

**IN THE HIGH COURT OF SINDH, KARACHI**  
**Constitutional Petition No.D-4371 of 2023**  
*(Shahid Hussain versus Registrar High Court of Sindh and others)*

Before:  
**Justice Muhammad Karim Khan Agha**  
**Justice Adnan-ul-Karim Memon**

**Date of hearing & Order: 01.10.2025**

Mr. Muhammad Mushtaq advocate for the petitioner  
Ms. Saima Imdad, Assistant Advocate General Sindh

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**ORDER**

**Adnan-ul-Karim Memon, J.** Through this Constitutional Petition, the petitioner seeks to direct the respondent No.3 to allocate funds in respect of his back benefit with effect from 01.12.2014 to 06.11.2018.

2. This matter pertains to the pensionary/service benefits of the deceased petitioner, who died during the pendency of this Petition, which is of paramount consideration. 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 Supreme Court of Pakistan in its various pronouncements and simplified guidelines laid down by the Government, petitions on account of delay persist.

3. The petitioner was appointed as Naib Qasid in 1992 and developed acute diabetes after 22 years of service. He initially took 75 days of medical leave, followed by an application for a two-month extension (November 27, 2014, to January 27, 2015). Respondent No. 2 ordered a medical board examination to assess fitness. The Special Medical Board on December 4, 2014, opined the petitioner had diabetes mellitus with complications requiring long-term management, but was "not fit for invalidation." Despite this finding, Respondent No. 2 retired the petitioner on medical grounds effective December 1, 2014, via an order dated December 15, 2014. After recovering and being declared fit to resume duty by a medical officer, the petitioner's review application was rejected on September 3, 2015. His subsequent departmental appeal was also dismissed as time-barred on August 13, 2016. He preferred Service Appeal No.17/2016 against the abovementioned order, before the Sindh Subordinate Judiciary Service Tribunal, which was remanded back to respondent No.2 vide judgment dated 24.2.2018. Respondent No.2, in compliance with the above-mentioned judgment, allowed the petitioner to join his duty on 07.11.2018 with a direction to appear before the medical board, and after taking their opinion, respondent No.2 did not pay his salary. It is further added that the petitioner approached this Court through Constitutional Petition No. D-6908/2018 against non-payment of his salary, which was allowed by this Court vide judgment dated 29.10.2018 by directing

respondent No.2 to consider the matter afresh and assigning light duty to the petitioner in view of his health, and also directed to decide the issue of his salary compassionately in view of the order dated 25.2.2018 of the Sindh Subordinate Service Tribunal. The petitioner again approached this Court vide his two applications bearing CMA Nos.16224/2019 and 16491/2019 were filed and ultimately these two applications were heard and decided on 15.10.2020 by directing respondent No.2 to calculate and include the service benefits of the petitioner in his pay and award service benefits/dues including back benefit within one month from the date of receipt of this order; that the said order was duly communicated to respondent No.2 but till date no such back benefit were received by the petitioner. It is further added that respondent No.2 vide his drawing and disbursing officer's letter dated 08.3.2022 by enclosing herewith the prescribed proforma, copy of the Service Book, copy of an order dated 24.2.2018 passed by the Sindh Service Tribunal, copy of retirement order in the year 2014, copy of order regarding deciding the out of service period w.e.f. 01.12.2014 to 06.11.2018 as E.O.L. and a copy of the reinstatement order w.e.f dated of retirement delivered by Sindh Subordinate Service Tribunal dated 24.12.2018 were sent to respondent No.3 for payment. Finally, he by pillar to post making all his efforts by writing many letters/reminders dated 25.5.2023, 03.8.2023 and 21.8.2023 to the learned respondent Nos 1 to 3 to release his back benefits, but no such serious action was taken by any of them and meanwhile he met with the death on 17.2.2025 and his legal heirs were brought on record vide order dated 1.9.2025. His legal heirs are now claiming that such amount which is being withheld by the respondents without any lawful authority is liable to contempt of Court, and the respondents deprived the petitioner of the right to life by not providing his back benefits. Legal heirs prayed to allow this petition.

4. The Assistant Advocate General (AAG) opposed the petition, arguing that the petitioner's claim for arrears of pay and allowances was submitted in 2021 but was returned. She submitted that the claim was over Rs. 150,000, requiring permission from the Finance Department as per clear instructions (Letter No. FD(E&A)9(58)/2017 dated 10.1.2017 and clarification dated 18.8.2017). She added that the required permission for claims exceeding Rs. 150,000 was not provided when the claim was first submitted. She further argued that the concerned Drawing and Disbursing Officer (DDO) never resubmitted the claim after it was returned. The AAG stated that the petitioner's arrears will be released subject to the submission of a fresh claim that is duly signed by the convened DDO, accompanied by funds permission from the Finance Department, as required by the prevailing instructions.

