

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Constitution Petition No. D-662 of 2025
(Zaib Un Nisar Naich Vs. P.O Sindh & others)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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Before;

Adnan-ul-Karim Memon, J;
Abdul Hamid Bhurgari, J;

M/s Shabbir Ali Bozdar, Badruddin Memon, and Araf Soomro advocate for the petitioner.

Mr. Israr Ahmed Shah, Assistant Advocate General, Sindh, along with Ahsaullah Kori DFC Hyderabad on behalf of Respondents No. 2, 4 & 5.

Date of hearing and order: 15-06-2026.

ORDER.

Adnan-ul-Karim Memon J:- The petitioner named above, through the instant petition, seeks directions for the release of family pension and all service and pensionary benefits payable after the death of her husband, along with any other relief deemed appropriate by the Court.

2. The case of the petitioner is that she is the widow of late Irshad Ahmed Naich, who served in the Food Department as Assistant Food Controller (BPS-15) for about 30 years. During his service, an FIR was registered against him and others regarding an alleged shortage of wheat stock at PRC Yaro Lund, District Ghotki. The petitioner contends that the wheat stock had been damaged due to heavy rains and that her husband had repeatedly informed the authorities and sought directions for shifting the stock to a safe place. Subsequently, the damaged wheat was auctioned under official supervision, and the auction proceeds were deposited into the Government treasury. The petitioner's husband continued to perform his duties until his death on 27.08.2021. After his demise, when the petitioner approached the department for family pension and other service benefits, she was informed that her husband had allegedly been dismissed from service through an order dated 28.07.2020. The petitioner challenged the alleged dismissal

through an appeal, asserting that neither her husband nor the family had any knowledge of such an order during his lifetime. She further points out that her husband continued to receive a salary up to May 2021, which, according to her, demonstrates that he remained in service and that the dismissal order was either never communicated or was subsequently relied upon to deny lawful benefits to his family. The petitioner further submits that the departmental authorities themselves reported that no dismissal order had been received by certain concerned offices and that no outstanding departmental dues were payable by her late husband. She also relies upon the acquittal of the co-accused persons in the anti-corruption case arising out of the same allegations. Despite repeated approaches to the authorities over the past several years, the petitioner has not been granted family pension or pensionary benefits, causing severe financial hardship to her and her children.

3. Learned counsel for the petitioner submitted that the wheat stock had been damaged due to heavy rains in 2010 and that her husband had repeatedly informed the authorities and requested the shifting of the stock to a safer location. Subsequently, the damaged wheat was disposed of through an officially approved auction process, and the sale proceeds were deposited into the Government treasury through challans. The petitioner's counsel further submits that her husband continued to discharge his duties until his death on 27.08.2021. After his demise, when she approached the department for family pension and other retirement benefits, she was informed that her husband had been removed from service through an order dated 28.07.2020. Challenging the said action, she filed an appeal before the competent authority. During the proceedings, reports were sought from departmental officers, one of whom stated that no dismissal order had ever been received in his office. The petitioner also relies upon salary records showing that her husband continued to receive a salary up to May 2021, which, according to her, establishes that he remained in service despite the alleged removal order. He further contends that neither her husband nor the family was ever informed about any disciplinary proceedings or removal from service during his lifetime, and that no outstanding departmental dues remained payable by him. The petitioner's counsel additionally points out that the co-accused in the anti-corruption case were acquitted by the trial Court through a

judgment dated 11.12.2024, which has not been challenged by the prosecution. Despite repeated approaches over the last several years, the respondents have failed to release family pension and pensionary benefits, causing severe financial hardship to the petitioner and her children. He, therefore, seeks directions for the release of family pension and all service benefits accrued to her late husband.

4. The learned AAG, however, maintains that the petitioner's husband was responsible for shortages and misappropriation of wheat stock, resulting in substantial losses to the department, and contends that disciplinary and anti-corruption proceedings had been initiated against him, leading to registration of FIR No. 10/2015 by the Anti-Corruption Establishment Ghotki. The case was tried before the Special Judge Anti-Corruption Court, Sukkur. Meanwhile, departmental proceedings were initiated and, on 28.07.2020, he was removed from service on allegations of misappropriation and shortage of wheat stock. After his death, the petitioner applied for family pension and other service benefits, but the department refused on the grounds of dismissal from service. He prayed to dismiss the petition.

