

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

CP No. D- 1411 of 2023

[Syed Sartaj Ali Shah Fazlani v. Province of Sindh & others]

BEFORE:

JUSTICE ADNAN-UL-KARIM MEMON

JUSTICE RIAZAT ALI SAHAR

Mr. Masood Illahi Sahito, Advocate for Petitioner

Mr. Rafiq Ahmed Dahri, Asstt: A.G. along with Munawar Ali District Food
Controller, Hyderabad

Date of hearing:

& Decision:

16.12.2025

ORDER

ADNAN-UL-KARIM MEMON, J - The Petitioner, through instant Petition, has sought directions to respondents 1 to 5 to pay him pension, gratuity, benevolent fund, GP Fund, LPR, and other back benefits, if any, up till now forthwith.

2. The petitioner was appointed as Food Supervisor on dated 03.08.1992 at Hyderabad and reached the age of superannuation in November, 2022; that he is being victimized time and again based on the issues settled and decided based on the reports of inquiry committees; that, from 05.07.2018 to 07.02.2020 petitioner wrote letters to respondent No.3 raising the issue of damage of Wheat Bags/stock, if timely steps were not taken to protect the grain bags but neither director nor his subordinates took pain to respond to the voice of Petitioner; that, in the months of October to March. In 2019, some wheat stock was released to the Mills. However, petitioner again wrote letter dated 07.02.2020 to respondent No.4 regarding release of remaining stock of wheat and also pointed out that if the same is not released in time, or fumigation through reliable company the same will be turned to dust; that inspite of continuous correspondence and clear pointation regarding damage of Wheat stock, respondents did not take timely steps resultantly 446 Wheat bags turned into dust; that the damage was caused due to negligence of respondents which was highlighted by Print and Social Media. Besides, Respondent No.3 also formed a committee under the headship of Storage Officer regarding condition of wheat crop at go-down on 01.08.2018 and committee submitted a detailed report dated 20.08.2018, which clearly mentioned about condition of wheat stock available at Hali Road, go-down, Hyderabad. Despite such report on record, respondents did not take any measures and let the wheat stock turned into dust; that, it was all due to

negligence of respondents 4 & 5 and superior officers but they held the petitioner responsible for such loss and caused undue harassment; that, petitioner who is continuously being harassed by respondents 4 & 5, filed application in the office of respondent No.3 with request that detailed inquiry be conducted and respondent No.2 also recommended the inquiry, as such INQUIRY was given to respondent No.4 (Deputy Director) who submitted detailed inquiry report in the office of respondent No.3 and same was communicated to respondent No.2. The Inquiry Report clearly show that damage caused because of reasons mentioned above whereas, both respondents 2 & 3 did not take any action on the basis of report submitted by the Deputy Director (Region); that, on dated 14.04.2020, petitioner was served with notice/letter by respondents after long period of 02 years and made the petitioner responsible for shortage and damage of wheat stock and wanted him to pay the cost of damage; that earlier the Petitioner filed CP No. D- 1522 of 2022, which was disposed of on 13.10.2022 in the following terms:-

“9. Prima facie, it is also a fact that the damages were caused due to longer storage and non-lifting of stock in time, and the entire Food Department is jointly and severally responsible for causing damage to wheat stock; they cannot shift the burden to each other just to save their skin.

10. Keeping in view the above discussions, detailed circumstances, and inspection report, we dismissed this petition along with pending applications with the findings that the petitioner cannot be held solely responsible for the losses caused to the public wheat stock. Let Chief Secretary, Sindh initiate departmental proceedings and fix responsibility upon all the delinquent including high officials in whose lethargic attitude this loss was caused, and ensure recouping the loss so caused at the hands of all concerned; however, the petitioner shall not solely be made as a scapegoat just to save others officials, the aforesaid exercise shall be undertaken within two weeks, after providing meaningful hearing to them; and, submit the report without fail. In case of failure, the Chief Secretary, Sindh shall appear in person without fail.”

3. That, subsequently Chief Secretary initiated the proceedings submitted his report after hearing the petitioner and others but despite of direction of this Court for not making the petitioner scapegoat, and just to save other officials, violated the order passed by this court and made the petitioner solely responsible and fixed the whole liability over the petitioner for recoup of shortage stock of wheat; that the observation of respondent No.1 in finding No.1 (iii) of his report reads as under:

"as per decision of the committee, the shortage of 34.487 M. Tons shall be recovered from the Central Incharge of dispatching WPCs of District Dadu, whereas the missing stock of 892 PP Bags (44.6 M Tons) shall be recovered from the petitioner".

4. That the petitioner has been retired and he has been deprived of his retirement benefits, i.e., pension, gratuity, benevolent fund, GP Fund, LPR, etc, and due to non-receipt of pension and pensionary benefits, the petitioner and his family are suffering, hence the instant Constitutional Petition.

5. Learned A.A.G submitted that the consolidated statement of outstanding wheat and bardana, furnished by the District Food Controller, Hyderabad vide letter dated 09.09.2024 and duly endorsed by the Deputy Director Food, Hyderabad Region vide letter dated 23.09.2024, has been disposed of. Further, the petitioner's pension papers along with all relevant documents have been forwarded to the District Accounts Officer, Hyderabad, vide letter dated 08.10.2024.

6. In view of the foregoing facts and circumstances, we have noticed that the petitioner, who retired in November 2022, has been deprived of his lawful pensionary benefits for no justifiable reason. The record reflects that the alleged loss of wheat stock occurred due to prolonged storage, non-lifting of stock, and collective negligence of Food Department officials. This Court, in CP No. D-1522 of 2022 had categorically held that the petitioner could not be made solely responsible for the loss and had directed the Chief Secretary, Sindh, to fix responsibility upon all delinquent officials after providing a meaningful hearing. Despite the said clear directions, the subsequent proceedings resulted in fastening entire liability upon the petitioner alone, which appears to violate the spirit and letter of the earlier judgment. In any case, the pendency of recovery proceedings or departmental issues cannot, under settled law, justify withholding pension and other retirement benefits, which are not a bounty but a vested and constitutional right of a retired government servant. It has been stated by learned AAG that the consolidated statement of outstanding wheat and bardana has already been disposed of and that the petitioner's pension papers, along with relevant documents, have been forwarded to the District Accounts Officer, Hyderabad.

7. Accordingly, this petition is disposed of with direction that the respondents shall ensure release of the petitioner's pension, gratuity, benevolent fund, GP Fund, LPR, and all other admissible retiring benefits forthwith, strictly in accordance with law, if not already released. Any lawful recovery, if so advised, shall be pursued separately in accordance with due process and without withholding the petitioner's pensionary benefits.

JUDGE

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