

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D - 744 of 2022

Date of hearing	Order with signature of Judge
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Hearing of case

1. For orders on office objection at Flag-A
2. For orders on CMA No.3017/2022 (Ex./A)
3. For hearing of main case

02.05.2023

Mr. Mir Ali Nawaz Khan, Advocate for the petitioner.

Mr. Khuda Bux Chohan, Advocate for respondents-Pakistan Railways.

Mr. Muhammad Aslam Jatoi, Assistant Attorney General.

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The petitioner, who served as S.S. Fitter (D) in Pakistan Railways and was dismissed from service vide office order/notice dated 14.10.2003 with effect from his date of absence i.e. 11.06.2002 by imposing major penalty of 'Dismissal from Service', has through instant petition sought directions to respondents No.1 to 5 to pay all his service benefits including commutation, gratuity, provident fund, pension and other reliefs.

Respondent No.5 (*Divisional Superintendent, Pakistan Railways, Sukkur*) filed his comments to the petition, wherein it has categorically been stated that against his dismissal order, the petitioner preferred appeal to the Federal Service Tribunal, Islamabad and same was also dismissed for non-prosecution; hence, the instant petition is not maintainable as per service rules as a person dismissed from service is not entitled for commutation/gratuity and pension.

We would like to refer here Section 19 of the Civil Servants Act, 1973, which reads as under:

19. Pension and Gratuity. - (1) *On retirement from service, a civil servant shall be entitled to receive such pension or gratuity as may be prescribed.*

(2) *In the event of the death of a civil servant, whether before or after retirement, his family shall be entitled to receive such pension, or gratuity, or both, as may be prescribed.*

(3) *No pension shall be admissible to a civil servant who is dismissed or removed from service for reasons of discipline, but Government may sanction compassionate allowance to such a civil servant, not exceeding two-thirds of the pension or gratuity which would have been admissible to him had he been invalided from service on the date of such dismissal or removal.*

(4)

Learned counsel for the petitioner states that this petition may be disposed of by directing the respondent No.5 that in case petitioner files appropriate application for sanctioning compassionate allowance to him as provided under Sub-Section (3) of Section 19 (*ibid*), his application shall be considered sympathetically.

Learned counsel for the respondents and learned A.A.G. record their no objection to the proposition of learned counsel for the petitioner.

We, therefore, **dispose of** this petition along with listed application by directing the respondents to decide the application of the petitioner, if so filed for sanctioning compassionate allowance as provided under Sub-Section (3) of Section 19 (*ibid*), within a period of ninety (90) days in accordance with law.

JUDGE

JUDGE

Abdul Basit