

**IN HIGH COURT OF SINDH, CIRCUIT COURT
MIRPURKHAS**

C.P No.D-721 of 2024

[Muhammad Yaqoob Anjum v. Province of Sindh & others]

C.P No.D-722 of 2024

[Mazhar Muhammad v. Province of Sindh & others]

C.P No.D-838 of 2024

[Muhammad Younis v. Province of Sindh & others]

C.P No.D-1715 of 2024

[Mufti Muhammad Yaseen v. Province of Sindh & others]

C.P No.D-205 of 2025

[Abdul Razzak v. Province of Sindh & others]

Before:

Mr. Justice Arbab Ali Hakro

Mr. Justice Riazat Ali Sahar

Petitioners:

Through M/s. Karamullah Memon, Haji Qalandar Bux, Rana Rahail Mehmood, Advocates.

Mr. Nabi Bux Leghari advocate for Intervenors.

Respondents:

Through Mr. Muhammad Sharif Solangi Assistant A.G. Sindh along with Secretary Agriculture Department [Sohail Ahmed Qureshi], Director General Agriculture Marketing [Ghafar Ahmed Memon], Administrator M.C. Mirpurkhas [Zulfiqar Ali Jagirani] and Secretary M.C. Mirpurkhas [Muhammad Idrees].

Mr. Muharam Abro advocate for respondent No.7 and 8 in C.P. No.D-205 of 2025.

Dates of Hearing :

21.05.2025

Date of Decision :

21.05.2025

JUDGMENT

RIAZAT ALI SAHAR J: -The above-captioned petitions have been filed by petitioners who are or were employees of the Agriculture Department. Most of the petitioners have retired after rendering several years of service to the department. However, one of the petitioners, namely Mufti Muhammad Yaseen Rind Baloch, is still in service and currently performing his duties as Pesh Imam.

2. The petitioner, Muhammad Yaqoob (C.P. No.D-721 of 2024) was appointed as a Junior Clerk on 02.09.1981 and after promotions, ultimately retired as an Inspector (BPS-11) on 21.10.2012 upon attaining the age of superannuation (60 years). Although his pension papers were duly approved by the respondent, Director General, Agriculture Extension, Sindh Hyderabad, in 2013, he was only granted his monthly pension, gratuity/commutation and leave encashment in February 2021 following strict directives issued by this Honorable Court at the Sukkur Bench. Despite this delayed relief, the petitioner has yet to receive a total amount of Rs. 648,202/- in unpaid monthly salaries for the period he was posted at the Market Committee, Mirpurkhas. Furthermore, since March 2021, the petitioner has not been receiving his monthly pension. Nearly ten years have passed since his retirement, yet the petitioner continues to suffer due to the non-disbursement of his legitimate entitlements.

3. The petitioner, Mazhar Muhammad (C.P. No.D-722 of 2024) was appointed as Junior Clerk-cum-Typist on 01.12.1974 and after promotions, ultimately retired as Inspector (BPS-11) on 30.04.2014 upon attaining the superannuation age of 60 years. Although pension papers of the petitioner were approved by the respondent Director General Agriculture Extension Sindh

Hyderabad in 2016 it was only after strict directions issued by this Honorable Court at the Sukkur Bench that he was finally granted his monthly pension, gratuity/commutation and leave encashment in February 2021. Despite this partial relief, the petitioner has not been paid outstanding monthly salaries amounting to Rs. 433,943/- for the period during which he served at Market Committee, Mirpurkhas, as well as an additional three months' salary of Rs. 33,000/- for his service at Market Committee, Digri. Moreover, the petitioner has not received his monthly pension since April 2021. More than a decade has passed since his retirement, yet the petitioner continues to endure undue hardship in securing his rightful post-retirement dues.

4. The petitioner, Muhammad Younis (C.P. No.D-838 of 2024) served as Chief Inspector (BPS-15) and retired on 31.05.2021. According to the petitioner, he was deprived of his pensionary benefits under various pretexts. Consequently, he filed Constitutional Petition No.1707 of 2021 before this Court at the Circuit Court, Hyderabad. In the said proceedings, the Chief Secretary to the Government of Sindh was summoned and by order dated 01.09.2022 directed to ensure payment of the petitioner's dues within one month. However, despite the disposal of the said petition, the petitioner was not paid his outstanding pensionary dues. It was only after filing a contempt application that he received Rs.3,348,824/- from the Market Committee, Mirpurkhas, and Rs.100,000/- from the Market Committee, Kot Ghulam Muhammad. Nonetheless, the petitioner remains unpaid for several salary arrears, including:

- Rs.1,028,519/- for the period May 2020 to May 2021 from the Market Committee, Mirpurkhas;
- Rs.858,035/- for the period September 2014 to September 2016 from the Market Committee, Kot Ghulam Muhammad;

- Rs.787,197/- for the period August 2018 to July 2019 from the Market Committee, Hala.

