

Order Sheet
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

CP No. D- 3013 of 2018
[Mst. Venus Bibi v. Province of Sindh & others]

BEFORE:

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Riazat Ali Sahar

M/s. Hina Ali Bughio & Ghulam Mohiuddin, advocate for petitioner

Syed Shahzad Ali Shah, Advocate for HMC / alleged contemnors

Mr. Rafiq Ahmed Dahri, Asstt: A.G.

Date of hearing of MA No.13757 of 2022
& decision: 18.12.2025

ORDER

ADNAN-UL-KARIM MEMON, J . - In the present case, Venus Bibi has filed a constitutional petition regarding the issuance of pensionary benefits of her late brother. The late Patras Masih, an employee of Hyderabad Municipal Corporation, Hyderabad, passed away on 31.08.2016. He remained unmarried. The husband of the petitioner, who is the widowed sister of the deceased employee, passed away on 19.08.2017, i.e., one year after the death of her brother.

2. It is urged that according to Circular No. FD(PCDC)3(225)/2022 dated 05.12.2022, issued by the Finance Department, Government of Sindh, in light of paragraphs IV and V, the petitioner is found not eligible for the pensionary benefits of her late brother, as she was not widowed sister at the time of death of her brother. However, this petition was disposed of on 01.09.2022. The concluding portion of the order reads as follows:

“6. It appears that the pension/family pension and other service benefits of the petitioners have been withheld by the respondent departments without any cogent reason. Pensionary benefits cannot be withheld on any account, as held by the Hon’ble Supreme Court in *Haji Muhammad Ismail Memon v. Government of Sindh* (PLD 2007 SC 35). The Chief Secretary Sindh and competent departmental authorities shall resolve this issue. Non-availability of funds shall not be used as an excuse, and the Chief Secretary shall ensure funds are made available. In case of non-compliance, this Court will enforce the said judgment and proceed under Article 204 of the Constitution against delinquent officials.”

7. The Chief Secretary Sindh is directed to constitute a committee comprising himself, heads of concerned departments, and representatives of the Accountant General Sindh to resolve the petitioners’ pension, family pension, and service benefit issues, including arrears, within one month. Benefits shall be recalculated from the date of retirement, and disciplinary action shall be taken against officials responsible for the delay.”

3. Subsequently, on non-compliance, the petitioners filed MA No. 13757 of 2022 seeking contempt proceedings.

4. On the last date of hearing, following order was passed:-

“The earlier order dated 01.09.2022 clearly directed the respondents to resolve the issue of pension, family pension, and other service benefits of the petitioners strictly in accordance with law and the dictum laid down by the Hon’ble Supreme Court in *Haji Muhammad Ismail Memon v. Government of Sindh* (PLD 2007 SC 35). The Chief Secretary of Sindh was required to constitute a committee and ensure compliance within one month. The statement filed by the Senior Accounts Officer, HMC, relies upon Pension Rule 4.9, contending that no gratuity is payable where the deceased government servant leaves behind no valid nomination, family, or eligible dependent relatives. However, no material has been placed on record to demonstrate that the petitioner or her deceased predecessors fall within such exclusion or that any inquiry was conducted to determine her ineligibility under the said rule. Mere reference to Pension Rule 4.9, without verification of factual entitlement, does not constitute compliance with the Court’s order. The respondents were bound to convene the committee as directed and decide the petitioners’ claims after due scrutiny and within the time frame specified. The record reflects that such exercise has not been carried out in letter and spirit.

In the circumstances, the respondents’ stance cannot be accepted as valid compliance with this Court’s directions. The petitioner, having been deprived of her lawful pensionary benefits despite clear judicial directions, stands justified in filing this contempt application.

Accordingly, while this Court refrains at this stage from proceeding with coercive action under Article 204 of the Constitution, the Chief Secretary Sindh is once again directed to ensure strict compliance with the order dated 01.09.2022 within **fifteen (15) days**. A compliance report shall be submitted through the Additional Registrar of this Court. In case of further default, the delinquent officials shall personally appear to explain their position that as to why contempt proceedings shall not be initiated against them.

To come up after two weeks. A copy of this order shall be provided to the Chief Secretary of Sindh by fax today for strict compliance.

5. At this stage, learned counsel for the respondent HMC submitted that in compliance with this Court orders dated 11-11-2025 and 17-11-2025, two cheques have been issued in favor of Mst. Venus, widow of the late Matti and sister of the late Patras S/O Shafi. The details of the cheques are as follows:

1. Commutation/Gratuity
 - Cheque No.: 24558059
 - Date: 01-12-2025
 - Amount: PKR 513,285
2. Family Pension (effective from 20-08-2017 to 31-10-2025)
 - Cheque No.: 24558060
 - Date: 01-12-2025
 - Amount: PKR 1,978,121

Total Amount: PKR 2,491,406

6. It is further submitted that the above-mentioned cheques have been deposited with the office of the Additional Registrar of this Court for onwards handing over to the petitioner, subject to directions of this Court.

