

IN THE HIGH COURT OF SINDH AT KARACHI  
CP. No. D-2257 of 2015  
(Muhammad Abbas Halepota v Province of Sindh & others )

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

**Date of hearing and Order: 14.04.2025**

Petitioner present in person  
Ms. Wajiha Mehdi Assistant Attorney General  
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**ORDER**

**Adnan-ul-Karim Memon, J :**      Petitioner      Muhammad      Abbas submitted this petition to this Court after the State Bank of Pakistan (SBP) rejected his request, as indicated in their response to the legal notice dated August 15, 2014. He seeks to have his previous judicial service as a Clerk, from February 11, 1979, to April 18, 1984 (a total of five years, two months, and five days), counted toward his pension.

2.      Petitioner, who is present in person, submitted that he served as a Clerk in the subordinate court from 1979 before joining the State Bank of Pakistan as an Assistant in 1984 and was promoted to the position of OG-2. Citing SBP circulars that allowed for the counting of previous government service towards pension, he applied in 2003; however, his case was closed due to the government department's inaction. Throughout his SBP career, he consistently received “ A” AMI’s. However, in his final year (2012-13), he was given a "B+" AMI without proper evaluation, after which he opted for early retirement in 2013. His PMF-II for that year was found blank, and his subsequent appeal was unresolved. After his legal notice seeking the counting of his past service and an upgraded AMI was rejected by the Bank, he filed this petition. He submitted that the Bank's refusal deprives him of his legal rights, especially considering his good service record and consistent "A" ratings. He asks the court to direct the SBP to include his past government service in his pension benefits and to upgrade his 2012-13 AMI to "A".

3.      The Respondent Bank, in its reply to the legal notice, asserted that the window for counting past service had closed. In its court submission, the Bank further argued against the petition's maintainability, citing Supreme Court precedent that writ jurisdiction doesn't apply to non-statutory service terms. The Bank also claimed the petition was filed with undue delay (laches), the Petitioner lacks a valid cause of action and has approached the court with "unclean hands," and he lacks the legal standing (locus standi) to file the petition. Additionally, the Bank contended that

the case involves disputed facts requiring extensive investigation, which is inappropriate for constitutional jurisdiction. Regarding the Petitioner's claims, the Bank noted the absence of his initial government appointment order. Concerning the counting of past service, the Bank emphasized the conditions outlined in their circulars, arguing the Petitioner failed to meet them, didn't pursue the matter promptly, and no record of government pension contributions exists. The Bank also highlighted the Petitioner's employment in the Pension Cell, implying his awareness of the rules. The Bank disputed the Petitioner's claim of consistently high-performance ratings, presenting his actual evaluation history. Regarding the blank PMF-II, the Bank stated it was provided, and his appeal was rejected. Ultimately, the Bank denied any wrongdoing, labeled the petition as malicious, and requested its dismissal with costs, asserting no infringement of the Petitioner's rights.

4. We have heard the petitioner who is present in person and perused the record with his assistance.

5. In essence, Muhammad Abbas is petitioning the court to recognize his prior government service for pension benefits and to rectify what he believes was an unfair "B+" rating in his final year, submitting that the Bank's refusal to do so is unjust and violates his fundamental rights.

6. Petitioner was initially appointed as a Clerk in the office of the District & Sessions Judge, Hyderabad (order dated 11-02-1979) and served at the Court of Civil Judge & 1st Class Magistrate, Tando Allahyar from 13-02-1979. He was subsequently appointed as an Assistant in the State Bank of Pakistan (letter dated 10-04-1984) and was relieved from his previous service on 18-04-1984 (certificate attached as Annexure "P-3"). He refers to several circulars issued by the Bank (dated 14-05-1977, 10-01-1978, 24-02-1982, 18-03-1994, 11-08-1996 & 11-03-2003) stating that the government service of a regularly appointed employee in the Bank will be counted for pension benefits. According to these circulars, he applied on 28 April 2003 to count his past service within the given timeframe. However, due to the Government Department's failure to provide necessary information despite reminders, his case was closed. Throughout his service, he was consistently awarded "A" Annual Merit Increase (AMI) (copies attached as Annexures "P-4" to "P-"). In 2012-13, without proper discussion about his work as an Appraiser, he was wrongly given a "B+" AMI. He then opted for early retirement under SBP regulations (dated 18-11-2013), which was accepted, and he retired on 18-11-2013 (office order attached).

7. It appears from the record that the learned District & Sessions, Judge Hyderabad vide office order No. 25 dated 17.04.1994 passed the following order:-

*“Muhammad Abbas has been appointed as Assistant in the State Bank of Pakistan under letter No. Est..(S) 1275/PF-84, date 10.04.1984, of P. Chief Manager, State Bank of Pakistan, Local Office, I.I. Chundrighar Road Karachi, on his application forwarded by this office.*

*Accordingly Mr. Muhammad Abbas, son of Phuloo Khan Halepoto, Clerk in the Court of Civil Judge & FCM Tando Allahyar, who was appointed in BPS-5 on 12.03.1979, and should be relieved immediately to assume his new assignment in the State Bank of Pakistan Karachi. His lien in this department will be for six months from the date of resumes his duty in the State Bank of Pakistan Karachi”.*

