

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
C.P. No.D-5602 of 2025  
(Nasir Ahmed Shaikh versus Province of Sindh & others)

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Date	Order with signature of Judge
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Mr. Justice Adnan-ul-Karim Memon  
Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order:- 08.04.2026

Mr. Maqbool-ur-Rehman advocate for the petitioner.  
Mr. Abdul Jalil Zubedi, AAG, along with Ali Asghar Mahar,  
Focal Person, Home Department, and Raza Mian DSP,  
Legal, CPO Karachi

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**ORDER**

**Adnan-ul-Karim Memon, J.** – The petitioner Nasir Ahmed Shaikh has filed the captioned Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking the following relief(s):-

1. *To direct the Respondents No. 2 & 3 to finalize the process of pension and pensionary benefit and pay the same to the petitioner at the earliest;*
2. *That the petitioner already retired from service on 07<sup>th</sup> April, 2021. Notification issued by the Respondent No.2 (Home Secretary Sindh) vide Notification NO. POL-1-HD/02-15/2021 dated 26<sup>th</sup> March 2021 issued, but to date in spite of repeated calls, the case of pension and pensionary benefit of the petitioner remains at stake and needs to be finalized forthwith;*

2. The Petitioner is a former Deputy Superintendent of Police, served in the Police Department, and was posted in Manghopir, Karachi West. During his service, two criminal cases, FIR Nos. 35/2021 and 28/2021 under Section 395 PPC were registered against him, alleging involvement in robbery incidents. The Petitioner contested both cases; in one case, he was acquitted under Section 265-K Cr.P.C. due to non-appearance of the complainant, while in the other, proceedings were kept in abeyance after failure of the prosecution to produce witnesses. Despite the pendency of criminal cases, the Respondents initiated departmental proceedings against the Petitioner. A show-cause notice dated 17.03.2021 was issued, to which the Petitioner submitted a reply denying the allegations and asserting false implication. Subsequently, a departmental inquiry was conducted, and relying primarily on the allegations in FIR No. 28/2021, the Petitioner was found guilty of misconduct and was awarded the major penalty of dismissal from service vide order dated 05.04.2021 under the Sindh Police (Efficiency & Discipline) Rules, 1988. The Petitioner submitted that prior to his dismissal, he had already been retired upon attaining the age of superannuation through a notification dated 26.03.2021. He further asserts that no proper inquiry, as mandated by law, was conducted and that he was denied a fair opportunity of hearing. His departmental appeal was dismissed, and subsequent mercy appeals remained undecided. Since his retirement/dismissal, the Petitioner has not been paid any pension or retirement benefits, causing severe financial hardship. Aggrieved, the Petitioner has invoked the constitutional

jurisdiction of this Court seeking, inter alia, the setting aside of the dismissal order and directions to the Respondents to release his pension and other retirement benefits.

3. On the other hand, the learned Assistant Advocate General (AAG) submits that the Petitioner was involved in serious misconduct, duly established through a departmental inquiry conducted by a competent officer. It is contended that the Petitioner was afforded due opportunity, including issuance of a show-cause notice and personal hearing; however, he failed to avail such opportunity, resulting in an ex parte decision. The dismissal order, therefore, was passed lawfully in accordance with the applicable rules. The learned AAG further argues that departmental proceedings are independent of criminal trials, and acquittal or pendency of criminal cases does not absolve the Petitioner of departmental liability. It is maintained that since the Petitioner was dismissed from service on account of grave misconduct, he is not entitled to pensionary benefits under the relevant rules. The appeal was duly processed, and the matter regarding the mercy petition is pending before the competent authority. In view of the above, the AAG prays for dismissal of the petition on the ground that it is not maintainable and devoid of merit.

4. We have heard the learned counsel for the parties and have carefully examined the record.

5. The core controversy in the present petition revolves around the legality of the dismissal order dated 05.04.2021, particularly when the Petitioner had already been notified for retirement on 26.03.2021, and his entitlement to pensionary benefits.

6. At the outset, the objection regarding maintainability is not sustainable. It is now a settled principle that where the action of a public functionary is without lawful authority, arbitrary, or violative of due process, constitutional jurisdiction under Article 199 of the Constitution can validly be invoked. The Supreme Court held that the availability of an alternate remedy is no bar where fundamental rights are infringed, or action is coram non iudice.

7. On merits, it is an admitted position that the Petitioner was issued a general notification of retirement dated 26.03.2021 upon attaining the age of superannuation. The subsequent dismissal order dated 05.04.2021, therefore, prima facie raises a serious legal question as to whether a person who has already stood retired from service could be dismissed thereafter without recourse to the proper legal framework governing post-retirement proceedings. It is a settled proposition that after retirement, the relationship of master and servant ceases, and any penal action must strictly conform to the relevant pension rules. The Supreme Court held that after

retirement, only such proceedings can be continued which are permissible under the law, and benefits cannot be withheld without lawful authority.

8. Furthermore, a pension is no longer considered a bounty but a vested right/property right of a retired employee. The Supreme Court has categorically held that pensionary benefits cannot be withheld except in accordance with law and after fulfilling due process requirements. Any arbitrary withholding of pension amounts to a violation of fundamental rights.

9. In the present case, although the learned AAG contended that the Petitioner was dismissed after a departmental inquiry, the record reflects that the said inquiry culminated in an ex parte decision. Even if it is assumed that notices were issued, the requirement of fair hearing and proper inquiry, as envisaged under law, must be meaningful and not merely procedural. The principles of natural justice, particularly the right of adequate opportunity of defence, are to be strictly adhered to.

10. It is also a settled principle that departmental proceedings are independent of criminal proceedings. However, such independence does not absolve the department from proving misconduct through cogent evidence in a lawful inquiry. Mere registration of FIR or allegations cannot substitute proof of misconduct.

11. Another significant aspect is that even in cases of dismissal, pensionary benefits cannot be denied automatically unless the rules specifically provide so and the competent authority passes a reasoned order in accordance with law. In the absence of such a determination, complete withholding of pension is illegal. The Supreme Court held that a pension cannot be withheld indefinitely without final adjudication.

12. In the present case, admittedly, the Petitioner has not been paid any pension or retirement benefits since 2021, and no final determination under the relevant pension rules has been placed on record. Such inaction on the part of the Respondents is arbitrary, unjustified, and violative of settled law.

13. In view of the above, this Court is of the considered opinion that the all departments of government of Sindh were/are under a legal obligation to finalize the pension case of the Pensioners in accordance with law; the indefinite withholding of pensionary benefits without lawful determination is illegal cannot be tolerated in future. However in the present case, the issue of validity of dismissal order of the petitioner, particularly in light of prior retirement, if any requires lawful reconsideration by the competent authority, within two months, if he is found entitled recoile the dismissal order.

14. Accordingly, the petition is disposed of with the directions to the Respondents to finalize the pension and pensionary benefits of the Petitioner

strictly in accordance with law within a period of two months just after scrutiny as discussed supra; If any portion of pension is sought to be withheld on account of alleged misconduct, a speaking order shall be passed after providing an opportunity of hearing to the Petitioner; The question of legality of dismissal order dated 05.04.2021 shall also be examined by the competent authority in accordance with law within two months.

15. With these observations, the petition along with pending applications) stands disposed of.

JUDGE

JUDGE

Shafi