

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Constitution Petition No. D-10 77 of 2025
(Rajab Ali Ghanghro Vs President ZBTL & others)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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Before;

Adnan-ul-Karim Memon, J;
Abdul Hamid Bhurgari, J;

Mr. Noor Hassan Malik, advocate for the petitioner.
 Mr. Zahid Mehmood Mughal, advocate for ZTBL, along with Syed Mujtaba Ahmed Gilani, General Manager ZTBL Sukkur.
 Syed Naveed Ahmed Shah, Deputy Attorney General, Pakistan.

Date of hearing and order: 16-06-2026.

ORDER.

Adnan-ul-Karim Memon J:- The petitioner, a retired Vice President (BPS-19) of Zarai Taraqiati Bank Limited (ZTBL), Sukkur, has approached this Court seeking release of his post-retirement benefits, including gratuity, commutation, leave encashment (LPR), and monthly pension. He states that he served the ZTBL with an unblemished record and retired on 30.04.2025 upon attaining superannuation. According to him, despite repeated requests, the respondent-ZTBL has unlawfully delayed and withheld his terminal benefits without any valid justification, in a retaliatory manner following earlier litigation initiated by him regarding his transfer.

2. The petitioner's counsel contends that pensionary benefits are vested and legal rights protected under law and cannot be withheld based on vague or belated administrative objections. He argues that no formal disciplinary proceedings, charge-sheet, or recovery order was ever issued against him during service, and that reliance on stale audit observations of 2020 and 2022 cannot justify withholding of his lawful dues. He further submits that the ZTBL has failed to comply with its own SOPs, which require finalization of liabilities before retirement, and that the alleged liabilities are either not attributable to him or are secured against mortgaged assets, thus not recoverable from his terminal benefits. He relies on constitutional guarantees under Article 9 of the

Constitution and relevant case law to argue that pensionary benefits cannot be withheld arbitrarily. He prayed to allow this petition.

3. In response, the respondents admit the petitioner's retirement on 30.04.2025 and acknowledge that the pension, along with the medical allowance, has already been initiated. However, they justify withholding certain terminal benefits on the ground that audit paras and financial irregularities detected during the petitioner's service remain unresolved. According to them, significant liabilities amounting to Rs. 57,89,214/- were identified in the No Demand Certificate process, arising from missing loan files and defective mortgage/security cases. They maintain that under ZTBL policies and SOPs, such outstanding liabilities can be adjusted against pensionary benefits, and in some cases, retained until settlement.

4. The learned AAG, assisted by the counsel for the respondent bank, argues that the petitioner failed to comply with audit directions during service and that the alleged irregularities fall within categories permitting recovery/retention. They also raise preliminary objections regarding maintainability of the instant petition, including the availability of an alternate remedy, lack of locus standi, and territorial jurisdiction of this Court, asserting that the writ petition is not maintainable under Article 199 of the Constitution against the respondent ZTBL. They prayed to dismiss the petition.

5. In rebuttal, the petitioner's counsel denies personal liability for the audit objections, contending that many of the alleged irregularities occurred outside his posting period or pertain to responsibilities of other branch managers. He emphasizes that no departmental proceedings were ever concluded against him and that, under the bank's own SOPs and credit manual, the disputed amounts do not qualify as recoverable or retainable. He further argues that withholding of his benefits after retirement is arbitrary, malafide, and contrary to both law and judicial precedents, which hold that pensionary benefits cannot be delayed or withheld based on inconclusive audit objections.

6. We have heard the learned counsel for the parties and perused the record with their assistance.

7. The dispute centres on whether unresolved audit observations and alleged financial liabilities can lawfully justify the withholding of a retired employee's terminal benefits, or whether such benefits, being vested rights, must be released unconditionally despite pending internal assessments.

8. In principle, a public servant retires automatically upon attaining the prescribed age of superannuation, whereupon the employer-employee relationship ceases, and the competent authority is bound to issue the retirement notification and process pension papers. A pending inconclusive audit objection, not converted into disciplinary proceedings during service, does not authorize withholding retirement benefits. Moreover, where pension or gratuity is not finalized within one month of retirement, the law mandates payment of provisional or anticipatory pension, recognizing pension as a vested statutory right that cannot be withheld indefinitely. It is now a settled principle of service jurisprudence that where a government/public servant attains the age of superannuation before conclusion of disciplinary proceedings, if any, the inquiry normally abates unless the rules specifically authorize continuation of proceedings after retirement.

9. The superior courts have consistently held that mere pendency of inquiry or allegations does not authorize withholding of pensionary benefits, especially when the proceedings had not culminated in a finding of guilt during the service tenure of the employee. Moreover, the Supreme Court of Pakistan has repeatedly held that a pension is not a bounty or charity, but a statutory and vested right earned by a civil servant after long service. In **PLD 2007 SC 35** (*Haji Muhammad Ismail Memon v. Government of Sindh*), it was held that pensionary benefits cannot be withheld merely based on allegations or pending proceedings unless the employee is found guilty in accordance with law. Similarly, the Supreme Court reiterated that a pension cannot be withheld in anticipation of possible disciplinary action unless there exists a lawful order passed under the relevant pension rules after due process. The Supreme Court has also emphasized that pension cases must be finalized well before the date of retirement, and a delay in payment of pensionary dues amounts to a violation of the legal rights of the retired employee. Courts have repeatedly deprecated the practice of departments delaying pension or withholding retirement benefits without lawful justification. It is well settled now that if the inquiry was not concluded before the

employee attained superannuation, the employee stood retired by operation of law. An unfinished inquiry cannot be used to withhold pensionary benefits, which remain a vested statutory right unless guilt is finally determined through due process. While the department may pursue other lawful remedies, it cannot arbitrarily deprive a retired employee of a pension.

