



this issue at the time of his appointment or regularization. It is further contended that AGPR merely disburses pension based on sanction by the competent authority and has acted lawfully.

4. Counsel for USC raises preliminary objections, asserting that USC is a public sector company with a distinct legal identity, governed by its own non-statutory service rules. Its employees are not civil servants; therefore, constitutional jurisdiction is not maintainable in such service matters. It is argued that USC service rules do not provide for pension, and all dues of the petitioner were settled at the time of retrenchment. The counsel maintains that employment in USC cannot be equated with federal government service, and the relevant pension laws cited by the petitioner are inapplicable. Additionally, it is submitted that the petitioner has an alternate remedy before the appropriate forum, and the present petition is liable to dismissal on this ground as well.

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

6. The fundamental question requiring determination is whether the petitioner's previous service in the Utility Stores Corporation (USC) can be counted towards qualifying service for pension under the Civil Servants Pension Rules, 1973 and Civil Service Regulations (CSR), 2018, after his subsequent appointment, contractual engagement, and later regularization in the office of the Auditor General of Pakistan.

7. The petitioner was initially employed with the Utility Stores Corporation (USC) as a permanent employee and served from 20.03.1990 until 25.11.2000, when his services were terminated due to retrenchment arising from the Corporation's severe financial crisis and surplus staff position. The retrenchment was carried out as part of organizational restructuring, and the petitioner was paid his dues in accordance with the applicable policy. Subsequently, the petitioner was appointed as an Audit Officer (BPS-17) on a contractual basis in the office of the Auditor General of Pakistan on 08.11.2005 and joined duty on 15.02.2006. Under the terms of his contract, the service was initially non-pensionable. However, his services were later regularized on 17.05.2012 in BPS-18, thereby bringing him within the regular civil service structure. The petitioner continued to serve in this capacity until his retirement on 31.01.2023 upon attaining the age of superannuation. After retirement, the petitioner requested that his previous service in USC be counted towards pension. However, vide letter dated 07.11.2023, the competent authority declined his request, stating that under the applicable pension rules, the said previous service could not be incorporated for pension calculation on the premise that USC is a separate corporate entity, its service is non-pensionable, and such service cannot be counted under civil service pension rules.

Whereas the Auditor General's department submits that, he has been granted pension strictly in accordance with applicable rules for his 17 years of federal government service in the Auditor General's department.

8. At the outset, it is an admitted position that the petitioner served USC from 1990 to 2000 as a permanent employee and was retrenched due to financial constraints of the organization. Thereafter, he joined the Auditor General's department in 2006 on contract, which was expressly declared as non-pensionable, and was ultimately regularized in 2012, continuing till retirement in 2023.

9. The pivotal issue revolves around the legal status of USC. The record and submissions establish that USC is a public sector company incorporated under the Companies Ordinance, possessing a separate legal identity, and governed by non-statutory service rules framed by its Board of Directors. Its employees are not civil servants, nor are they governed by the Civil Servants Act, 1973.

10. Under settled law, service rendered in a corporate entity even if government-owned does not automatically qualify as "government service" unless, it is pensionable under statutory rules, or there exists a specific absorption/transfer with protection of past service. No such statutory protection or absorption mechanism has been shown in the present case.

11. The petitioner has relied upon provisions of CSR particularly relating to counting of past service and condonation of interruption. However, these provisions apply only where prior service qualifies as "government service" within the meaning of pension rules. The conditions under CSR for qualifying service include, service under Government, paid from Government revenues, and governed by statutory service rules.

12. In the present case USC employees are paid by the Corporation not directly from the Federal Consolidated Fund, governed by corporate service rules, and not part of civil service structure. Thus, the foundational requirement for counting past service under CSR is not fulfilled.

13. Although the petitioner's retrenchment was not due to misconduct, the protection against forfeiture of past service under CSR (interruption clauses) applies only where the prior service itself is pensionable and qualifies under the rules. Since USC service is not recognized as qualifying government service, the question of its protection or continuity does not arise.

14. The petitioner's initial appointment in the Auditor General's department was on contract basis, explicitly stating that "The service rendered shall not qualify for pension." This clause is legally binding and excludes counting of that

period for pension. Only upon regularization in 2012 did the petitioner enter pensionable service. There is no provision allowing retrospective conversion of prior non-pensionable or external service into qualifying service. No rule, notification, or policy has been produced showing merger of USC service into civil service, portability of pension between USC and Federal Government, or counting of such corporate service upon fresh appointment.

15. In service jurisprudence, pension is a statutory right, not an equitable one, and must strictly flow from rules. The petitioner entered government service in 2006 and was regularized in 2012 but raised the issue of counting prior service only after retirement in 2023. This long silence weakens his claim and supports the respondents' contention that the matter was never part of service terms.

16. In view of the above analysis, it is held that the petitioner's service in the Utility Stores Corporation does not qualify as government service under the Civil Servants Pension Rules or CSR. The said service was rendered under a separate corporate entity governed by non-statutory rules, and no legal provision exists for its inclusion in federal pension. The petitioner's contractual appointment in 2006 was explicitly non-pensionable, and only service after regularization in 2012 qualifies for pension. The provisions of CSR regarding counting of past service and condonation of interruption are inapplicable as the essential requirement of qualifying government service is not met. Accordingly, the refusal by the competent authority to include the petitioner's USC service in pension calculation is found to be lawful, justified, and in accordance with the governing rules.

17. The petition, being devoid of legal merit, is dismissed, along with pending application(s) with no order as to costs.

JUDGE

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