The total outstanding salary arrears amount to Rs.2,673,751/-, which remain unpaid. In addition, the petitioner's monthly pension has not been released since April 2023.

5. An application under Order I Rule 10(2) read with Section 151 CPC was filed in C.P. No. D-838 of 2024 by the interveners Inayat Ali (Inspector, BPS-11), Faqeer Muhammad (Junior Inspector, BPS-10), Zaheeruddin (Typist, BPS-05), Muhammad Azam (Electrician, BPS-05), Sikandar Ali (Driver, BPS-04), and Iqbal Ashique (Sweeper, BPS-02) all employees of the Market Committee, Mirpurkhas, in January 2025. Through the said application, they prayed to be impleaded as petitioners in the proceedings. The interveners contended that, vide order dated 29.05.2018 passed in C.P. No. D-7336/2015, a formula had been proposed by the respondents therein for the payment of arrears and other pensionary benefits to the petitioners of that case and similar others who retired from various Market Committees across Sindh. The application is allowed and the applicants are accordingly impleaded and treated as petitioners in the present proceedings.

6. The petitioner, Mufti Muhammad Yaseen Rind (C.P. No.D-1715 of 2024) is serving as a Pesh Imam in BPS-12. However, his salary has remained unpaid since the years 2014–2015. According to the petitioner, it has become a routine practice of the respondents to disburse only half a month's salary every three to four months, while the remaining dues continue to accumulate without payment by the department. The petitioner states that in 2019, the respondents prepared a statement outlining the outstanding salaries of various employees, in which his unpaid salary was recorded for a period of 62 months, totaling Rs.1,774,409/-. The sole justification provided by the

respondents for this non-payment was an alleged shortage of funds. This irregular and discriminatory practice has continued unabated and the petitioner now claims that approximately 130 months' worth of salaries remain outstanding. He further contends that the excuse of a shortage of funds is baseless, as officers of the Market Committee Mirpurkhas, particularly those in higher ranks, are receiving their salaries regularly without any delay or interruption. There are no salary arrears for such officers, indicating that the alleged fund shortage disproportionately and unjustly affects only lower-grade employees like the petitioner. Accordingly, the petitioner seeks payment of all outstanding salaries due from September 2015 onwards, along with a direction to ensure the regular and uninterrupted disbursement of his monthly salary.

7. The petitioner, Abdul Razzak (C.P. No.D-205 of 2025) served as a Mali (BPS-02) in the Agriculture Department and was posted at the Market Committee, Mirpurkhas. He retired from service on 01.06.2023. However, despite the passage of considerable time, he has not been released his monthly pension to date. He claims that more than 20 months' pension payments also remain outstanding. Furthermore, the petitioner states that an amount of Rs.2,458,393/- in unpaid salary, accruing since the year 2019, is still outstanding against the Market Committee. Accordingly, the petitioner prays for the immediate release of his current and outstanding pension, along with the disbursement of all pending dues and post-retirement benefits, including the aforementioned outstanding salaries, from the Market Committee, Mirpurkhas.

8. Pursuant to the notice issued by this Court, the respondents submitted their comments. In their statement, the Chairman/Administrator and Secretary of the Market Committee, Mirpurkhas, acknowledged that partial payments of

the petitioners' pensionary benefits have been made. They further contended that, under Section 14 of the Agricultural Produce Markets Act, 1939, the Market Committee, Mirpurkhas, is a body corporate operating on a self-finance basis and does not receive any funds or grants from the Government. In compliance with the directions of this Court, and due to the unavailability of funds, the Market Committee arranged for the rental of one of its godowns and the entire rent amount received was disbursed to the petitioner(s). It was further submitted that, at present, the Market Committee has no available funds. However, the remaining amount of the petitioners' pensionary dues will be paid as and when funds become available. The financial condition of the Market Committee, Mirpurkhas, was described as severely constrained, with difficulties in disbursing regular staff salaries as well as pensions. Moreover, it was mentioned that several similar petitions are pending before the Court. The respondents assured the Court that the Market Committee would continue paying the regular monthly pensions to the petitioners from whatever funds are available. Nevertheless, they also contended that, under the provisions of the Agricultural Produce Markets Act, 1939 and the Rules of 1940, the Market Committee was constituted as an independent entity and therefore, the instant petition is not maintainable and is liable to be dismissed in the interest of justice.

