

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D-6753 of 2014
(*Habib Ahmed Siddiqui v Province of Sindh & others*)

Date	Order with signature of Judge(s)
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Before:
Mr. Justice Muhammad Karim Khan Agha
Mr. Justice Adnan-ul-Karim Memon

Date of hearing and order 16.4.2025

Mr. Shamshad Ali Qureshi advocate for the petitioner
Mr. Imtiaz Solangi, Counsel for KDA
Mr. Anwar Ali Shah, counsel for SBCA
Mr. Ali Safdar Depar, Assistant AG

ORDER

Adnan-ul-Karim Memon, J: In this petition, petitioner Habib Ahmed requests this court to order the release of his outstanding gratuity, funds, and retirement benefits, including pension payments and any unpaid pension amounts since July 10, 2013. He also seeks the payment of a moveover difference amounting to Rs. 8,64,7778/- (or any subsequently calculated higher amount) resulting from his progression from BS-7 to BS-08 and onwards. Additionally, the petitioner is asking for the payment equivalent to the encashment of 365 days of Leave Preparatory to Retirement (LPR).

2. The petitioner's counsel argues that his client was rightfully entitled to seniority-based promotion from BS-7 to 8 and then to BS-15 effective December 1, 1999. Despite submitting numerous promotion applications on various dates, the respondents disregarded him. Counsel further contends that the petitioner's subsequent requests for pay fixation and move-over reflecting this promotion to higher rank were also denied during his tenure of service, resulting in no financial benefit for the petitioner due to the respondents' malicious intent. Additionally, the counsel submits that since 2008, the respondent/accounts officer failed to record the 10% salary deductions in the petitioner's Fund Book and did not even verify it. He also asserts that despite the petitioner submitting his pension form and book, the respondents failed to process them. Finally, the learned counsel contends that the respondents' actions are unlawful and have deprived the petitioner of his rightful promotion in BS-15 during his tenure of service, despite his repeated applications. To support his arguments, he cites the Supreme Court judgments in the cases of *Capital Development Authority v Shabbir Hussain & others* (2022 SCMR 627) and *Chairman Central Board of Revenue v Muhammad Malook* 1999 SCMR 1540 concludes by requesting the court to grant the present petition so far as the issue of promotion is concerned.

3. The learned Assistant Advocate General (AAG) states that the petitioner was appointed as a Lower Division Clerk (LDC) in BPS-7 on May 29, 1988. Based

on the petitioner's service record, the AAG submits that he was a frequent absentee, leading to numerous warnings and explanations documented in his file up to his retirement on July 9, 2013. The AAG further contends that while the petitioner was required to complete pension formalities, he failed to fulfill all requirements. The learned AAG also submits that the petitioner's arrear bill was prepared after all formalities were completed, and the petitioner received it along with his file for submission and verification. However, he did not appear until December 2014. The AAG concludes by stating that after the completion of all requirements, the petitioner's case had been forwarded to the Finance and Accounts department of the Karachi Development Authority (KDA) Wing for the release of his pension and other funds, which has now been done, however the issue of his promotion in BPS-15 cannot be decided after his retirement. He prayed for disposal of this petition in terms of statement filed by advocate for the respondent KDA.

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

5. The learned Assistant Advocate General (AAG) submitted that the Petitioner was an employee of the Sindh Building Control Authority's (SBCA) Master Plan Department. In this connection, the Finance & Accounts Department of the Karachi Development Authority (KDA) Wing, Karachi Metropolitan Corporation (KMC), issued a letter on March 21, 2016, to the Deputy Director (Admin), MPD, SBCA, advising the Petitioner to collect his pension and gratuity arrears cheque from the Cash Office, F&A, KDA Wing, KMC. Additionally, the AAG stated that Rs. 864,778/-, the differential amount resulting from the Petitioner's BPS-7 to BPS-8 up-gradation, had already been deposited into his HBL account at the KDA Civic Centre Branch, Karachi (copy of cheque No. 78303012 dated February 10, 2017, attached). The AAG further submitted that the letter explicitly stated no further payments were pending to the Petitioner from the KDA.

6. At this point, the petitioner's counsel stated that the sole remaining matter for resolution concerns the petitioner's promotion from BS-8 to BS-15 during his service period before his retirement as he was eligible and fit for promotion, however that was delayed leading him to retire, as such he is entitled for proforma promotion. This specific aspect of the case requires review by the respondents' competent authority within three months. This review should be conducted after hearing the petitioner's perspective, in accordance with the principles established by the Supreme Court in the cases of *Capital Development Authority v Shabbir Hussain & others* (2022 SCMR 627) and *The Chairman Central Board of Revenue vs Muhammad Mlook* (1999 SCMR 1540). This petition stands disposed of in the aforesaid terms.

JUDGE

Head of Constitutional Benches