

ORDER SHEET
 IN THE HIGH COURT OF SINDH, KARACHI
 C.P Nos.D-6344,5860,8038,8437,7753 and 6903 of 2019
 C.P Nos.D-824,4450& 5199 of 2020
 C.P Nos.D-657,4615,5412 and 1314 of 2021

Date	Order with signature of Judge
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Mr. Justice Salahuddin Panwar
 Mr. Justice Adnan-ul-Karim Memon

Hearing.

1. For order on office objection.
2. For order on CMA No.19525/2020.
3. For hearing of CMA No.4881/2020.
4. For hearing of main case.

23.09.2021

Mr. Raja Jawad, advocate.
 Mr. Z.U. Mujahid advocate.
 Dr. Tariq Masood advocate.
 Mr. Mukesh Kumar Khatri, advocate.
 Mr. Faheem, advocate.
 Mr. Liaquat Hussain, advocate.
 Mr. Nadeem Ahmed Qureshi, advocate.
 Ms. Manzooran Gopang advocate.
 Syed Bashir Hussain Shah, advocate.
 Mr. Abdul Sattar Pathan, advocate.
 Mr. Altaf Ahmed Shaikh, advocate.
 Mr. Muhammad Ishaque Rajpar, advocate.
 Mr. Abu Bakar Khalil advocate.
 Syed Sultan Ahmed, advocate.
 Mr. Abdul Razzak, Registrar, Sindh High Court, Karachi.
 Mr. Ali Safdar Depar, Assistant Advocate General Sindh.
 Syed Hassan Naqvi, Finance Secretary Sindh and Sikandar
 Hassan Dy. Secretary Finance, Sindh.

Salahuddin Panhwar, J.- Heard Finance Secretary,
 Government of Sindh, learned Assistant Advocate General in
 the light of proposition, as framed by this Court vide order
 dated 08.09.2021, as well as Mr.Raja Jawad Ali Sahar
 advocate and other respective lawyers. It would be conducive
 to refer order dated 08.09.2021, which is that:-

Instant petition pertains to the group insurance of the civil
 servants. Learned AAG has referred section 8 of the **Sindh**

Civil Servant Welfare Fund Ordinance 1979 which speaks that :-

8. Arrangement with insurance company: (1) Where the arrangement has been made with the insurance company or other insurer under clause (a) of subsection (3) of section 6, the sum in which a civil servant is insured shall, **on his or her death be paid-**

- (a) to such member or members of his or her family as is or are nominated by him or her in full or in such shares as are specified by the deceased civil servant at the time of making the nomination; or
- (b) where no valid nomination of the civil servant exists at the time of his or her death, **to his family, and in absence of the family, to his surviving relatives, if any,** in the manner and in the shares in which the gratuity of a deceased civil servant is payable under the Pension Rules; or
- (c) in absence of the persons referred to in clauses (a) and (b), **to the holder of succession certificate obtained from a court of competent jurisdiction.**

(2) Where the amount referred to in subsection (1) is paid to a nominee or nominees, **such nominee or nominees shall distribute the amount among all heirs of the deceased civil servant according to the personal law to which the deceased was subject.**

2. According to learned AAG only in case of death of employee during service or within five years of his/her retirement, the group insurance can be awarded to the legal heirs.

3. The position, so placed by learned AAG, regarding entitlement of group insurance amount, give rise to a proposition that:

“If an employee, by bless of Allah almighty, survives more than five years of his retirement, then what would be the fate of such amount, particularly if same is paid from salary of employee?”

It is also surfaced that there is a Provincial Welfare Board chaired by the Secretary, Finance Department who is the competent authority to enter into contract with the insurance company, therefore, it would be in all fairness to deliberate the issue after getting assistance by the Chairman, Provincial Welfare Board. Accordingly, he shall be in attendance alongwith contract signed with the insurance company as well he shall clarify whether that amount is deducted from the salary or benefits of the civil servants or directly by the government through any other means.

4. The learned AAG would assist this Court by placing the view of Honourable Apex Court on said issue as well other applicable law.

5. To come up on 22.09.2021. CP No.D-5199/2020 shall also be tagged alongwith present petitions. Office to place copy of this order in connected petitions.

2. Learned counsel for the petitioner has referred to Section 6 of the Sindh Civil Servants Welfare Funds Ordinance, 1979, which states that:-

“6. (1) Government shall constitute two Boards for administration of the Fund, one or Part I of the Fund, known as Provincial Welfare Board No. 1, and other for Part II of the Fund known as Provincial Welfare Board NO.2.

(2) Part I of the Fund shall vest in the Provincial Welfare Board No. 1, and Part II of the Fund shall vest in the Provincial Welfare Board No. 2.

(3) Subject to such rules as may be made under this Ordinance and such directions as may from time to time be issued by Government, the Provincial Welfare Board---

(a) Shall arrange for insurance of the civil servants with whom such Board is concerned, in the sums specified in the Schedule, or in the sums as may from time to time be notified by Government, with such insurance company or any other insurer, as the Board deems fit;

(b) Shall have the power to sanction expenditure incurred on the administration and management of the respective Part of the Fund with which the Board is concerned; and

(c) May do or cause to be done such other things as are ancillary or incidental to any of the aforesaid powers or to the purposes of the Fund.”

3. At the very outset, Secretary Finance, who is also Secretary Welfare Funds contends that they have signed MOU with State Life Corporation and he should ensure that all compensations with regard to the entitlement, as heirs of deceased employees will be paid within one month and that in case of failure State Life Corporation will be liable to be booked under Penal Code. The commitment / undertaken is taken on record with appreciation, however, it is added that the **‘entitlement/due’** must always be ensured by the quarters concerned in time without intervention of the Court (s) because the same was/ is **right** while assuring receipt thereof by **entitled** is **obligation** of the quarter concerned. This must always be kept in view. When the matter is one of

heirs of the **deceased employees** a little more vigilance is required which hopefully, both ends shall ensure in future.

