

# IN THE HIGH COURT OF SINDH KARACHI

**Before:**

Mr. Justice Salahuddin Panhwar

Mr. Justice Adnan-ul-Karim Memon

**C.P. No. D- 4848 of 2020**

**Syed Tanver Hyder Zaidi**

Petitioner

Through : Mr. S.M. Aqil Zaidi, advocate.

Respondent No.1 : Mr. Muhammad Nishat Warsi, DAG.

Through

Respondents No.2 to 5 : Ch. Jaffar Hussain, advocate.

Through

Date of hearing : **12.10.2021**

Date of Order : **12.10.2021**

**ORDER**

**ADNAN-UL-KARIM MEMON, J.** Through this petition, the Petitioner has prayed for a direction to the respondents to release his withheld pensionary dues with profit.

2. It is contended by Mr. S.M. Aqil Zaidi, learned counsel for the petitioner that the petitioner stood retired from service of respondent-Pakistan Railways on 5.6.2017, but the respondent No.2 to 4 illegally and unlawfully stopped and withheld his portion of pension on the pretext of non-submission of EFT Book No.1576 from 35376 to 35400, which was misplaced from the custody of DCO/KYC long ago. It is contended that the impugned action has adversely affected his life. It is also urged that the main grievance of the Petitioner is the delay of pensionary benefits due to the lethargic attitude of the respondents for that he has suffered in litigation, therefore, he is entitled to the increases on the withheld pension.

3. Ch. Jaffar Hussain learned counsel for the respondent-Pakistan Railways has referred to the para-wise comments filed on behalf of the respondents and supported their stance and contended that petitioner is getting monthly pension, however, a certain portion of his pension

has been withheld due to non-submission of EFT Book at the time of his retirement in the year 2017. He prayed for a direction to the petitioner to submit such EFT Book under Rule 3.29 (h) to release his withheld portion of pension i.e. Rs. 1,19,750/- due to non-issuance of clearance certificate by FA & CAO/Revenue, Lahore.

3. This matter pertains to the pensionary benefits of the petitioner which is of paramount consideration. We have heard learned counsel for the parties on the issue.

4. This is a matter of grave concern that for several years, the long and unjustified delay in the payment of pension has been a source of tremendous hardship and humiliation to retiring officials and their families. Despite the strictures and orders passed by the Honorable Supreme Court of Pakistan in its various pronouncements and simplified guidelines laid down by the Government, petitions on account of delay persist.

5. Prim facie, the petitioner has a qualifying length of service to his credit and he gave various reasons to claim the interest on the delayed payments. It is well-settled law that no pension granted or continued to the pensioner is liable to seizure by the department under Pension Act, 1871, and the rules framed thereunder. Learned counsel for the petitioner has pointed out that a certain portion of the pension of the petitioner has been withheld without assigning any cogent reason. In our view pensionary benefits cannot be stopped on account of any charges; and, is violative to the law laid down by the Honorable Supreme Court in the case of Haji Muhammad Ismail Memon (PLD 2007 SC 35). Thus, the competent authority of Pakistan-Railways is liable to release the withheld amount with profit and pay the pension amount and other ancillary benefits to the petitioner to which he is entitled under the law within two weeks from the date of receipt of this order. The competent authority of the respondent is also directed to recalculate the pensionary benefits of the petitioner and increases accrued thereon the withheld pensionary benefits with effect from 5.6.2017 to date.

6. In view of the above, this petition stands disposed of with no order as to costs with direction to the competent authority of

respondents to look into the matter of the petitioner and take prompt disciplinary action against all delinquents who in their action withheld the pensionary benefits of the petitioner since his retirement in the year 2017.

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Shahzad Soomro

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