

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Constitutional Petition No. D-453 of 2026
(Mst. Shabana versus Province of Sindh & others)

Date	Order with signature of Judge
------	-------------------------------

Before:-

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order: 08.4.2026

Mr. Rashid Wasan advocate for the petitioner along with petitioner
Mr. Ali Safdar Depar, Assistant AG

ORDER

Adnan-ul-Karim Memon, J. Petitioner Mst. Shabana has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking the following relief: -

- a. That this Hon'ble Court may kindly be pleased to direct the respondents No.1 to 5 to transfer the pension of deceased brother Muhammad Ali, Retired/Deceased Peon (BS-02) in the name of the petition being sister of late Muhammad Ali;*
- b. That this Hon'ble Court may kindly be pleased to direct the respondents No.1 to 5 to release all previous stopped pension payment in the name of petitioner including all dues;*
- c. Costs of the petition may be saddled upon the respondents.*

2. The case of the petitioner is that her deceased brother, Muhammad Ali was a pensioner, and after his death the family pension was being drawn by their father, Abdul Rehman, through his personal ID. The petitioner states that the father has also since passed away on 22.01.2023, leaving her as the sole surviving legal heir with no earning member in the family. It is further submitted that due to the death of both her brother and father, the petitioner is facing acute financial hardship. She accordingly approached the office of the Accountant General Sindh for transfer of the family pension in her favour and submitted all requisite documents, including the Transfer of Family Pension Form and Descriptive Roll.

3. The petitioner's counsel argues that the District Education Officer (Primary), District South, Karachi, duly supported her case by issuing correspondence to the Accountant General Sindh for processing of the pension transfer, and also directed the opening of a bank account in her name for pension disbursement. Despite completion of all codal and legal formalities and submission of all required documents, the petitioner submits that the family pension has not yet been transferred in her name, nor have arrears of withheld pension been released, without any lawful justification. In these circumstances, the petitioner has approached this Court seeking directions to the respondents to transfer the family pension of her deceased brother Muhammad Ali in her favour as his sister and legal heir, release all withheld/arrears of pension.

4. On the other hand, the learned Assistant Advocate General has raised a preliminary objection to the maintainability of the petition, contending that the petitioner, being the sister of the deceased government servant, is not an eligible legal heir for grant or transfer of family pension under the applicable pension rules. It is submitted that, as per the record of the Accountant General Sindh, the deceased employee was in receipt of pension, which after his death was being drawn by his father, Abdul Rehman, until his demise on 22.01.2023. Thereafter, the petitioner sought transfer of the family pension in her favour. The learned AAG submits that under the West Pakistan Civil Servants Pension Rules, 1963, as amended by Notification No. FD(SR-III)3-1165/2022 dated 07.07.2022, the definition of "family" for pensionary benefits has been restricted, and siblings do not fall within the category of eligible dependents for family pension in the prevailing statutory framework. Reliance is further placed on the Finance Department Circular dated 05.12.2022, which clarifies that entitlement of dependents such as widowed or divorced daughters and similarly placed claimants is strictly determined at the time of death of the pensioner/family pensioner, and any subsequent change in status does not confer or revive entitlement. It is further argued that pensionary rights, though statutory in nature, are strictly governed by the relevant rules, and no claim can be sustained outside the expressly defined class of beneficiaries. He emphasized that pensionary benefits must be determined strictly in accordance with the governing rules and that neither equitable considerations nor administrative indulgence can create entitlement beyond the statutory scheme. In view of the above legal position, the learned AAG contends that the petitioner does not fall within the legally recognized category of dependents entitled to family pension of her deceased brother, and therefore has no enforceable right to claim its transfer in her favour. Consequently, it is prayed that the petition be dismissed along with pending applications.

