

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

CONST. PETITION NOS. D-3393 OF 2023, A/W
C.P. No.D-7145/2022, C.P. No.D-413/2023
C.P. No.D-913/2025, C.P. No.D-3935/2024
C.P. No.D-3242/2024, C.P. No.D-913/2025
C.P. No.D-913/2025, C.P. No.D-817/2025
C.P. No.D-17/2025 & C.P. No.D-383/2025

Date	Order with signature(s) of Judge(s)
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For hearing of main case.

12.03.2025

Syed Shoa un Nabi, Advocate for the Petitioner (CPD No.3393/23).
Mr. Saleem Micheal, Advocate for Petitioner (CPD No.383/25 & CPD No.3935/24).
Mr. Muhammad Nishat Warsi, Advocate for the Petitioner (CPD No.17/25, CPD No.3242/2024 and CPD No.7145/222)
Ch: A.S. Abid, Advocate for the Petitioner (CPD No.913/25)
Mr. Imtiaz Ali, Advocate for the Petitioner (CPD No.413/23)
Mr. Sunder Lal Lohana, Advocate for Petitioner.
Mr. Ali Safdar Deepar, Assistant Advocate General
Mr. K. Jahangeer, Advocate for TMCs (Liyari, Saddar, Korangi, Orangi, Baldia, Mominabad and Sohrab Goth)
Mr. Salman Sabir, Counsel for TMC Gulshan-e-Iqbal.
Ms. Sana Abid, Counsel for TMC Mauripur & Moriro Bahar.
Mr. Zafar Imam, Counsel for TMC Orangi Town.
Mr. Asad Ahmed, Counsel for KMC
Syed Akhtar Hussain, Advocate for Respondent No.9.
Mian Zafar ur Rehman, Counsel for State Bank of Pakistan.
Mr. Rizwan ul Hasan Rind, on behalf Accountant General Sindh.
Mr. Murtaza Wahab, Mayor Karachi.
Mr. Khalid Hyder Shah, Additional Chief Secretary, Local Government & HTP Department.
Mr. Nand Lal, AETO, Excise & Taxation Department, Government of Sindh.
Mr. Gulzar Abro, FA, KMC.
Mr. Iqbal Khowaja, Section Officer, (LF-II), Finance Department, Govt. of Sindh.

Mohammad Karim Khan Agha, J.- Through this common order, we intend to dispose of the captioned petitions, which involve the issue of pensionary benefits. The main grievance of the petitioners, who are either from KMC or from separate 25 Town Municipal Corporations (hereinafter referred to "TMC") is that they are not being paid their pensionary benefits which are due, on time.

2. We have seen various documents, which on the one hand disclose that the Government of Sindh is making payments to KMC on account of pension whereas, on the other hand payments are also being made to each TMC for pensions. However, the TMCs claim that they have no money for pensions. We find this situation quite inexplicable in view of the letter dated 28th February

2025 issued by Section Officer, Finance Department, Government of Sindh regarding release of OZT share in favour of TMCs of Karachi, Hyderabad, Mirpurkhas, Larkana, Shaheed Benazirabad and Sukkur for the month of March, 2025.

3. It reveals that 25 TMCs in Karachi including Baldia Town were paid large sums of money by the Government of Sindh i.e. rupees 125,423 millions in respect of heads i) Salaries (ii) Pension (iii) Non-salaries & (iv) Development structure. The TMCs, however, state that they have no money for pensions. We do not see how it is possible unless this amount for pension has been used for other purposes.

4. Accordingly, Secretary, Finance Department, Government of Sindh is directed to recover from each TMC throughout Sindh the portion of OZT which was allotted to them in respect of pension within seven (07) days of the date of this order.

5. At this stage, we make it clear that this order has nothing to do with payment of salaries since all the petitioners are being paid salaries and they have no grievance in this regard. This order is limited for the purpose of payment of pension.