9. The Secretary Agriculture, Supply & Prices Department, Government of Sindh, Karachi in his statement has referred Section 14 of Agricultural Produce Markets, Act, 1939 and Rule 14 (7) of Sindh Market Committee Unified Grade Service Rules 1983, Amended on 04.06.2012, Market Committee is solely responsible for payment of post-retirement benefits to its employees, as such, Chairman/Administrator and Secretary of

the Market Committee, Mirpurkhas are liable to clear the dues of the petitioners.

10. The Director General, Agriculture Marketing, Sindh, Hyderabad, in his statement, submitted that under the Sindh Market Committee Unified Grade Service Rules, 1983 pursuant to Notification No. SO (PMP)/5(396)/2008 dated 04.06.2012 the responsibility for payment of monthly pension and any outstanding dues lies with the respective Market Committee where the member of the service retires or, as the case may be, expires. Accordingly, the Administrator and Secretary of the Market Committee, Mirpurkhas, are the competent authorities legally responsible for disbursing the pensionary benefits to the petitioners.

11. The Additional Finance Secretary on behalf of Finance Department, Government of Sindh in pursuance of order passed on 25.06.2024 files statement where stated that as per section 13 of the Sindh Wholesale Agricultural Produce Markets (Development & Regulation) Act, 2010, which stipulates *“Each notified market shall be operated by its market company in such manner as shall ensure that such wholesale market is financially self-sustaining without recourse to lending, grants, or the injection of further equity or other assistance from the Government.”* As per section 11 (2) of the Act *“Pension, gratuity, commutation and other service benefits as the case may be admissible to such employees including the employees who retired or died while serving in the Market Committees together with the employees of Market Committees Pool Fund before the commencement of this Act shall be the responsibility of the successor Market Committees and settled in the manner as may be prescribed.”* The Additional Secretary also referred section 20 (i) and 21 (v) of the Agriculture Produce Market Act, 1939 i.e. **(a) 20 (i)** – *all moneys received by a Market Committee shall be paid*

into a fund to be called the “Market Committee Fund”. All expenditure incurred by a Market Committee under or for the purposes of this act shall be defrayed out of the said fund (b) 21 (v) – the pay, leave compassionate and Medical leave allowances, gratuities and pension and contribution towards leave allowances or provident fund of the persons employed by the market committee shall be expended from the market committee fund.

12. In compliance with the orders of this Court, the Secretary to the Government of Sindh, Agriculture, Supply and Prices Department, appeared in person and submitted a compliance/progress report, which is taken on record. The Administrator and Secretary of the Market Committee, Mirpurkhas, were also present and handed over original cheques to the respective petitioners, as detailed below:

- a)** In C.P. No. D-721 of 2024, two cheques were handed over:
 - Cheque No. 1383997058 dated 26.05.2025 for Rs. 138,042/-
 - Cheque No. 1383997059 dated 25.06.2025 for Rs. 100,000/-
- b)** In C.P. No. D-722 of 2024, two cheques were handed over:
 - Cheque No. 1383997056 dated 26.05.2025 for Rs. 100,000/-
 - Cheque No. 1383997057 dated 25.06.2025 for Rs. 59,978/-
- c)** In C.P. No. D-838 of 2024, one cheque was handed over:
 - Cheque No. 1383997060 dated 26.05.2025 for Rs. 100,000/-
- d)** In C.P. No. D-1715 of 2024, one cheque was handed over:
 - Cheque No. 1383997061 dated 26.05.2025 for Rs. 100,000/-

13. The learned counsel for the petitioners contended that despite years of service and formal approval of their pensionary benefits, the petitioners have faced inordinate delays and partial

disbursements. He contended that repeated non-payment of salaries and pensions, despite clear court directives, constitutes a violation of constitutional and service rights and the petitioners are suffering financially post-retirement due to the negligent and discriminatory conduct of the Market Committee, Mirpurkhas. He has further contended that the excuse of a lack of funds is baseless, especially when higher officials continue to receive uninterrupted salaries. He prayed for directions for full disbursement of all outstanding dues, including pensions, salaries, gratuity, and other post-retirement benefits without further delay.

14. The learned counsel for the interveners/petitioners adopted the arguments of the main petitioners and added that his clients are also employees of the Market Committee, Mirpurkhas. He contended that their claims are supported by a precedent of C.P. No.D-7336/2015, in which a formula for arrears and pension benefits was agreed upon; however, despite being eligible, the interveners have been excluded without justification. He prayed that they be treated equally and be granted the same relief extended to the main petitioners, in the interest of equity and justice.

