

**IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD**

**Present**

**Mr. Justice Muhammad Iqbal Kalhoro  
Mr. Justice Adnan-ul-Karim Memon.**

**C.P. No.D-218 of 2019**

Elbert son of Faredo .....Petitioner

Vs.

Province of Sind & others .....Respondent

Date of hearing 14.03.2019

Mr. M. Umer Laghari, Advocate alongwith petitioner.

Mr. Allah Bachayo Soomro, Additional Advocate General, Sindh alongwith

Mr. Imamdin, Joint Registrar Cooperative Societies, Sindh, Hyderabad.

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**ORDER**

**ADNAN-UL-KARIM MEMON-J:** - Through the captioned petition, the petitioner is seeking direction to the respondents for issuance of commuted portion of pension with year increase of percentage since his retirement.

2. Brief facts of the case are that on 24.08.1970 the petitioner was appointed as Peon in the office of Registrar Co-operative Society Shahbaz Building, Hyderabad thereafter he was promoted as Naib-Qasid BPS-2 and on 11.09.1996 he was retired from service. After retirement petitioner's gross pension was Rs.1225/46 whereby he was asked by the concerned officials of department that his half payment of pension commuted portion Rs.612/73 shall be deposited in the account of department and deposited amount will be given to him after ten years period whereby petitioner received half payment of pension and half portion was deposited in the account of department; that

since his retirement petitioner has been deprived from his arrears of commutation pension amount.

3. The contention of Mr. M. Umer Laghari, learned counsel for petitioner is that during the period of commutation increase in pension was granted and therefore restoration of pension means the pension inclusive of increments granted over the last 15 years. Therefore, pension should be double of the 50% pension. He added that that the increase has been made in the "pension" and, therefore, the petitioner cannot be deprived of the said increments. In support of his submissions, he referred to Section 19 of the Civil Servants Act, 1973 and I.A. Sharwani and others v. Government of Pakistan through Secretary, Finance Division, Islamabad and others 1991 SCMR 1041 (at 1096). He lastly prayed for direction to the respondents to clear full pensionary benefits of the petitioner in accordance with the judgment passed by honorable Supreme Court of Pakistan as discussed supra.

4. We have heard the parties on the aforesaid issue and perused the material available on record.

5. We are cognizant of the fact that this Court can enforce the fundamental rights of pensioner. The Hon'ble Supreme Court of Pakistan in the aforesaid judgment has categorically ordered to release commutation amount of pensioners, therefore, respondents cannot be allowed to sit in appeal against the judgment passed by Hon'ble Supreme Court of Pakistan and withhold the pensionary benefits of the pensioner. Apparently the payment of the pensionary benefits to the petitioner has been delayed for which the petitioner cannot be held responsible. When confronted with such a situation Joint Registrar Cooperative Societies, Sindh, Hyderabad has consented that they are ready to pay commuted portion of pension to the petitioner after re-calculation.

6. In view of forgoing, this petition is disposed of in the terms whereby the Respondents are hereby directed to re-calculate the commuted portion of pension of petitioner with the increase of percentage yearly since his retirement as admissible under the law. Such amount must be deposited with the Additional Registrar of this Court within a period of 30 days from the date of receipt of this order and paid the same to the Petitioner on proper verification and confirmation.

**JUDGE**

**JUDGE**

**Irfan Ali**