6. In essence it appears that supervisory powers of TMCs are with the Secretary, Sindh Local Government. We have found that any Chairman of a TMC who appeared before us has failed to put in place an efficient and effective organizational structure rather the TMC's appear to be directionless especially when it comes to the payment of pensions.

7. Since the payment of pension and salaries is a crucial issue for those employees who are working in KMC and the TMCs, the Secretary, Sindh Local Government shall ensure that each TMC is provided with an officer well conversant with accounts and dealing with pensionary and salaries matters, and in each TMC ensure that a separate wing for pension and salaries payment shall be established. This can be achieved by the Secretary, Sindh Local Government by exercising his powers under Sections 87 and 88 etc of Sindh Local Government Act, 2013 which gives Local Government of Sindh supervisory powers over all the TMCs throughout Sindh.

8. It is also expected that Secretary, Sindh Local Government shall monitor usage of its funds, provided to the TMCs and ensure that the same are being

used for the purposes which they were meant for and not being wasted or misused.

9. Section 125 of Sindh Local Government Act, 2013 is also relevant which is set-out below for ease of reference:

"125. Provident Fund and Social Insurance.- (1) A Council may, establish and maintain - (a) provident fund for the benefit of its employees, who shall contribute to such fund in such manner and proportion as may be prescribed; (b) pension fund from which pension, shall, in the prescribed manner, be paid to the employees of the Council; (c) benevolent fund, in the prescribed manner from which any special pension or gratuity, shall, in the prescribed manner be paid to the family of an employee of the Council, who dies of disease or injury contracted or suffered by him in the discharge of his official duties. (2) A Council may operate a scheme of social insurance for its employees and require such employees to subscribe to such scheme in such manner and proportion, as may be prescribed."

10. Unless each TMC does not establish its own pension fund for distributing the pension of its own employees, the same situation will arise again in the future as has occurred on this occasion where many pensions are not being disbursed to those who are entitled due to an apparent lack of funds. As such Secretary, Sindh Local Government shall ensure that each TMC shall establish pension funds in accordance with Section 125 of Sindh Local Government Act, 2013 so that in future this responsibility of paying pensions will be the responsibility of the TMC who had employed the pensioner.

11. The Secretary, Sindh Local Government has also informed us that each TMC also collects money independently from the Government of Sindh through various activities which take place within its area. The Secretary, Sindh Local Government shall also ensure that reasonable amount of the total amount so collected through these activities in the region of 20% is paid in to a separate account which should be used for the payment of pension only and no money should be withdrawn from that account for any other purpose.

12. Since the above procedure will take some time to materialize, as such, for the time being Mayor Karachi has agreed that KMC will continue disbursing the monthly pension to retired employees of TMCs subject to sufficient funds being provided by the Finance Department, Government of Sindh for the next two years. Accordingly the Finance Department, Government of Sindh is directed to provide any short fall which the KMC may have in paying those entitled to

pensions within two (02) months of the date of the request from the Mayor, KMC Karachi for the funds which he requires for disbursing such pensions.

13. We have taken this step, as majority of petitioners / employees who retired from KMC or their respective TMCs after serving 30 or more years by expending their blood, sweat and tears have been left running from pillar to post to collect their pension entitlement without success. This is a heart breaking situation as a pension is not charity or a bounty given by the state but is an entitlement in recognition of many, often thankless, years of service to an often ungrateful employer. In fact it is a human tragedy that the petitioners have been compelled to knock on the doors of the court for an entitlement which should have been available on the day of their superannuation and only goes to show the callousness and disorganization of their employers who failed to make prior arrangements for their pension despite having full details of their dates of superannuation.

14. It is noted that SOP place on record in relation to the responsibility of paying pensions is related to the old DMCs, which are now defunct, and now the Sindh Local Government system has changed following the Sindh Local Government Act, 2013. Since no DMC now exists as such the aforesaid SOPs are no longer relevant.

