

HIGH COURT OF SIND, CIRCUIT COURT, HYDERABAD

C.P. No.D-1591 of 2021

[Syed Ilyaseenuzafar vs. Province of Sindh and others]

Before: **Justice Arbab Ali Hakro**
 Justice Riazat Ali Sahar

Petitioner by : Mr.D.M Madhwani, Advocate

Respondents by : Mr.Rafiq Ahmed Dahri, Asst. A.G Sindh

Dates of Hearing : 10.4.2025

Date of Decision : 24.04.2025

JUDGMENT

ARBAB ALI HAKRO, J:- By invoking the sacred jurisdiction conferred under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 ("the **Constitution**"), the petitioner humbly seeks issuance of a writ, inter alia to declare that the failure by the Respondents to disburse the Group Insurance amount upon the petitioner's superannuation constitutes an egregious violation of the law, is manifestly ultra vires, repugnant to constitutional safeguards, and tantamount to an infringement of the petitioner's inviolable fundamental rights. It is further prayed that this Court may be pleased to direct the Respondents to disburse forthwith the Group Insurance amount, which was deducted systematically from the petitioner's emoluments commencing from his date of appointment to the date of his retirement.

2. The concise, factual matrix underlying the instant petition is that the petitioner, having served as District Attorney (BPS-19) within the Law Department, Government of Sindh, attained the age of superannuation on 10.10.2013 (after-noon) and accordingly retired upon completion of his statutory term of service at sixty years. It is stated with emphasis that the petitioner has duly received all post-retirement benefits in accordance with applicable rules and regulations; however, the Respondents have failed to disburse even a single rupee towards the Group Insurance amount despite the same being deducted from the petitioner's monthly emoluments regularly throughout his tenure as a Government employee. Despite repeated representations made to the competent authorities, seeking release of the said amount, the petitioner's requests have been met with outright refusal, constituting a breach of statutory obligations and a violation of the petitioner's

fundamental rights. Consequently, the petitioner has approached this Court, invoking its constitutional jurisdiction to seek redress against the Respondent's inaction.

3. Upon issuance of notices to the Respondents, Respondents No. 3 & 4 filed their respective comments. It has been asserted therein that the Government of Sindh extends the benefit of Group Insurance exclusively to the legal heirs of Civil Servants who pass away during service or within five years post-retirement (up to the age of sixty-five years), in consonance with the Ordinance and Rules¹. It is further contended that the mechanism of Group Insurance is predicated solely upon risk coverage, and the extant framework does not envisage the payment of Group Insurance on a maturity basis to individual employees. They relied on the Judgment dated 10.11.2021, rendered by a Division Bench of this Court at the Principal Seat, Karachi, in Constitutional Petition No. D-6344 of 2020 and others. It is stated that in pursuance of the said Judgment, the issue of payment of Group Insurance was deliberated upon by the Provincial Cabinet in its meeting held on 10.05.2022. After exhaustive discussions, it was resolved that the existing policy of Group Insurance, providing benefits exclusively to the legal heirs of Civil Servants who expire in service or within five years of retirement (up to the age of sixty-five), shall remain unaltered. It was further resolved that no amendment to the prevailing policy is warranted, as it serves the collective welfare of Government employees.

4. Learned counsel for the petitioner contended that the petitioner's entitlement to the Group Insurance amount is firmly established through the deductions consistently made from his salary during his tenure as a government employee. He argued that the Respondents' denial to disburse the Group Insurance amount upon the petitioner's retirement is arbitrary, unlawful, and constitutes a blatant violation of the petitioner's fundamental rights as guaranteed under the Constitution. It was further submitted that despite repeated representations made to the Respondents, their refusal to sanction the payment contravenes their statutory obligations and is devoid of any legal justification. In support of his contentions, he relied upon Judgment passed by the Peshawar High Court in the case of **Fida Muhammad Durrani**².

¹ Sindh Civil Servants Welfare Fund Ordinance, 1979, read with the Sindh Civil Servants Welfare Fund Rules, 1980

² Judgment dated 03.11.2016 passed in W.P No.1355-P/2013 (Fida Muhammad Durrani vs The Govt. of KPK through Chief Secretary, Peshawar and others)

5. Conversely, the learned Assistant Advocate General, appearing on behalf of the Respondents, emphasized that the Group Insurance facility is exclusively a risk coverage mechanism designed to benefit the legal heirs of civil servants who either pass away during service or within five years of post retirement, as prescribed under the Ordinance and Rules. He underscored that no statutory provision or policy framework exists for the payment of Group Insurance on a maturity basis to retired employees.

6. We have meticulously examined the factual matrix of the present case and the legal arguments advanced by the learned counsel for the parties. The crux of the matter, which necessitates adjudication, pertains to whether the petitioner qualifies for the disbursement of the Group Insurance benefit upon retirement, as postulated by the legal architecture embedded in the Ordinance and the concomitant Rules. It is imperative to underscore that the Judgment rendered in the case of **Karim Bux and others**³ by Divisional Bench of this Court is directly applicable to the present case and provides binding authority. In that case, the Divisional Bench of this Court meticulously dissected the Ordinance and Rules and observed that Group Insurance, by its very nature, constitutes a form of risk coverage whereby the employer is the policy owner. The insurance benefit accrues exclusively to the legal heirs of an insured employee in the event of death, either during service or within the agreed period post-retirement. The notion of maturity or retirement-based payment is wholly alien to the scheme of Group Insurance, as it is structured to provide collective, cost-effective coverage to employees who might otherwise be unable to afford individual life insurance.

7. Adverting to the reliance placed by the petitioner's counsel upon the Judgment of the learned Peshawar High Court in the case of **Fida Muhammad Durrani**, it is germane to reiterate the observations encapsulated in **Karim Bux and others** (*supra*). The Divisional Bench explicitly delineated that the legislative framework in Khyber Pakhtunkhwa, as amended in 2014, distinctively catered for retirement-based disbursements, thus rendering the principles enunciated inapposite to the statutory regime governing Sindh. The legislative substratum within Sindh remains unaltered and bereft of analogous amendments, thereby precluding any comparable interpretive latitude.

8. The petitioner's reliance on salary deductions as a predicate for entitlement evinces a patent misapprehension of the collective and fiduciary

³ Karim Bux and others vs Province of Sindh through Secretary to Government of Sindh, Education and Literacy Department and others (2022 P L C (C.S.) 1182)

essence underpinning Group Insurance. The juridical framework governing such insurance does not contrive a direct contractual nexus between the employee and the insurer; rather, it operationalizes through a Master Policy executed inter alia by the employer and the insurance provider. Contributions made through deductions are purposed exclusively for financing collective coverage and do not engender individual entitlement to maturity-oriented payouts.

9. In light of the foregoing discourse and the binding principles laid down in the case of **Karim Bux and others** (supra), we find no merit in the petitioner's claim. The petitioner has failed to demonstrate any legal or equitable basis for the relief sought, and the constitutional petition stands devoid of substance, which is hereby **dismissed** with no order as to costs.

JUDGE

JUDGE

Sajjad Ali Jessar