee earns these benefits through his long, continuous, faithful, and unblemished service. The right to receive the pension of a civil/public servant has been held to be covered under the "right to property" and the pensioner could be deprived of the same only by authority of law and that pension does not cease to be property on the mere denial or cancellation of it. Even the character of pension as "property" cannot possibly undergo such mutation at the whim of a particular person or authority.

14. The Supreme Court in the case of Haji Muhammad Ismail Memon, advocate/complainant; reported as **(PLD 2007 SC 34)** has held that it is a pathetic condition that Government Servants after serving for a considerable long period during which they give their blood with sweat to the department had to die in a miserable condition on account of non-payment of pension/pensionary benefits, etc., such

conduct on their part is highly condemnable and cannot be encouraged in any manner and directed all the Government Departments, Agencies, and officers deployed to serve the general public within the limit by the Constitution as well as by the law shall not cause unnecessary hurdle or delay in finalizing the payment of pensionary/retirement benefits cases and in future any violation of the aforesaid directions shall amount to criminal negligence and dereliction of the duty assigned to them.

15. On the question of disciplinary proceedings after retirement from service, the law has already been settled need no further discussion on our part as the Supreme Court in the case of Abdul Wali V/S WAPDA through its Chairman and others, (2004 SCMR 678), was pleased to hold that as a general rule disciplinary proceedings cannot be taken against a civil servant for imposition of a major or minor penalty as contemplated by the E&D Rules after he has already retired from service on attaining the age of superannuation. The above principle was reiterated by the Supreme Court in the case of Syed Sajjad Haider Kazmi V/S Director-General (S&GAD) WAPDA and another, (2007 SCMR 1643). The Supreme Court in the case of Deputy Director Food V/S Akhtar Ali, (1997 SCMR 343), held that an officer superannuating during disciplinary proceedings ceases to be a civil servant and was rightly so excluded by Section 2(1)(b) of The Punjab Service Tribunals Act, 1974. The Supreme Court in the case of Muhammad Zahoor Khan V/S Government of Pakistan through Secretary Establishment and other, 2010 PLC (C.S.) 559, held that the disciplinary proceedings against an employee must be completed before his date of retirement.

16. In our view, pensionary benefits cannot be stopped on account of any charges; and, are violative of the law laid down by the Supreme Court in the case of Haji Muhammad Ismail Memon, supra, pensionary benefits of the judges of superior Courts, PLD 2013 SC 829, and L.A. Sherwani and others v. Government of Pakistan through Secretary, Finance Division, Islamabad and others, 1991 SCMR 1041.

17. In view of the above facts and circumstances of the case, this petition is allowed. The competent authority of the respondents is directed to unblock the personal ID of Petitioner and release the pensionary amount / other ancillary benefits of the petitioner under the impugned order, from the date of her retirement, within two weeks from the date of receipt of this order.

Judge

Judge