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

6. The petitioner is the widow of late Irshad Ahmed Naich, who served in the Food Department of Sindh as Assistant Food Controller (BPS-15) and was posted at Hyderabad Division. During his service, he was assigned duties as in charge of various Wheat Procurement Centres, including PRC/WPC Yaro Lund, District Ghotki. In 2010–2013, allegations arose regarding the shortage and mismanagement of wheat stocks at the said centre during his posting. An FIR (Crime No. 10/2015) was registered by the Anti-Corruption Establishment Ghotki against him and other officials for alleged misappropriation of wheat stock. The matter proceeded before the Special Judge Anti-Corruption Court, Sukkur, where the trial was conducted.

7. The defence of the deceased employee was that heavy rains in 2010 caused damage to wheat stock, and he had repeatedly requested higher authorities to shift the stock to a safe place, but no timely action was taken. It is also stated that damaged wheat

was later ordered to be auctioned by the department, and proceeds were deposited into the Government treasury through proper challans. Despite this, departmental proceedings were initiated. A show-cause notice was issued, and later, on 28.07.2020, the competent authority passed an order removing him from service on the ground of alleged misappropriation and shortage of wheat stock amounting to a substantial financial loss to the Government.

8. The petitioner asserts that her husband was never informed about the final dismissal order during his lifetime and continued receiving a salary until May 2021. He died a natural death on 27.08.2021. After his death, the petitioner applied for family pension and service benefits. However, the department refused, informing her that her husband had been dismissed from service in 2020. The petitioner challenged this stance, contending that the dismissal was either not properly communicated or was mala fide and unsupported, especially as some co-accused were later acquitted in the criminal case. The petitioner is now before this Court seeking a declaration of entitlement to family pension and release of all pensionary benefits of her deceased husband, arguing that she has no alternate remedy and is facing severe financial hardship.

9. The core controversy is whether the deceased employee was lawfully removed from service before his death, thereby disentitling the petitioner from family pension and pensionary benefits, or whether the alleged dismissal order dated 28.07.2020 is legally ineffective, uncommunicated, or otherwise incapable of depriving the family of lawful benefits.

10. It is an established principle of service law that a pension is not a bounty but a vested right, which can only be withheld or forfeited strictly in accordance with law and after due process. Any order of dismissal or removal having civil consequences must not only be lawfully passed but also duly communicated and given effect in accordance with the rules.

11. In the present case, the record reveals material inconsistencies regarding the implementation of the alleged dismissal order after proper regular inquiry, which factum is missing in the present case. The petitioner has consistently maintained that neither the deceased employee nor the family was

ever informed of such an order during his lifetime, and significantly, salary payments continued till May 2021, which prima facie supports the inference that the order was either not acted upon or not given effect in the service record and in absence of such material, the deceased could not be held responsible for such allegations levelled against him during his service. Therefore, the termination of service order deem to have never acted upon during his tenure of service which is hereby set at naught.

12. Furthermore, the departmental correspondence placed on record shows conflicting positions, including reports indicating that the dismissal order was not available or received in certain offices. Such ambiguity goes to the root of the matter, as a non-communicated or unimplemented dismissal order cannot operate retrospectively to deprive legal heirs of pensionary rights, particularly when the employee continued in the service record and received emoluments even after the alleged dismissal date.

13. As regards the allegations of misappropriation and FIR proceedings, it is well settled that criminal proceedings and departmental proceedings operate in distinct fields. Mere registration of FIR or pendency of criminal trial cannot, by itself, conclusively establish guilt for the purpose of denying pensionary benefits, unless the departmental action is shown to have been concluded in accordance with law and sustained by a valid and enforceable order. In the present case, even the departmental record does not reflect a consistent or duly implemented termination process, thereby weakening the respondents' stance.

14. The subsequent acquittal of co-accused in the criminal proceedings, though not automatically determinative, further creates a doubtful factual matrix regarding the extent of alleged misappropriation, reinforcing the need for strict scrutiny of the departmental action when civil pensionary rights are at stake.

15. In service jurisprudence, any doubt arising from procedural irregularity, non-communication, or inconsistent departmental record must ordinarily be resolved in favour of the employee or his legal heirs, particularly where the consequence is deprivation of livelihood and pensionary security of the widow and dependents.

16. In view of the above circumstances, this Court is of the considered view that the respondents have failed to establish, through clear, consistent, and lawful evidence, that the deceased employee was validly removed from service through regular mode of service, in a manner that could lawfully extinguish the petitioner's right to family pension and pensionary benefits. The alleged dismissal order, being shrouded in procedural uncertainty and lack of proper communication and implementation, cannot be relied upon to deny statutory pensionary entitlements.

17. Accordingly, the petitioner is entitled to the service benefits of her deceased husband, and the respondents are directed to process and release all admissible family pension and other service benefits of the deceased employee in accordance with law, within three weeks, without further delay.

18. This petition, along with pending applications are disposed of in the above terms.

Judge

Judge

Nasim/P.A