

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

CP No. D- 10 of 2019

Present:-

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

Date of hearing:

& decision:

13.11.2019

Petitioner:

Zafar Ali Khushk through Mr. Shamsuddin Khushk, Advocate.

Respondents:

Government of Sindh and others through Mr. Allah Bachayo Soomro, Addl.A.G. along with along with ASI Ghulam Hussain PS B-Section Shaheed Benazirabad, SIP Ghulam Hussain Gorchani PS Naushahro Feroze, Muhammad Hussain Ghumro Deputy Director Food Karachi & Shaheed Benazirabad and Qaribullah Soomro Assistant Food Controller, Naushahro Feroze.

ORDER

ADNAN-UL-KARIM MEMON, J: - Petitioner is a retired employee of Food Department, Government of Sindh, claims pensionary benefits with effect from 10.3.2017. In compliance with the order dated 24. 10.2019 passed by this Court, Deputy Director Food Karachi has appeared and consented to release pensionary benefits of the petitioner within a period of two months. Mr. Allah Bachayo Soomro, Additional A.G endorsed the assertion of Deputy Director Food and seeks disposal of instant petition on the above undertaking of Deputy Director Food Karachi.

2. Mr. Shamsuddin Khushk, learned Counsel for the petitioner argued that it is now a settled proposition of law that in the event of retirement from service, the departmental proceedings cannot be initiated against retired civil servant. Since the petitioner is no more civil servant; therefore, no further action is required to be initiated against him; that pension being fundamental right cannot be snatched under the law. At this juncture, petitioner who is present in person submits that he is satisfied with the undertaking of Deputy Director Food, Karachi and seeks disposal of the instant petition.

3. We have heard the learned counsel for the parties at considerable length and have perused the record.

4. It is an admitted position that the petitioner is no more in service of the respondent-department and stood retired on attaining the age of superannuation in the year 2017, hence departmental proceedings against him at this juncture could not be initiated. We, however, agree with the contention of learned A.A.G. that the recovery proceedings being separate matter cannot be equated with Departmental proceedings, which unfortunately could not be completed against the petitioner during his service tenure. However, the department intends to initiate recovery proceedings for the loss caused to the Government exchequer by the act of the petitioner and others. Be that as it may, they may follow the legal course if they intend to do so, however, we may observe that since during service of the petitioner the respondents failed and neglected to initiate departmental as well as recovery proceedings against him and now they waited for his retirement and has put forward such plea to fill the lacuna which is apparently malafide intention on the part of respondent-department..

5. We, therefore, in the light of the submissions supra, this petition stands disposed of in the terms, whereby the competent authority of Respondent-department is directed to release the pensionary benefits of the petitioner within a period of two months without fail.

JUDGE

JUDGE

Karar_hussain/PS*