

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

C.P. No. D- 802 of 2021

Before:

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Adnan-ul-Karim Memon

Muhammad Ayoub

Petitioner

VERSUS

Federation of Pakistan
& others

Respondents

Dates of hearing: 11.08.2022

Date of decision: 11.08.2022

Mr. Muhammad Saleem Leghari, Advocate for Petitioner

Mr. Zulfiqar Ahmed Rajput, Asst. Attorney General

ORDER

ADNAN-UL-KARIM MEMON, J.- Through instant petition, the petitioner has sought direction to the respondents to consider his initial 12 years' service rendered in Ghee Corporation of Pakistan (GCP) Ministry of Industries, Government of Pakistan, for pensionary benefits; and, he may be allowed to retire from service on 4.7.2022, rather than 11.10.2019, with further direction to pay other allowances, such as gratuity and commutations etc.

2. We have heard learned counsel for the parties and perused the record with their assistance

3. The reason assigned by the respondents to deny him the service benefits is that petitioner's service in Pakistan Oilseed Division Board (PODB) with effect from 8.2.1995 till his voluntary retirement from service on 31.12.2019 is 24 years 10 months and 23 days, whereas 25 years' service is required for voluntary retirement. Prima-facie the assertion of the respondents is untenable to deny the pensionary benefits to the petitioner, for the simple reason that petitioner was appointed in Ghee Corporation of Pakistan as Clerk / Typist vide his appointment letter dated 10.6.1982; and, subsequently his services were transferred and absorbed to Pakistan Oilseed Division Board Ministry of Food Agriculture Livestock vide notification dated 8.2.1995, however, his service was again transferred to Ministry of Postal Service for posting vide notification dated 24.8.2011,

finally he was prematurely retired from service vide notification dated 11.10.2019, after rendering 37 years of uninterrupted service, however till date his entire service benefits have not been paid to him, in terms of the ratio of judgment passed by the Honorable Supreme Court in the case of National Insurance Company Limited Vs. Ahmed Ali Bhambhro and others (2019 PLC CS 384).

4. The main theme of the arguments of Mr. Zulfiqar Ahmed Rajput learned Asst. Attorney General is that in case an employee of any other organization is permanently absorbed in the service of the Corporation. The Corporation may accept the pensioner liability in respect of such an employee subject to the condition that a pension scheme exists in the former organization from where the employee has been transferred and that organization pays the proportionate liability for the period the employee remained in their service. Such pension contribution will be recovered from the concerned organization at the rate approved by the Corporation. He further argued that previous service rendered by the petitioner in GCP was not pensionable and thus could not be counted towards pension and the petitioner is short of the length of service to claim voluntary retirement, which is 25 years' service and he lacks the qualifying service. If this is the stance of the respondents, we are of the view that Petitioner was absorbed in the Pakistan Oilseed Division Board Ministry of Food Agriculture Livestock vide notification dated 8.2.1995 along with all liabilities including service benefits accrued to him in his previous Organization and that cannot be denied.

5. In view of forgoing discussion, this petition is allowed in the terms whereby the competent authority of Respondents is hereby directed to re-calculate the pensionary benefits of the previous period of service of the Petitioner and other benefits as admissible under the law and pay the same to the Petitioner within two weeks.

JUDGE

JUDGE