

**ORDER SHEET
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-284 of 2008

Jawaid Ahmed Khan ----- Petitioner

Versus

Divisional Engineer NTC
Hyderabad ----- Respondents

C.P No.D- 2477 of 2017

Jawaid Ahmed ----- Petitioner

Versus

Federation of Pakistan and
Others ----- Respondents

Date of Hearing : 19-03-2019

Petitioner present in person.

Mr. Abdul Hameed Bajwa, advocate for respondents No.1 to 3.

Mr. Aslam Pervez, Assistant Attorney General.

ORDER

ADNAN-UL-KARIM MEMON, J.- Through instant petitions, petitioner seeks directions to the respondents to pay his pensionary dues.

2. Brief facts leading to filing of these petitions are that petitioner was appointed in Telecommunication Department in the year 1974 and served in National Telecommunication Corporation as Assistant Engineer till 24-10-2002 and thereafter he made voluntarily retirement from service as A.E. (MSU)

Hyderabad. Before petitioner's retirement there were disputes between petitioner and the Department with regard to fixation of pay, reduction from commutation, less payment in Account of General Provident Fund so he filed several applications for redressal of his grievance to Department but no fruitful result came out on his applications. It is further stated that petitioner was transferred from his parent Department to K.S.A on deputation from 20-5-2000 to 13-7-2001 vide letter No. M(F)NTC/Pen-Cont. dated 02-03-2001 directing him to return the amount on account of pension contribution, Benevolent Fund, Group Insurance and General provident Fund. In reply, petitioner deposited Rs.60,523/- till 13.7.2001 through two separate Bank drafts, thereafter he deposited Rs.34,730/- in excess and for refunding the same moved application to Director Pay Pension and Funds Department NTC Headquarter Islamabad but the department did not pay any heed to his request. It is also stated that petitioner also moved application to Director NTC Karachi vide ref. No.P1757/DIR/NTC/DT.06-12-2004 for the arrears of salary of 111 days from 01-11-1999 to 19-2-2000, which was granted to him vide letter No.Q-5746/P No.1757/OF-HS/04-05 dated 11-10-2005 directing the concerned officer to adjust the salary of petitioner under his outstanding dues, but no action was taken on the said directions and nothing was paid to him by the department. It is further stated that Telecommunication Department issued letter Ref.No.Q/5746/P#1757/OF-HS/04-05/112 dated 10-11-2004 whereupon petitioners salary was revised upwards from 01.07.1996 to 30.11.2000 to the extent of Rs.9000/- and said letter addressed to concerned officer but arrears is still outstanding. It is also stated that Rs.180429/- on account of G.P. Fund was paid by the department to the petitioner and after calculation Rs.276712/- should have been deposited in the said G.P Fund, therefore, petitioner filed application dated 27-05-2013 but the G.P Fund was not rechecked / revised. It is further stated that at the time of retirement the leave balance of petitioner was 83 days with regard to leave encashment but same neither adjusted nor payment was made to him. It is

also prayed that petitioner was entitled to have benefits from the Department, but department illegally and unlawfully withheld dues of the petitioner having deprived him inspite of his repeated requests and applications.

3. Petitioner who is present in person has reiterated his submissions as discussed in the preceding paragraphs with further assertion that he is entitled for the pensionary benefits as per law which the respondents have deprived him. He lastly prays for allowing the instant petitions.

4. Mr. Abdul Hameed Bajwa, advocate for the respondents/company has referred the comments filed on behalf of respondents/NTC, Hyderabad and argued that these petitions are not maintainable under the law; that the petitioner has been paid as per his entitlement and no further dues are payable on their part.

5. We heard the parties at length and perused the material available on record.

6. To resolve the controversy between the parties this Court vide order dated 22.02.2018 referred the matter to Deputy Accountant General of Pakistan to calculate the lawful dues of the petitioner. Who has submitted his report vide letter dated 08.11.2018 which is available on record. An excerpt of the same is reproduced as under:-

“As regard calculation of Pension, it is stated that the pension of the Petitioner will be calculated according to Section-5, Sl.No.56 of “A MANUAL OF PENSION PROCEDURES” issued by the Pakistan Public Administration Research Centre, Management Services Wing, Establishment Division, Islamabad, which reproduce as under:

“Definition of Terms ‘Emoluments’ and Average Emoluments’ (CSR-486-487) Sl. No.56.

The term “emoluments” means the emoluments which the officer was receiving immediately before his retirement & shall includes:-

- a. Pay as defined in FR-9(21)(a)(i);**
- b. Senior Post Allowance;**
- c. Special Pay of all type and nature;**
- d. Personal Pay;**
- e. Technical Pay;**
- f. Indexed Pay;**

- g. Increments accrued during leave preparatory to retirement;**
- h. Any other emoluments which may be specially classed as pay.”**

7. We have scanned the report submitted by the office of Accountant General, which prima-facie suggests that the petitioner is entitled to the amount as calculated by the neutral person i.e. Accountant General Office.

8. In view of forgoing discussion, these petitions are disposed of in the terms whereby the Respondent-Company is hereby directed to re-calculate the pensionary benefits of the Petitioner and other benefits as calculated and fixed by the Accountant General office vide letter dated 08.11.2018 as admissible under the law. Such amount must be paid to the petitioner within a period of 30 days from the date of receipt of this order on proper verification and confirmation. Accordingly, these matters stand finally decided.

JUDGE

JUDGE

*M.Danish Steno**