15. In order to facilitate the KMC which has undertaken the obligation to pay the pension along with arrears of the petitioners and other employees of TMCs for the next two years, the Secretary, Sindh Local Government is directed to contact each TMC and ask them to provide a list of all the employees who have already retired with due pension of each month and the number of persons who will retire within the next two years of the date of this order with their date of retirement and expected amount of pension so that the Mayor, KMC can make appropriate and timely arrangements. Such list shall be provided by the Secretary Local Government to the Mayor within one month of the date of this order.

16. It is expected that after a period of two years from the date of this order each TMC with regard to the payment of pensionary benefits will become well financed either through their own collection of funds or any allocation made to them either by the Sindh Local Government and/or Federal Government at which time it would no longer be the obligation of KMC to pay the pensions of

the workers of the TMC's, which has stepped in to fulfill the dire need of the petitioners to receive their pensions expeditiously, but that of each TMC.

17. It shall be ensured by the Mayor, KMC with the assistance of the Secretary Finance Government of Sindh that pensions are paid to those who are entitled to the same at least five days before Eid-ul-Fitr 2025 and monthly thereafter along with any arrears.

18. It is noted that the Secretary, Sindh Local Government must play a more active role in the supervision of TMCs to ensure that they are using their finances in accordance with law and that if need be he can exercise his powers under Section 87 and 88 etc of Sindh Local Government Act, 2013 to ensure that such TMCs work for the interest of public and should also ensure that no so-called ghost employee but only genuine employees are paid salaries and pensions, who are entitled to such salaries having been duly appointed on legally and valid appointment letters. He shall ensure that TMCs do not employ any person without his consent in writing as the Secretary, Sindh Local Government shall satisfy himself that such employees are necessary for the smooth functioning of the TMC.

19. The President, Sindh Bank is directed not to open any account in the name of any TMC without the approval in writing from Secretary, Sindh Local Government. It is also expected that each TMC will organize/maintain separate accounts in respect of salaries, pension, developments funds etc. in separate heads of account and when it receives payments either from the Government of Sindh through OZT or any other source including the Federal Government or through its own collection such funds shall be deposited in such relevant separate head of accounts so that the salaries, pension and development work etc. should be undertaken from such heads of account only.

20. We would stress that we have passed this order with great reluctance as we are not keen to interfere with the affairs of Government of Sindh unless it is absolutely necessary however it became so in this case due to the plight of the pensioners who we had to attempt to rescue from the grave hardships which they were suffering by not being paid their pensions timely on account it appears from a lack of funds with the concerned authority.

21. We reiterate that we firmly believe that the Sindh Local Government system should operate independently and it is for the Sindh Local Government.

KMC and TMC's to ensure that such system runs effectively for the benefit of the people of Karachi in accordance with the relevant law and that the courts must only step in in circumstances where it becomes absolutely necessary in order to protect the rights of the people as in this case since we are cognizant of the separation of powers and the dangers of judicial over reach. We also understand and appreciate the need to encourage democracy at the grass roots level so that future leaders may emerge imbued with the spirit and principles of democracy so that such traditions can take firm root throughout the province and country.

22. In paying the pensions Mayor Karachi agreed that he will deal with hardship, widow cases etc. on priority basis and will use his best endeavors to ensure that the pensions are paid promptly and consistently until the lapse of two years when the responsibility will then be devolved upon each TMC itself which by then shall have created and maintained its own self-financing pension fund either through its own collection or contribution from the Government of Sindh or any funds which might be received from the Federal Government.

23. At this stage we express our gratitude to the Mayor, Karachi, Secretary Sindh Local Government and Addl. Secretary Local Government and secretary Finance and other stake holders who realizing the gravity of the situation met with the Chief Secretary and Chief Minister Sindh in order to assist us in passing this order by and large through mutual consent.

24. A copy of this order shall be sent to Chief Secretary, Government of Sindh, the Mayor Karachi, Secretary Sindh Local Government, Secretary, Finance Department, Government of Sindh, President of Sindh Bank and Chairman of each TMC for compliance.

25. All above petitions are disposed of along with pending applications in the above terms.