

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
LARKANA.

Constitutional Petition No.D- 714 of 2023.
(*Re. Mst. Reshma v. DEO Secondary & Higher Secondary & Ors*)

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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Before:

Mr. Justice Muhammad Saleem Jessar.
Mr. Justice Adnan-ul-Karim Memon.

Date of hearing & Order: 20.02.2025.

Mr. Habibullah G. Ghouri, advocate for the petitioner.

Mr. Liaquat Ali Shar, Addl. A.G. a/w Abdul Ghafoor Bhutto, DEO S
& HS Dadu.

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ORDER

ADNAN-UL-KARIM MEMON-J.: This petition, filed by Mst. Reshma, an elderly woman with impaired vision, requests that the respondents be ordered to release her late husband Hussain Bux Mugheri's service benefits, including his pension. Hussain Bux Mugheri was a physical training instructor in the Education Department, last posted at Government High School-II, Mehar, District Dadu.

2. The learned Assistant Advocate General (A.A.G.) argued that the petition may be dismissed on the premise that respondent No. 7, Hussain Bux Mallah, fraudulently colluded with officials to receive the service benefits and pension of the petitioner's deceased husband. However, an inquiry conducted by the Provincial Anti-Corruption Establishment found that no funds were transferred to respondent No.7 Mallah's account. The A.A.G. acknowledged that the petitioner has not received the compensation as claimed. However, he argued that the petitioner's husband, appointed in 1998 but only joined service in 2009 due to this Court's orders and passed away on June 15, 2016 (2013), did not have sufficient service length to qualify for pension benefits. Therefore, the A.A.G. concluded that the petitioner has no legal basis to claim her late husband's regular pension.

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

4. The AAG acknowledged the petitioner's husband's 1998 appointment, but his services were only regularized in 2009 after a court order (C.P.No.D-116/2006). This regularization followed a prior court case where the Education Department admitted their notification initially covered four districts, later adding Tharparkar, but excluding District Dadu due to a missing Chief Minister's order. This Court emphasized uniform policy, criticizing the selective inclusion of districts for teachers' reinstatement in service whose services were dispensed with. However, the Education Secretary agreed to include District Dadu in the relevant notification, which the court then ordered, entitling Dadu's education employees to the same concessions. Deceased Hussain Bux's government service was reinstated immediately following the Court order. The Sindh Chief Minister approved the reinstatement after verifying the list of 1995 Dadu District victims. However, the reinstatement was without back benefits. Petitioner's husband then was posted to Government High School Mehar-II, Dadu District, effective from his reinstatement date. However, in the intervening period, he passed away, the education department claims in 2013, whereas the petitioner claims 2016, and prima facie this is a dispute which needs to be resolved at the end of the education department, Government of Sindh, as the family pension ten years service is required.

5. The Provincial Anti-corruption Department's inquiry into Mst. Reshma's petition found that her husband, Hussain Bux Mugheri, a Physical Training Instructor, died in (2013/2016). Petitioner Reshma alleged that respondent No.7 Hussain Bux Mallah fraudulently claimed her husband's benefits. The inquiry corroborated petitioner Reshma's account of her husband's employment and death. The District Accounts Officer confirmed that deceased Mugheri's salary payments ceased upon his death in 2013 and that no payments were made to respondent No.7. The Accounts Officer also reported the loss of Mugheri's original service file. The District Education Officer refused to cooperate with the inquiry officer. Despite efforts, respondent No. 7 could

not be found. The inquiry officer confirmed Mugheri's employment, death, in 2013, and heirs, and supported the Accounts Officer's report. The inquiry also documented the relevant Accounts Office staff at the time. Respondent No.7's location remained unknown.

6. It appears from the inquiry report that the deceased Hussain Bux Mugheri received salary payments from August 1, 2009, until August 31, 2013. His salary payments ceased in September 2013 due to his death. However, the heirship certificate issued by Mukhtiarkar states that the deceased Hussain Bux Mugheri died on June 15, 2016. However, Muhammad Hanif Panhwar, Deputy District Education Officer, disputes this, claiming deceased Mugheri died on June 15, 2013, based on a muster roll/service book. He submitted that this earlier death date disqualifies deceased Mugheri's family from pension benefits, though he acknowledges the petitioner received Group Insurance compensation of Rs. 1,750,000.

7. The learned counsel for the petitioner argues that *if* we count the service of the deceased, from the initial appointment date of 1998, and consider his death in 2016, he would have completed 18 years of service entitling him to a pension. This 18-year period, he asserts, qualifies as pensionable service under the Family Pension Provision. Essentially, this argument is attempting to establish that despite the later regularization, the husband's service should be considered to have begun in 1998 for pension eligibility which is ten years and this issue of death needs to be resolved first and if the deceased died in 2016, then of course the respondent's department has to consider the request of the petitioner for family pension under the law.

8. Due to conflicting information and arguments regarding family pension entitlement, this court directs the Sindh Education Secretary to make an initial decision on the matter within two months, after hearing all involved parties. This requires a formal review of the case, including arguments about the service start date, regularization/reinstatement by Court order, and pension regulations, culminating in a formal ruling. The petition is now closed. The Secretary of Education is further directed

to re-examine the petitioner's case to determine her eligibility for a family pension, requiring a fresh review of the facts and applicable laws.

9. This petition stands disposed of in the above terms.