15. The learned A.A.G. Sindh has contended that under Section 14 of the Agricultural Produce Markets Act, 1939 and Rule 14 (7) of the Sindh Market Committee Unified Grade Service Rules, 1983, the responsibility for pensionary and salary payments lies solely with the Market Committee, which is a self-financed, autonomous body. He further contended that the Government of Sindh does not provide financial aid or grants to Market Committees. Referring to the Sindh Wholesale Agricultural Produce Markets Act, 2010, he highlighted that each Market Committee must remain financially self-sustaining. However, he assured that the provincial government is

committed to ensuring compliance with court orders and supporting lawful resolutions.

16. We have heard the learned counsel for the parties and carefully examined the record available on file.

17. It is relevant to mention here that out of all these petitions, two petitions i.e. C.P. No.D-721 of 2024 and C.P. No.D-722 of 2024, have already been disposed of by this Court vide Common Order dated 12.08.2024. The operative part of the said order is reproduced:-

“5. This is a matter of grave concern that for several years, the long and unjustified delay in payment of pensions has been a source of tremendous hardship and humiliation to retiring officials and their families. Despite strictures and orders passed by the Honourable Supreme Court of Pakistan in its various pronouncements and simplified guidelines laid down by the government, petitions on account of delay persist. It is well-settled law that no pension granted or continued to the pensioner is liable to seizure by the department under Pension Act, 1871, and the rules, framed thereunder. Besides, there is no power for the Government to withhold Gratuity and Pension during the pendency of the departmental proceeding or criminal proceeding, if any. Even it does not give any power to withhold Leave Encashment at any stage either before the proceeding or after the conclusion of the proceeding.

6. In the light of the foregoing, we direct the competent authority of the respondents to resolve the issue of pension and service benefits of the petitioner if not earlier resolved, including arrears if any outstanding, in its true perspective, within one month; and if they are entitled under the law, in terms of the ratio of the judgment passed by Supreme Court in the case of Haji Muhammad Ismail Memon **PLD 2007 SC 35**.

7. These petitions stand disposed of in the terms of the ratio of the Judgment passed by Supreme Court in the case of Haji Muhammad Ismail Memon.”

18. Despite clear and unambiguous directions issued by this Court, the respondents failed to comply with the said order. Consequently, both petitioners in the referenced petition filed Contempt Applications under Sections 3 and 4 of the Contempt of Court Act. In their respective replies, the respondents sought to deflect responsibility by attributing the failure to comply with the Administrator and Secretary of the Market Committee, Mirpurkhas, who, however, had already expressed their inability to make payments due to an alleged shortage of funds.

19. The material available on record establishes a deeply troubling pattern of administrative apathy and institutional failure on the part of the Administrator and Secretary of the Market Committee, Mirpurkhas. They have consistently failed to discharge their statutory obligations to both serving and retired employees. After meticulous perusal and condition, we believe that this failure is not incidental or occasional but systemic and prolonged as evident from the years-long delays in releasing lawfully earned salaries, pensions, gratuities, and post-retirement benefits. This nonpayment is not merely a breach of internal administrative duties but a denial of constitutionally protected rights guaranteed under Articles 9 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973. The right to livelihood, dignity and non-discriminatory treatment is not conditional upon the fiscal health of a subordinate statutory body. Any justification based on alleged lack of funds stands nullified in the face of regular payments being made to senior officers, while junior or retired employees continues to be illogically and selectively deprived of their rightful dues. This discriminatory treatment amounts to financial victimization and challenges the core principle of equal protection of the law. The respondents have also failed to take proactive measures to

supplement revenue streams, optimize available resources, or prioritize pending liabilities, despite having the legal tools to do so under the relevant enactments. This continuing inaction reflects culpable neglect and amounts to constructive defiance of lawful court orders.

20. The **statutory scheme** under the Agricultural Produce Markets Act, 1939, reinforced by Rule 14 (7) of the Sindh Market Committee Unified Grade Service Rules, 1983, creates an unambiguous obligation upon Market Committees to discharge all financial liabilities including payment of salaries, pensions, leave encashment and other service-related entitlements from the Market Committee Fund. Section 20 (i) and 21(v) of the 1939 Act expressly designate such expenditures as valid charges upon the Fund. This obligation is not optional, nor does it admit postponement on the basis of internal administrative convenience. Furthermore, the Sindh Wholesale Agricultural Produce Markets (Development and Regulation) Act, 2010, particularly Sections 11 and 13, continues this responsibility by transferring the entire service burden of employees, including post-retirement obligations, to the successor Market Committees. The language of Section 11 makes it clear that employees, both existing and retired, retain full rights to service benefits under the same terms prevailing before the transfer. The statutory mandate of financial self-sustainability under Section 13 requires market companies to operate in a fiscally responsible and autonomous manner without seeking external injections from the government. Failure to comply with these obligations amounts to statutory non-performance and administrative misconduct, exposing the officers to legal consequences. The law thus admits no vacuum in responsibility; it demands execution, not excuses.