7. To elaborate on the term “family” for the purpose of gratuity and family pension under the W.A. Civil Services Pension Rules includes the spouse, children, widow or widows, children of a deceased son, and divorced daughters and sisters of the government servant.

8. Family pension is generally granted to the widow or widower of the deceased, or if none exist, to surviving minor sons and unmarried daughters. If no such members are available, it may be granted to parents or divorced daughter(s) and sister(s).

9. In the landmark case of *Mst. Sorath vs. Province of Sindh*, the Supreme Court carefully examined the statutory and regulatory framework governing family pensions under the Sindh Civil Servants Act, 1973, and the accompanying Rules. Section 20 of the Act establishes that a civil servant is entitled to pension or gratuity upon retirement, and in the event of the civil servant’s death whether before or after retirement the family is similarly entitled to receive the pension or gratuity prescribed by law. This clearly establishes that the right to pension is statutory in nature, belonging first to the civil servant and, upon their death, devolving to the family.

10. The Rules further specify the procedure for granting pensions, including family pensions. While Rule 4.10 addresses the grant of family pension, it does not define “family.” The definition is provided under Rule 4.7(1), which includes wives or husbands, children, widows, and in specific circumstances, divorced daughters and sisters. Rule 4.10(2)(A) provides that family pension is payable to the widow or widower, and in the absence of these, it is distributed among surviving sons and unmarried daughters under the age of 21. If no such members exist, Rule 4.10(2)(B) allows the pension to go to the parents or divorced daughter of the deceased civil servant. Importantly, Rule 4.10(3) clarifies that family pension ceases if an unmarried female member marries.

11. The Supreme Court, in reviewing the case, noted that the terms “unmarried daughter” and “divorced daughter” were not explicitly defined in the Rules but accepted their natural understanding: an unmarried daughter is one who has never married, whereas a divorced daughter is one who was married but subsequently divorced. Crucially, the Court emphasized that the distinction made by the petitioners in the referred case did not conflict with the Rules but highlighted a rigid application by the administrative Circular, which restricted family pension based

solely on marital status at the time of the pensioner's death. In the facts of that case, the petitioner was unmarried at the time of her father's death and thus initially entitled to and granted family pension. Upon her marriage in 2022, her pension was lawfully discontinued under Rule 4.10(3). However, after obtaining a khula (divorce) later that same year, she sought to reclaim her father's pension, asserting her entitlement as a divorced daughter. The respondents denied the claim, citing the Circular, which narrowly interpreted the Rules to require that a female family member's status as unmarried or divorced must have existed at the time of the pensioner's death. The Supreme Court found this approach unduly restrictive and contrary to both the Sindh Civil Servants Act, 1973, and the Rules. The Supreme Court observed that the Circular imposed an artificial condition unrelated to the statutory and regulatory intent, effectively denying rightful pension benefits to women who changed marital status after the death of the pensioner. The Court underscored that the law does not condition eligibility for family pension solely on the status at the time of death; both unmarried and divorced daughters are entitled to claim the pension irrespective of timing.

12. Beyond the technical legal violation, the Supreme Court also addressed the deeper social and constitutional implications of such rigid rules. By tying eligibility for family pension to marital status, the administrative framework perpetuates the stereotypical notion that women are dependent members of a household, shifting their assumed financial dependence from parent to spouse. This presumption ignores the reality that married women may face financial hardship and that need, not marital status, should govern entitlement. The Court characterized this approach as discriminatory, patriarchal, and inconsistent with Articles 14, 25, and 27 of the Constitution, which guarantee equality, prohibit discrimination, and uphold the dignity of individuals.

13. The Supreme Court's reasoning thus reflects a broader commitment to gender justice: eligibility for family pension should not be contingent on outdated social assumptions about women's dependence but should recognize their rights as autonomous individuals entitled to financial security. The Circular's restrictive interpretation, by contrast, was found to create an arbitrary, unjustifiable distinction, thereby violating both the statutory intent and constitutional guarantees.

14. In essence, the decision clarifies that under the Act and Rules, a daughter and sister, as the case may be, whether unmarried or divorced is entitled to family pension based on her status as a family member, not on her marital status at the precise moment of the civil servant's death. Any administrative measure or circular that narrows this right beyond the statutory framework is inconsistent with the law and discriminatory in nature.

15. Since the Supreme Court in the case of Mst. Sorath as discussed supra has set aside the circular, the respondents cannot rely on it to deny benefits to the present petitioner, who is divorced sister of deceased employee, as per the Supreme Court's ruling.

16. Since the above-mentioned cheques have been deposited with the office of the Additional Registrar of this Court, same are directed to be handed over to the petitioner upon proper verification.

17. The MA No. 13757 of 2025 is accordingly disposed of in the above terms.

JUDGE

JUDGE

Karar Hussain/PS*