HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.D-2145 of 2025

[Mst. Farkhunda vs. Federation of Pakistan and others]

Before:

JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE MUHAMMAD JAFFER RAZA

Petitioner:	Through Mr. Zahoor-ul-Hussain Sangi advocate
Respondent No.1	Through Mr. Ghulam Abbas Sangi Assistant Attorney General a/w Assistant Director PCRWR [**Shahnawaz Memon**]
Date of hearing	27.10.2026
Date of Decision	27.10.2026

O R D E R

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ADNAN-UL-KARIM MEMON J The petitioner is the widow of late Syed Zohaib Habib, who was appointed as Lower Division Clerk (BPS-07) in the Pakistan Council of Research in Water Resources (PCRWR) on 19.03.2010 under the Prime Minister's Assistance Package for families of government employees. His services were subsequently regularized, and he was serving in BPS-11 when he died on 09.02.2024, leaving behind the petitioner, two minor sons and his mother. The petitioner claims entitlement to family pension on 14 years' service, gratuity, benevolent fund, group insurance, leave encashment and other admissible benefits under the applicable rules and the Prime Minister's Assistance Package, including lump-sum compensation, allotment of a residential plot and employment on compassionate grounds. She submitted that the respondents have unlawfully withheld these benefits despite repeated requests, in violation of the PCRWR Act, 2007, applicable government rules and her constitutional rights of pension. She seeks directions for release of all the admissible benefits to herself and the legal heirs of the deceased.

2. Learned A.A.G contended that PCRWR became an autonomous body corporate under the PCRWR Act, 2007, with effect from 14.04.2007, whereas the deceased was appointed on 19.03.2010 and, therefore, was not a civil servant entitled to pension and gratuity under the Civil Servants Pension Rules, 1977. He maintains that, under Section 25(c) of the Act, the option to retain civil-servant status and associated pensionary privileges was available to employees already serving before the Act's commencement, while employees appointed subsequently are governed by the contributory provident fund scheme applicable to autonomous

bodies as embodied in the law. Accordingly, the petitioner has received Rs.2,25,346/- as contributory provident fund and Rs.16,083/- as salary dues, whereas her claim for pension, gratuity and group insurance was declined by the Ministry of Water Resources, on the aforesaid analogy. Regarding the Prime Minister's Assistance Package, he submits that processing of the petitioner's claim was initially restrained due to proceedings before the Islamabad High Court and subsequently affected by the Supreme Court judgment dated 18.10.2024 concerning appointments under the deceased quota. However, in view of the subsequent clarification issued by the Federal Constitutional Court on 27.02.2026 and the Establishment Division's Office Memorandum dated 24.06.2026, the petitioner's claim for employment needs to be processed under the applicable policy, subject to fulfilment of codal formalities. The respondents undertake to abide by the Court's determination regarding benefits admissible under the Assistance Package. He accordingly seeks disposal of the petition. However, he adds that the application of the petitioner on the aforesaid issue is under consideration but halted due to pendency of the present petition vide letter dated 8.4.2026.

3. We have heard learned counsel for the petitioner and learned AAG and have examined the available record.

4. The principal question requiring determination is whether the family of the deceased employee, who was appointed after the commencement of Pakistan Council of Research in Water Resources Act, 2007, is entitled to pensionary benefits under the Civil Servants Pension Rules, 1977, or is governed by the service conditions applicable to employees of an autonomous body, and could only reimburse the contributory fund.

5. It is an admitted position that the deceased was appointed on 16.8.2021 w.e.f. 19.03.2010, whereas the PCRWR Act, 2007, had already come into force on 14.04.2007. Section 25(c) of the Act preserves the status and privileges of civil servants, including pension and gratuity, for regular employees of the Council serving before the commencement of the Act who exercise the prescribed option. The deceased, having been appointed after the commencement of the Act, prima facie does not fall within that protected category. Similarly, Section 23(b), which continues the pre-existing rules, regulations and bye-laws of the Council, does not, by itself, confer pensionary rights upon an employee who is otherwise not covered by the applicable pension scheme. The mere regularization of his services, placement in basic pay scales applicable to government employees, or deduction of statutory taxes and other contributions does not independently establish his status as a civil servant or create an entitlement to pension and gratuity except the exceptions as discussed supra. Consequently, in the absence of any applicable rule, regulation or other lawful basis extending such benefits to the deceased, the

petitioner’s claim for family pension and gratuity cannot be accepted at this stage merely on the basis of length of his service of 14 years.

6. However, the claim for benefits under the Prime Minister’s Assistance Package requires separate consideration. The deceased died on 09.02.2024, before the Supreme Court judgment dated 18.10.2024 concerning appointments under the deceased quota. The respondents themselves acknowledge that the subsequent clarification issued by the Federal Constitutional Court on 27.02.2026, followed by the Establishment Division’s Office Memorandum dated 24.06.2026, permits consideration of eligible cases in accordance with the applicable policy. Therefore, the petitioner’s claim cannot be rejected solely on the ground of the subsequent withdrawal of the deceased-quota appointment provision. The respondents are required to examine her application on the aforesaid issues in accordance with the applicable policy, the aforesaid judicial pronouncements and the prescribed eligibility criteria, if not earlier considered.

7. In these circumstances, the petition is partly allowed to the extent that the respondents are directed to process and decide the petitioner’s claim for benefits under the Prime Minister’s Assistance Package, including employment on compassionate grounds, lump-sum compensation and allotment of a residential plot, to the extent admissible under the applicable policy, through a reasoned order within thirty days of receipt of this order.

8. The claim for family pension, gratuity and other pensionary benefits shall be considered only if the petitioner establishes an applicable statutory or regulatory entitlement beyond the provisions relied upon in the present petition for which it is for the respondents to take decision in accordance with law. The benefits already paid to the petitioner shall, however, be duly accounted for, and any further admissible dues, including benevolent fund, group insurance and leave encashment, shall be determined and released in accordance with the governing rules, if not earlier released.

JUDGE

JUDGE

Karar_Hussain/PS*