4. At this juncture, learned counsel for State Life Corporation, contends that he will submit breakup of all pending cases with state life corporation within a week. The counsel, in such break-up, shall also include a column of reason of delay, if any, which must display the reason of delay of disposal of pending cases.

5. With regard to notification of two Boards, it has come on record that there are two Boards but there is one MOU. Admittedly contribution varies grade wise. There is a clause that up to 15 grade the Government will also contribute, *hence*, there should be two *separate* MOUs. The Government of Sindh should also make proposal with regard to contribution for lower grade up to 15 grade keeping in view their financial constrained. Besides, Chairman Welfare Board (Chief Secretary Sindh) shall be in attendance with definite statement with regard to notification of two Boards along with composition thereby describing the manner of nomination of members of those Boards. Admittedly any lethal disease or disability is not covered with the MOU present which, however, may well be covered while entering into MoU because such owned amount of the *government employee* should not be limited to his *death* but may also include help/assistance for survival. Accordingly that MOU shall be revised / reexamined by offering other companies as well including detrimental disease, disabilities and accidental injuries.

6. A perusal of the produced MoU shows that it is signed by the Secretary Finance, Government of Sindh and not by the Chief Secretary who, otherwise, is the administrative head of the *Board*. The Secretary Finance, unless authorized, can't function as or on behalf of the **Government** therefore, this aspect requires an explanation. Accordingly, the Secretary, Finance shall submit authorization for signing the MoU, if any and in case of absence thereof the explanation for signing the MoU as well legal capacity for acting so.

7. At this juncture, it has come on record that yearly premium of 2.5 billion is paid to the State Life Corporation. Accordingly, State Life Corporation shall submit breakup of three years with regard to claims received and settled by them separately. Such report shall be year wise.

8. It has further come on record that this aspect covers around 500,000/- employees. With regard to return of deducted amount of those employees, who survive upto 65 years there is legislation in KPK whereby original amount, deducted from the salaries, is to be returned to that employees on completion of such age. Accordingly, Chairman Board shall examine that legislation and submit definite proposal and steps taken by him in that regard.

9. At this juncture, notification dated 20.11.2018 and terms of reference are that:-

“NOTIFICATION

No.FD(B&E-IX) 1-8/2017-18: With the approval of Competent Authority, the Finance Department is pleased to constitute a committee for renewal of Agreement signed between the Government of Sindh and the State Life Insurance Corporation of Pakistan. The composition of the committee is as under

1	Special Finance Secretary (B&R), Finance Department	Chairman
2	Deputy Secretary (B&E-II) Finance Department	Member
3	Section Officer (SR-III), Finance Department	Member
4	Section Officer (B&E-IX), Finance Department	Member / Secretary
5	Appointed Actuary, State Life Insurance Corporation of Pakistan	Member
6	AGM Actuary, State Life Insurance Corporation of Pakistan	Member
7	Zonal Head, G&P-KZ, State Life Insurance Corporation of Pakistan	Member
8	Sector Head, G&P-KZ, State Life Insurance Corporation of	Member

	Pakistan	
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Terms of Reference

1. To examine and finalize the terms and conditions of the agreement signed between the Government of Sindh and the State Life Insurance Corporation of Pakistan, pertaining to Group Insurance in respect of Sindh Government employees, **keeping in view the best market practices.**
2. To deliberate upon and decide the premium rate which is currently @Rs.4.75 per thousand of sum assured per annum, in the light of grade-wise sum assured.
3. To work out different possible scenarios for extending / providing Group Insurance coverage for all the employees of the Government of Sindh, on their retirement, **irrespective of mandatory condition of death during the service on the pattern of other sister provinces particularly KPK and Baluchistan.**

SECRETARY TO GOVERNMENT OF SINDH”

The terms are quite clear but there appears no progress to the same because neither the ***best market practices*** can be availed without comparison with other companies, providing same facilities which door stands closed if the services are to be taken from one **company**. Further, the term-3 thereof also begging for progress and deliberation for which it was, *specifically*, framed. The notification pertains to year 2018 hence the report from the notified committee is needed. Accordingly, the committee shall submit progress report.

10. Insurance company is liable to pay compensation. This is an *obligation* therefore, it was / is always their bounden duty that in case they hear or receive any` information with regard to death of any employee by legal heirs, by friend, family member or concerned department they should *immediately* probe into the matter, verify the death and ensure that amount is paid to the legal heirs at their home with cross cheque without much delay. For discharge of such obligation they can competently get approval

from the department as required under the MOU within one month.

11. In case of any dispute with regard to the legal heirs, the State Life will direct aggrieved family to approach for succession certificate.

12. At this juncture, Secretary Finance contends that deducted amount from the salaries is to be deposited in public account which is trust money and Government directly pays premium to the Life Insurance Company. However, Secretary Finance is not in a position to clarify whether that amount is liable to be invested or can be utilized by the Province of Sindh in any other heads. Accordingly, complete breakup of last three (03) years shall be filed with regard to available balance of general account in terms whether same is invested in any profitable scheme; whether that amount, being trust money, is deposited as endowment fund or there is provision to utilize that amount by the Government in other heads, in case same is utilized. Such report shall include breakup of that amount as well.

13. State Life Corporation shall ensure that all claims are settled pending since 02 years, within one month, after observing all directions as contained in this order apart from MOU.

To come up on **07.10.2021 at 11.00 a.m.**

Office to place a copy of this order in all connected petitions.

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