8. However, the State Bank of Pakistan, in its response to the petitioner's claims, has confirmed that the petitioner's appointment at the SBP was conducted through the proper channel. The SBP's review of records indicates that at the time of his appointment, the employee provided a certificate from the Civil Judge and 1st Class Magistrate, Tando Allahyar. This certificate stated that the petitioner began his duties as a Clerk in that court on February 13, 1979, following his initial appointment as per endorsement No. 1300 dated February 11, 1979, issued by the District Judge, Hyderabad. The employee also submitted two relieving orders: one from the District Court Hyderabad, dated April 17, 1984 (Office Order No. 25), and another from the Court of the Civil Judge and FCM, Tando Allahyar, dated April 18, 1984 (No. 303 of 1984). However, the SBP submitted that these documents did not specify the employee's capacity of service (whether ad hoc, temporary, or permanent) or whether his previous service was pensionable. Furthermore, the SBP disclosed that the employee was required to submit his initial appointment letter dated February 11, 1979, issued by the SBP BSC Karachi Office, which should have indicated his employment status and the nature of his retirement benefits (pension or otherwise). The SBP also pointed out that the petitioner did not pursue the matter of counting his prior service. The SBP BSC had previously offered an opportunity to all eligible employees to have their previous service considered for benefits, provided they completed all necessary formalities according to the Bank's regulations. This option was available for a limited period of three months following the issuance of circular letter No. AD (CAU-112)/02/2003, dated March 11, 2003 (attached as Annexure "A").

9. Both Staff Order No. 240 and Office Order No. PMD-394 confirms the approval of the petitioner (PIN-104671), an OG-2 officer at the Karachi Office, for early retirement under Regulation 17(1) of the SBP Banking Services Corporation Staff Regulations 2005, effective at the

close of business on November 18, 2013. By his selected options, the petitioner was held entitled to a monthly Benevolent Fund grant, existing post-retirement medical benefits as per the Bank's regulations, and a 100% commutation of his gross pension, which constitutes a complete and final settlement of all future claims and rights related to his pension.

10. According to the State Bank of Pakistan's (SBP) Circular letter No. AD. 55/ Reg. 11 (viii)-84 dated March 18, 1984, the government has considered the treatment of prior government service for pension eligibility of employees joining the SBP. Based on government instructions, the following has been decided:

*I) Regular government service of an employee who resigned from government to join the Bank will be counted towards their SBP pension, subject to the conditions outlined below.*

*II) The relevant government department from which the employee resigned will be required to pay pension contributions to the Bank at the government-prescribed rates for the employee's prior government service.*

*Furthermore, only employees meeting the following criteria will be eligible for this benefit:*

- i. While employed by the government, the employee applied for the Bank position through the proper channels or obtained approval from the relevant government authority to take up employment with the Bank.*
- ii. The employee's resignation letter from government service clearly stated that it was for the purpose of joining the State Bank.*
- iii. The employee's service with the government department was pensionable.*

11. It is well-settled law that the right to claim a pension is a right connected with the tenure of service, which under the applicable pension rules has to be served by an employee to make him eligible for a pension. So, to claim a pension, the minimum qualifying service is the threshold that has to be crossed first, which would then entitle an employee to claim the pension.

12. Based on the information provided, the petitioner seemingly possesses a qualifying length of service for pension. This service includes his initial tenure as a Clerk in the aforementioned court, which was a regular service in District Judiciary as evidenced from the letter dated 17.04.1984, as discussed supra, commencing on February 13, 1979, following his appointment under endorsement No. 1300 dated February 11, 1979, issued by the District Judge, Hyderabad, and evidenced by the relieving orders dated April 17, 1984, and April 18, 1984. However, the State Bank of Pakistan did not factor in this prior service when calculating his benefits, as discussed earlier. Furthermore, even if an employee eligible for confirmation against a post during their probationary or ad-hoc

period retires before being formally confirmed, they should not be denied confirmation or any associated benefits solely due to their retirement. The record reflects that the petitioners' previous judicial service as a Clerk, from February 11, 1979, to April 18, 1984 (a total of five years, two months, and five days), according to Articles 358, 371-A, 423, and 474 (b) of Civil Service Regulations, his previous service on ad-hoc basis with effect from 1979 to 1984 is countable to his regular service for service/pensionary benefits and other fringe benefits.

13. To add further, Article 371-A of Civil Service Regulations is clear in its terms that a government servant not employed in a substantive permanent capacity who has rendered more than five years continuous temporary service counts such service for pension or gratuity, excluding the broken period of service, if any, rendered previously. Continuous temporary and officiating service of less than five services immediately followed by confirmation shall also count for gratuity or pension, as the case may be. On the aforesaid proposition we are guided by the decision of the Supreme Court in the case reported (2021 SCMR 1546).

14. In view of the foregoing legal position of the case, the petitioner is entitled to claim the entire service/pensionary dues by counting his previous service, rendered in the district judiciary, to his retirement benefits. Even otherwise, under Section 474 (b) of CSR petitioner's case is fully covered under the aforesaid regulation. We are guided by the decisions of the Supreme Court in the cases of *Nafees Ahmad V/S Government of Pakistan and others*, 2000 SCMR 1864, *Ch. Muhammad Azim V/S The Chief Engineer, Irrigation and others*, 1991 SCMR 255, and *Chairman, Central Board of Revenue and others V/S Nawab Khan and others*, 2010 SCMR 1399.

15. In accordance with the terms outlined above, this petition is hereby disposed of. The respondent Bank is directed to recalculate the petitioner's pension benefits, taking into account his prior service within the judicial district from 1979 to 1984. The recalculated benefits shall be disbursed to him according to his legal and SBP policy entitlements within a period of three months. A copy of this order shall be sent to the Governor of the State Bank of Pakistan for compliance.

JUDGE

Head of Const. Benches