5. The learned counsel for the petitioner, while rebutting the preliminary objection raised by the learned Assistant Advocate General, submits that the objection is misconceived, contrary to the settled principles governing family pension, and based on an unduly narrow interpretation of the applicable rules. It is contended that the petitioner is the only surviving legal heir of the deceased government servant, as both the original pensioner's father, who was already drawing family pension, has also expired. Once the entire line of nearer dependents is exhausted, the legal and beneficial object of pension rules requires that the remaining dependent family members be considered for continuation of pensionary benefits, particularly where no other claimant exists. The learned counsel further submits that the reliance placed on Notification No. FD(SR-III)3-1165/2022 dated 07.07.2022 and the Circular dated 05.12.2022 is misplaced and

cannot be applied in a manner so as to defeat accrued pensionary rights in a continuing chain of dependency. It is argued that these amendments and clarifications cannot operate retrospectively to extinguish a legitimate claim arising from an existing pension stream, particularly where the family pension had already been lawfully sanctioned and was in continuous receipt within the family. It is further submitted that pension is a valuable statutory right flowing from service, and although its distribution is governed by rules, such rules must be interpreted in a liberal, benevolent, and purposive manner in favour of the dependents of the deceased employee. The object of family pension is social security and financial protection of the deceased employee's family, and not to create technical impediments to deny subsistence to the only surviving dependent. The learned counsel also submits that the interpretation advanced by the learned AAG ignores the factual matrix that the petitioner's father, who was already receiving the family pension, has also passed away, thereby creating a fresh situation of complete cessation of earlier dependency. In such circumstances, the petitioner, being the sole surviving member of the deceased employee's family, is entitled to step into the shoes of the last beneficiary for continuation of pensionary benefits. It is further argued that the interpretation of the rules, when read harmoniously with their welfare objective, supports the petitioner's entitlement rather than negates it. The learned counsel emphasizes that a hyper-technical interpretation restricting entitlement only to a rigid list of beneficiaries, without considering the exhaustion of prior dependents and absence of any competing claimant, would defeat the very purpose of family pension rules. He submits that where ambiguity exists, the rules must be construed in favour of extending social security benefits rather than curtailing them. In view of the above, it is prayed that the preliminary objection raised by the learned AAG be rejected, and the petition be held maintainable, with directions for transfer of family pension in favour of the petitioner along with release of all admissible arrears.

6. This matter involves determination of entitlement to family pension under Rule 4.10 of the West Pakistan Civil Servants Pension Rules, 1963, as amended, read with Notification dated 07.07.2022 and relevant clarification issued vide Circular dated 05.12.2022, which requires further factual verification regarding dependency of the petitioner after the death of her father, who was admittedly the last recipient of the family pension.

7. The core controversy raised in the present petition pertains to whether the petitioner, being the sister of the deceased government servant and claiming to be unmarried and dependent after the death of her father (who was previously drawing the family pension), can be considered for continuation/transfer of family pension in light of the restrictive definition of "family" introduced through the

amended pension regime and the legal position laid down by the Honourable Supreme Court in *Province of Sindh v. Mst. Sorath Fatima* (PLD 2025 SC 865).

8. Without expressing any final opinion on the merits of the case, this Court is of the view that the issue of “dependency in fact” asserted by the petitioner requires proper examination on the basis of cogent documentary evidence, particularly to determine whether the petitioner was financially dependent upon her late father at the time of his death and whether she satisfies the threshold of dependency, if any, permissible under the applicable legal framework.

9. Learned counsel for the petitioner is, therefore, directed to place on record relevant documentary evidence including but not limited to proof of residence, financial dependency, income status, and any other material substantiating the claim that the petitioner had no independent source of income and was wholly dependent upon her deceased father after the death of the original pensioner’s family pension holder.

10. In order to assist the Court on the legal and constitutional issues involved, Malik Naeem Iqbal, learned Senior Advocate of this Court, is appointed as *amicus curiae* to render assistance on the interpretation of Rule 4.10 of the West Pakistan Civil Servants Pension Rules, 1963, as amended, and the impact of the judgment in *Province of Sindh v. Mst. Sorath Fatima* (PLD 2025 SC 865) on claims of surviving female dependents. Office is directed to provide copies of the memo of petition, annexures, order sheets, as well as comments, if any, filed by the respondents to the learned *amicus curiae* well before the next date of hearing.

11. The Finance Secretary, Government of Sindh, and the Accountant General Sindh are directed to depute their respective authorized representatives to assist the Court on the next date of hearing. They shall also ensure that complete instructions are available for proper assistance of the Court. The office is further directed to issue notices to all concerned through all available modes including electronic means and WhatsApp application to ensure effective service for the next date of hearing.

12. In view of the above, the matter is adjourned to a date in the next two weeks, to be fixed by the office, for further proceedings and assistance of learned *amicus curiae*.

JUDGE

JUDGE