10. It is an admitted position that the petitioner has retired from service on 30.04.2025 upon attaining the age of superannuation. It is further not disputed that no formal disciplinary proceedings were ever initiated or concluded against the petitioner during his service tenure, nor has any final adjudication been placed on record establishing his personal liability through a competent forum. The respondents' case is primarily founded upon audit observations and internal liability assessments reflected in the No Demand Certificate, which are yet to attain finality through any adjudicatory process.

11. This Court is mindful of the settled principle that pensionary benefits, gratuity, commutation, and leave encashment constitute vested rights of an employee upon retirement. Such benefits are not like bounty or ex gratia payments, but form part of deferred wages earned through long service. The law is equally settled that withholding of such benefits must be supported by clear statutory authority, final determination of liability, or subsisting disciplinary proceedings. Mere audit objections or internal administrative notes, without crystallization of liability through due process, cannot form a lawful basis for indefinite withholding of terminal dues.

12. In the present case, the respondents have relied upon audit paras about the years 2020 and 2022, which admittedly remained unresolved during his tenure of service. However, no material has been placed before this Court to demonstrate that such observations were ever converted into formal recovery orders, departmental proceedings, or judicial determinations fixing personal liability upon the petitioner. Internal SOPs of the bank, even if relied upon, cannot override constitutional protections or substitute the requirement of due process where civil consequences of deprivation of property rights are involved.

13. The contention that an alternate remedy is available also does not advance the respondents' case in the peculiar facts of this matter, where the grievance relates to continuous withholding of

post-retirement benefits in alleged violation of fundamental rights and absence of final adjudication. Similarly, jurisdictional objections cannot defeat the claim where the cause of action has admittedly arisen within the territorial limits of this Court.

14. This Court also notes that administrative efficiency and financial accountability of institutions are important considerations; however, such objectives must be pursued within the framework of law. Recovery of alleged losses, if any, must be preceded by a lawful determination of responsibility. The concept of “audit objection” cannot be equated with “established liability” to justify the deprivation of earned retirement benefits indefinitely.

15. The Fundamental Rule 54-A is clear and does not support the case of the respondents, that if a Government/public servant, who has been suspended pending an inquiry into his conduct attains the age of superannuation before the completion of the inquiry, the disciplinary proceedings against him shall abate and such Government/public servant shall retire with full pensionary benefits and the period of suspension shall be treated as a period spent on duty. As per Fundamental Rule 54-A, read with SOPs of the Bank, disciplinary proceedings cannot be continued or conducted as the petitioner ceased to be an employee of the respondents on attaining the age of superannuation. The law provides that the period of suspension followed by reinstatement or superannuation counts towards qualifying service for a pension.

16. The Government/public sector Bank may withhold, withdraw, or recover pension only where a pensioner is found guilty of grave misconduct, negligence, or convicted by a competent court in departmental or judicial proceedings relating to service, initiated within the prescribed period after retirement. However, where an employee attains the age of superannuation before completion of a pending inquiry, the disciplinary proceedings abate, and the employee is entitled to retire with full pensionary benefits, with the suspension period treated as duty. For the reason that a pension is a vested statutory and property right earned through past service, not a bounty, gratuity, or matter of governmental discretion. It may be withheld or reduced only in accordance with statutory rules and upon a finding of misconduct or loss caused to the State. Mere pendency of audit para or contemplated initiation of disciplinary or criminal proceedings is insufficient to withhold pension or commutation benefits.

17. The pension rules require competent authorities to ensure that a public servant begins receiving pension immediately upon retirement, as delay causes undue hardship. The responsibility for the timely preparation and completion of pension papers rests with the Head of Department, who must initiate the process well before retirement so that the pension is sanctioned and paid without delay.

18. Accordingly, this Court holds that the respondents have failed to establish any lawful, finalized, or adjudicated basis for withholding the petitioner's gratuity, commutation, and other terminal benefits. The continued retention of such benefits based on unresolved audit observations is arbitrary, without lawful authority, and contrary to settled principles of service jurisprudence. Accordingly, the respondents were/are obligated to release the service benefits upon the superannuation of the employee.

19. Resultantly, the petition is allowed. The respondents are directed to forthwith release all outstanding admissible post-retirement benefits of the petitioner, including gratuity, commutation, leave encashment, and all other withheld dues, after completing codal formalities. All pending applications are disposed of in the above terms.

Let a copy of this order be communicated to the respondents for compliance in time. In case of failure, stern action shall be taken against all delinquents who are instrumental in non-compliance with the order of this Court.

Judge

Judge