

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D-6009 of 2022

Date	Order with signature of Judge(s)
------	----------------------------------

For hearing of main case

Date of hearing and order: 11.11.2024

Mr. Ahmed Ali Ghumro advocate and Mr. Abdul Samee advocate for the petitioner along with petitioner

Mr. Miran Muhammad Shah, Additional AG

Mr. Abdul Shakoor Noonari, Additional Secretary Regulation Wing S&GAD

Mr. Raza Ali Shah, Assistant Director (Law-II), S&GAD, Government of Sindh

Mr. Jawed Ali Khawaja, Focal Person (Litigation), School Education Department, Government of Sindh

Mr. Abdul Sattar Malik, Section Officer, School Education Department, Government of Sindh

ORDER

Adnan-ul-Karim Memon, J: Petitioner Jamil Ahmed seeks the following relief(s)

- a) *Direct the Respondent to respond to Letter No. Works/2021-2022/1716.*
- b) *Direct the Respondent to issue a promotion notification to BPS 19.*
- c) *Direct the Respondent to pay Rs. 6.337 million in arrears.*
- d) *Direct the Respondent to pay Rs. 2.246 million for withheld LPR encashment.*
- e) *Direct the Respondent to recalculate and pay GP Fund dues, including interest.*
- f) *Award general damages of Rs. 10 million for harassment and inconvenience.*
- g) *Direct the Respondent to issue release orders for payments.*
- h) *Direct the Respondent to release full pension, including arrears with interest.*

2. Petitioner claims to have served the Sindh Government's School Education Department as an Executive Engineer (BPS-18) for 32 years without any issues. Despite a clean record, his retirement in the year 2016 service benefits have not been processed correctly. This includes missing increments, leave encashment, GP Fund dues, and incorrect pension calculations.

3. The petitioner's counsel argues that the petitioner was denied annual increments, a promotion, and Leave Preparatory to Retirement (LPR) encashment during and after service. This resulted in lower pension benefits. The counsel claims these denials were unjustified and seeks court intervention to rectify the situation. The petition is supported by relevant rules, previous judgments, and documentary evidence.

4. Learned AAG assisted by the representatives of the departments states that the petitioner, an Executive Engineer, seeks a notification for his move-over to BPS-19, along with due pay, allowances, pensionary benefits, and the encashment of LPR. However, the petitioner's department, the School Education & Literacy Department, was/is responsible for addressing his grievances, including the encashment of LPR. He added that civil servants must apply for leave encashment before retirement, as per Rule 20 of the Civil Servants Leave Rules, 1986, and a Finance Department circular from 1990. Besides, there is no provision for applying for LPR after retirement. He prayed for the dismissal of the instant petition.

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

6. The main issue involved in the present proceedings is about encashing LPR after retirement. The rules state that LPR must be applied for before retirement. The petitioner retired on 26 October 2016 and applied for LPR encashment later in the year 2002 after 8 years. The petitioner cited cases of his colleagues where the department allowed LPR encashment post-retirement, after a considerable period, when confronted with this position to the respondents, however, this fact was admitted by the department's representative present in court and sought remittance of this case to the competent authority of the department concerned.

7. Both parties after arguing the matter at some length agreed to dispose of the case, directing the Chief Secretary Sindh who shall constitute a committee headed by him and co-opted by Secretary Finance, Secretary School Education Department, government of Sindh assisted by Regulation wing S&GAD to address the disparity issue and decide the matter, including the petitioner's requests as made in the memo of the petition within one month after providing meaningful hearing to the parties.

8. The proposal seems to be reasonable and acceded to. Disposed of accordingly.

JUDGE

JUDGE