

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Before:

Mr. Justice Abdul Maalik Gaddi

Mr. Justice Zulfiqar Ahmed Khan

C.P No.D-2212 of 2016

Ghulam Nabi PETITIONER.

Vs.

Federation of Pakistan and others..... RESPONDENTS.

1. For orders on M.A 2985/17
2. For orders on office objection
3. For Katcha Peshi.

09.05.2017.

Mr. Muhammad Ramzan, Advocate for petitioner.

Mr. Mumtaz Alam Laghari, Advocate for the respondent
No.2 to 6.

Mr. Fazal Hussain Jamali, Assistant Attorney General.

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O R D E R

ABDUL MAALIK GADDI, J – Through instant Constitutional

Petition the petitioner Ghulam Nabi has prayed for the following relief(s):-

- “a. Direct the respondents to make the payment of all pensionary benefits, monthly pension and due bonus to the petitioner forthwith.
- b. Award other relief(s), which this Honourable Court deems fit, just and proper in favour of the petitioner.”

2. Necessary facts for the disposal of this petition are that the petitioner was an employee of Zarai Taraqiati Bank Limited, posted as

Assistant Vice President at Johi Branch, District Dadu. He has been retired on 15.02.2016 on attaining the age of superannuation as Assistant Vice President vide office memorandum No. Johi/42/2016 dated 15.02.2016 issued by respondent No.6, which is available at Page 17 of the case file. It also appears from the record that at the request of respondent No.4, the petitioner submitted all the required documents for finalization of his pension case to him and despite of his best efforts neither pension/pensionary benefits nor due bonus have been released in favour of the petitioner by the respondents.

3. The respondents No.2 to 6 have filed their parawise comments/objections in which they have taken the plea that while finalizing his pension/retirement benefits the Zonal Office SBA/Manager Zarai Taraqati Bank Limited, Johi Branch informed vide letter dated 06.11.2016 that the petitioner had advanced loan in defective security loan cases in which land was not mortgaged in favour of the Bank. The proportionate share of the petitioner has been worked out as Rs.3409588/- which is more than his above retirement benefits. In the comments it has also been mentioned that the pension/retirement benefits of the petitioner have been withheld due to his involvement in defective security loan cases, while he was posted in Zarai Taraqati Bank Limited Johi Branch and in this respect an inquiry has already been initiated against him.

4. We have heard the learned Counsel for the parties at length and perused the case file with the able assistance of Counsel for the parties.

5. It is an admitted position that the petitioner was an employee of Zarai Taraqati Bank Limited lastly posted as Assistant Vice president

at Johi Branch, District Dadu. He has been retired on 15.02.2016 on attaining the age of superannuation (60 years). It is also an admitted fact that as per instruction of respondent No.4, the petitioner had submitted all required pension papers for finalization of his pension case. It is averred that petitioner had approached to the President of Zarai Taraqati Bank Limited of Pakistan (Respondent No.2) for sanction/payment of usual pension/pensionary bank service benefits and other arrears but he did not pay any heed to it.

6. Learned Counsel for respondents submitted that retirement benefits of petitioner have been withheld due to his involvement in defective security loan cases, while he was posted in Zarai Taraqati Bank Limited Johi Branch and has advanced loan in defective security loan cases by not mortgaging the land of borrowers in favour of Bank in clear violation of rules / instructions framed by the bank authorities.

7. As against this, learned Counsel for petitioner has denied the allegations of respondents and reiterated the submissions as taken in the petition.

8. It is an admitted position that letter dated 06.11.2016 for withholding the pension/pensionary benefits to the petitioner was issued after about nine (9) months of retirement of petitioner without assigning any good reason and without hearing of petitioner. It is also an admitted fact that the inquiry has been initiated by respondents against the petitioner after considerable long period of his retirement.

9. Rule 54-A of Fundamental Rules, 1922 says that if disciplinary action was initiated against civil servants and the action remained inconclusive during course of his service and he retired on attaining

the age of superannuation in the meanwhile, not only unconcluded action would abate but civil servant would also be entitled to full pension/pensionary benefits, but here in this case no inquiry was pending when the petitioner was in service and the action has been taken by the respondents after his retirement and without hearing him.

10. It is settled proposition of law that if element of truth was found in the allegation same must be brought to the notice of civil servant and opportunity be afforded to him to explain his position. Inordinately delayed initiation of disciplinary action against civil servant, would render legitimacy of the action highly doubtful and liable to be set aside and we hold that the action of respondents by not releasing the pensionary benefits to petitioner in the given circumstances is against law and having no legal effect.

11. The Honourable Supreme Court of Pakistan has already directed that all the Government Departments, Agencies and officers deployed to serve the general public within the limit of the constitution as well as by the law shall not cause unnecessary hurdle or delay in finalizing the payment of pensionary/retirement benefits cases and non finalization of the pensionary/retirement benefits within the prescribed period shall amount to criminal negligence and dereliction of the duty assigned to them but in this case despite clear direction of Honourable Supreme Court the petitioner has been deprived of his pension/retirement benefits for the last about fifteen months and due to above act of the respondents, resultantly good governance is suffering badly and the respondents are responsible in any manner in releasing pension/pensionary benefits and due bonus to the petitioner. Such lethargic action of responsible officials is in violation

of Article 9 and 14 of the Constitution of Islamic Republic of Pakistan, 1973 and is against the dignity of human being.

13. During the Course of arguments we have asked the question from the learned Counsel for the respondents that if allegation against the petitioner was true then why the action or disciplinary proceedings were not initiated against him during his service period. He did not reply properly and admitted that all these things came into the notice of the respondents after his retirement. We are not satisfied with the arguments of learned counsel for respondents and he has also failed to justify any valid ground for withholding the pension/pensionary benefits of the petitioner.

14. In view of the above, the petitioner has successfully mad out a case for release of his pension/pensionary/retiring benefits. Consequently, this Constitutional Petition is allowed as prayed with direction to respondents to release the pension/pensionary/retiring benefits to the petitioner within 30 days after receipt of this order without fail and compliance report be submitted to this Court through learned Additional Registrar. Since the petition has been allowed, therefore, listed application has become infructuous and is disposed of.

JUDGE

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