

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

Before:

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Adnan-ul-Karim Memon

C.P No.D-163 of 2014

[Haji Manzoor Hussain Khokhar vs. The Chairman WAPDA & Ors]

C.P No.D-540 of 2018

[Ghulam Mustafa vs. Federation of Pakistan & Ors]

C.P No.D-916 of 2020

[Mst. Sakeena vs. Federation of Pakistan & Ors]

C.P No.D-540 of 2020

[Shamsuddin Channa vs. Federation of Pakistan & Ors]

C.P No.D-2087 of 2022

[Mst. Bano vs. Federation of Pakistan & Ors]

M/s Abdul Mueed Shaikh, Irfan Ahmed Qureshi, Muhammad Arif Shaikh, Aijaz Hussain Jatoi, advocates for petitioners

Petitioner Mst. Sakina present in person in CP No. D- 916 of 2020

M/s. Mumtaz Ahmed Lashari, Muhammad Arshad S. Pathan & Abdul Hameed Bajwa, Advocate(s) for respondents

Mr. Ghulam Abbas Sangi, Assistant Attorney General

Date of Hearing & Decision : 01.09.2022

ORDER

ADNAN-UL-KARIM MEMON, J.- These matters pertain to the pensionary benefits/family pension and/or service dues of the petitioners which are of paramount consideration and this is the reason all the matters are taken up and heard together for disposal as the common question of law is involved therein.

2. The case of the petitioners is that they and/or husbands in some of the cases of petitioners, who were government employees and working in the respondent – departments and stood retired from service and/or died during service; and/or after their retirement, until now they are roaming for release of their pensionary/service benefits, on the premise that the aforesaid service benefits have not been released due to which they along with their families are passing the lives of starvation, hence in the dismal circumstances they finding no other way have filed the instant petitions.

3. We have heard learned counsel for the parties and have examined the record and the law on the subject with their assistance.

4. To understand the concept and connotation of the term “pension”, the rights/privileges and obligations attached thereto, the importance thereof and the law laid down in respect thereof by the Hon’ble Supreme Court. The definition of the term

“pension” and the nature of the right in respect thereof were examined in depth by the Hon’ble Supreme Court of Pakistan in the case of I. A. Sherwani and others V/S Government of Pakistan through Secretary, Finance Division, Islamabad and others, 1991 SCMR 1041.

5. It is well-settled that a person who enters Government service has also something to look forward to after his retirement, to what is called retirement benefits, a grant of pension being the most valuable of such benefits. It is equally well-settled that the pension-like salary of a civil servant is no longer a bounty but is a right acquired after putting in satisfactory service for the prescribed minimum period. It cannot be reduced or refused arbitrarily except to the extent and in the manner provided in the relevant rules. In the case reported as Re: Pensionary Benefits of the Judges of Superior Courts, PLD 2013 SC 829, it was held, inter alia, by the Hon’ble Supreme Court that pension is a right which the Government servants or employees in different positions and different capacities earn in terms of the relevant statutory provisions applicable to their case, mostly depending upon their length of service; and, in any case, it is not a State bounty which could be awarded as a favor to any individual outside the scope of the applicable statute.

6. It is well-settled that pension is a measure of socio-economic justice that inheres economic security in the fall of life; a person who enters the Government / public service has also something to look forward to after his retirement viz. his retirement benefits, the grant of pension being the most valuable of such benefits; pension is like a salary and is no longer a bounty, but is a right acquired after putting in satisfactory service for the prescribed minimum period; pension cannot be reduced or refused arbitrarily except to the extent and in the manner provided in the relevant rules; and, pension becomes the property of the retiring employee or civil/public servant as a matter of right upon the termination of his service.

7. From the above principles settled by the Hon’ble Supreme Court, it is clear that pension, like salary, is a regular source of livelihood, and thus is protected by the right to life enshrined in and guaranteed by Article 9 of the Constitution. In principle, there seems no room to disagree with the plea / legal position that the right to life of a person/citizen shall include the right to livelihood and such right, therefore, cannot hang on to the fancies of individuals in authority; and, the employment is not a bounty from them i.e. individuals in authority, nor can its survival be at their mercy.

8. This is a matter of grave concern that for several years, the long and unjustified delay in payment of pensions has been a source of tremendous hardship and humiliation to retiring officials and their families. Despite 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.

9. 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. Besides, there is no power for the Government to withhold Gratuity and Pension during the pendency of the departmental proceeding or criminal proceeding if any. Even it does not give any power to withhold Leave Encashment at any stage either before the proceeding or after the conclusion of the proceeding.

10. Prima facie, the petitioners have a qualifying length of service to their credit and they gave various reasons to claim the interest on the delayed payments on the premise that they stood retired from services in their respective years, however, in violation of law, they have been denied the pensionary benefits, which has triggered the cause and hardship to the petitioners to approach this court.

11. Learned counsels for the petitioners have pointed out that the pension of the petitioners has been withheld without assigning any cogent reason. In our view, pensionary benefits cannot be stopped; and, is violative of the law laid down by the Honorable Supreme Court in the case of Haji Muhammad Ismail Memon, **PLD 2007 SC 35**.

12. For the aforesaid reasons, the competent authorities of the respective respondent Departments are liable to release the pensionary amount of the petitioners; and, pay the pension amount and other ancillary benefits to the petitioners and /or family to which if they at all are entitled under the law within one month from the date of receipt of this order. The competent authorities of the respective respondent Departments are also directed to recalculate the pensionary benefits of the petitioners and increases accrued on the withheld pensionary benefits with effect from the date of their retirement to date.

13. In view of the above, these petitions stand disposed of with no order as to costs with direction to the competent authority of respondents to look into the matter of the petitioners and take prompt disciplinary action against all delinquent officials who in their lethargic attitude failed and neglected to release the service benefits of the petitioners. Such disciplinary proceedings shall be initiated against them forthwith and culminate into its logical conclusion within a reasonable time after providing a meaningful hearing to them.

14. Let a copy of this order be sent to the respondents for compliance. Such compliance report be submitted through the Additional Registrar of this Court.

JUDGE

JUDGE