5. We have heard learned counsel for the parties and considered the record with their assistance.

6. The petitioner, a Naib Qasid appointed in 1992, was retired on medical grounds by Respondent No. 2 effective December 1, 2014, despite only applying for a two-month extension of medical leave. He died during the pendency of the petition. Now his legal heirs are claiming back benefits for the period from December 1, 2014, to November 6, 2018, in compliance with this Court's Order dated October 15, 2020. The stance of the respondent's finance department is that the claim for arrears has been deferred twice by the Scrutiny Committee (in November 2021 and March 2022). The matter is pending because the Appointing Authority (District & Sessions Judge, South Karachi) has not yet issued the mandatory formal order detailing the decision for the "intervening period," as required by this Court's Order. Once the requisite reply/formal order is received from the Appointing Authority, the Finance Department will expeditiously process the claim according to the rules.

7. To understand the concept and connotation of the term "pension", the rights/privileges and obligations attached thereto, the importance thereof, and the law laid down in respect thereof by the Supreme Court. The definition of the term "pension" and the nature of the right in respect thereof were examined in depth by the Supreme Court of Pakistan in the case of I. A. Sherwani and others V/S Government of Pakistan through Secretary, Finance Division, Islamabad and others, **1991 SCMR 1041**. It is well-settled that a person who enters Government service has also something to look forward to after his retirement, to what is called retirement benefits, a grant of pension being the most valuable of such benefits. It is equally well-settled that the pension-like salary of a civil servant is no longer a bounty but is a right acquired after putting in satisfactory service for the prescribed minimum period. It cannot be reduced or refused arbitrarily except to the extent and in the manner provided in the relevant rules. In the case reported as Re: Pensionary Benefits of the Judges of Superior Courts, **PLD 2013 SC 829**, it was held, inter alia, by the Hon'ble Supreme Court that pension is a right which the Government servants or employees in different positions and different capacities earn in terms of the relevant statutory provisions applicable to their case, mostly depending upon their length of service; and, in any case, it is not a State bounty which could be awarded as a favor to any individual outside the scope of the applicable statute.

8. It is well-settled law that no pension granted or continued to the pensioner is liable to seizure by the department under the Pension Act, 1871, and the rules framed thereunder. Besides, there is no power for the Government to withhold Gratuity and Pension.

9. It is well-settled that pension is a measure of socio-economic justice that inheres economic security in the fall of life; a person who enters the Government / public service has also something to look forward to after his retirement viz. his retirement benefits, the grant of pension being the most valuable of such benefits; pension is like a salary and is no longer a bounty, but is a right acquired after putting in satisfactory service for the prescribed minimum period; pension cannot be reduced or refused arbitrarily except to the extent and in the manner provided

in the relevant rules; and, pension becomes the property of the retiring employee or civil/public servant as a matter of right upon the termination of his service.

10. From the above principles settled by the Hon'ble Supreme Court, it is clear that pension, like salary, is a regular source of livelihood, and thus is protected by the right to life enshrined in and guaranteed by Article 9 of the Constitution. In principle, there seems no room to disagree with the plea / legal position that the right to life of a person/citizen shall include the right to livelihood and such right, therefore, cannot hang on to the fancies of individuals in authority; and, the employment is not a bounty from them i.e. individuals in authority, nor can its survival be at their mercy.

11. Prima facie, the legal heirs of the petitioner gave various reasons to claim the interest on the delayed payments on the premise that the deceased petitioner stood retired from service long ago; however, in violation of the law, he during his service/ now his legal heirs have been denied the service benefits, which has triggered the cause and hardship to the legal heirs/petitioner to approach this court.

12. Learned counsels for the petitioner pointed out that the service benefits of the deceased petitioner have been withheld without assigning any cogent reason.

13. In our view, pensionary benefits cannot be stopped; and, is violative of the law laid down by the Supreme Court in the case of Haji Muhammad Ismail Memon, **PLD 2007 SC 35**.

14. In the light of the foregoing, we direct the Registrar of this Court and Chief Secretary Sindh and the head of the concerned departments, where the petitioner has served and retired from service from district judiciary. The representative of Accountant General Sindh's office and other accounts officers of the concerned departments shall attend the office of the Registrar of this Court, on the date and time so fixed by him, to resolve the issue of service benefits of the petitioner, and other ancillary matters including arrears if any outstanding, in its true perspective, within one month; and if he is entitled under the law, his service benefits must be released, if not already paid, strictly in terms of the ratio of the judgment passed by Supreme Court in the case of Haji Muhammad Ismail Memon, **PLD 2007 SC 35**. Copy shall be forwarded to Registrar of this Court for compliance.

15. Petition stands disposed of.

JUDGE

HEAD OF CONST. BENCHES

SHAFI