21. It is worthwhile to note here that the binding authority of the Honourable Supreme Court in **Haji**

Muhammad Ismail Memon v. Government of Sindh (PLD 2007 SC 35) conclusively affirms that pensionary and post-retirement benefits are not acts of kindness but constitutionally enforceable rights. This judgment underscores that pensions and gratuities accrue as vested property rights the moment an employee retires and any delay in disbursement constitutes a continuous infringement of fundamental rights. The Honourable Supreme Court clearly held that there exists no legal basis for withholding pensionary benefits, even in cases of pending departmental or criminal proceedings. By necessary extension, the non-payment of such benefits in the absence of any disciplinary or legal proceedings, let alone in violation of express court orders, stands as an aggravated contempt of constitutional values and judicial authority. **The instant case reveals not merely a lapse in disbursement, but an institutional habit of avoidance and deferment, which this Court cannot condone.** The jurisprudence laid down in the aforementioned judgment is directly applicable and binding under Article 189 of the Constitution. Any attempt to shift the burden of responsibility from one department to another does not dilute this liability but further accentuates the need for structural intervention and judicial oversight.

22. For what has been discussed and in the light of the facts, the settled law as well as in the spirit of *C.P. No. D-7336/2015* and the formula evolved therein, we hereby dispose of the remaining petitions (C.P. No. D-838 of 2024, C.P. No. D-1715 of 2024, and C.P. No. D-205 of 2025) and the connected Contempt Applications with the following mandatory directions:

A. A High-Level Committee shall be constituted within seven (7) days under the supervision of the Chief Secretary, Government of Sindh (Chairman), comprising the following members:-

1. Secretary, Agriculture, Supply & Prices Department.
2. Director General, Agriculture Marketing, Sindh.
3. Administrator, Market Committee, Mirpurkhas.
4. Secretary, Market Committee, Mirpurkhas.
5. One nominee from any other functioning Market Committee (optional)

B. The purpose and timeline of the Committee shall be:-

- a)** To plan and notify a comprehensive payment mechanism for clearance of all outstanding dues (including salaries, pensions, gratuities, and post-retirement benefits) within one (1) month of this judgment.
- b)** To actual disbursement of pending dues to all petitioners and newly impleaded ones (as per allowed applications under Order I Rule 10 CPC) shall be completed within the following two (2) months, irrespective of whether the mechanism is finalized or not.

C. The Structure of the Mechanism of the Committee shall be:-

- a)** To ensure the prioritization of dues, identification of recoverable assets and initiation of fiscal discipline across all Market Committees.
- b)** To propose a long-term plan for avoiding recurrence of similar lapses by ensuring monthly budgeting, transparent disbursal procedures, and if necessary, revenue enhancement through lawful means (e.g., leasing/renting of assets, recovery of outstanding dues as per Section 17 of the Sindh Wholesale Agricultural Produce Markets (Development and Regulation) Act, 2010.

23. In view of the severe and prolonged suffering endured by the petitioners, we further direct that, irrespective of the mechanism outlined above, the **Chief Secretary, Government of Sindh**, shall personally intervene in the matter and ensure that sufficient funds are immediately arranged and released from the Government of Sindh. This shall be done without any further delay, so as to effectuate the redressal of the grievances of the petitioners/interveners and secure the disbursement of their outstanding lawful dues in the shortest possible time.

24. In terms of the above, we hereby place all responsible officers on notice that any further non-compliance or willful delay, in violation of these directions, shall attract strict contempt proceedings under the Contempt of Court Ordinance, 2003, and this Court will not hesitate to pass coercive orders including but not limited to personal appearance, attachment of properties, and incarceration.

25. Let a copy of this judgment be forwarded to the Chief Secretary, Government of Sindh and all concerned officials for strict compliance. The Additional Registrar of this Court shall ensure periodic monitoring and report non-compliance, if any, within the prescribed timeframe.

26. These petitions and applications stand **disposed of** accordingly with directions as above.

JUDGE

JUDGE