

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No. D-6182 of 2025

[Farzana Cheema V. Province of Sindh and others]

Date	Order with signature of Judge(s)
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Before:
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Zulfiqar Ali Sangi

Date of hearing and Order: 30.04.2026

Mr. Muhammad Talha Abbasi, Advocate for the Petitioner.
Mr. Abdul Jaleel Zubedi, Additional Advocate General, Sindh.
Mr. Mumtaz Ali Shah, A.P.G.
SIP Ali Nawaz, P.S Peerabad.

ORDER

Adnan-ul-Karim Memon, J. – Petitioner Farzana Cheema has filed this Constitution Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan 1973, seeking the following relief:-

- i.** *Declare that the impugned order dated 11.03.2024 is absolutely illegal, having been passed without a single notice, revoking the petitioner's right to family pension, is absolutely illegal;*
- ii.** *Direct the respondents to immediately release all pensionary and consequential benefits of the petitioner's husband, including G.P. Fund, to the petitioner, along with arrears;*
- iii.** *Grant any other/further/additional relief(s) as this court may deem proper in the circumstances of the case; and*
- iv.** *Grant costs of the petition.*

2. As per the pleadings of the petitioner, her case is that she is the widow of a deceased police officer, who during his lifetime served in the Police Department of Sindh with an unblemished and long career spanning over three decades. After his dismissal from service based on multiple show-cause notices and without conducting a regular inquiry, his major penalty of dismissal was subsequently converted into compulsory retirement by the competent revisional authority under Rule 12 of the Sindh Police (Efficiency & Discipline) Rules, 1988. Consequently, the petitioner's husband became entitled to pensionary benefits, which were duly processed, and the petitioner began receiving a family pension. It is further submitted that after the death of her husband, she, being a dependent widow with five minor children, continued to face financial hardship. However, she was reassured by the lawful status of the revised order converting dismissal into compulsory retirement, which had created vested pensionary rights in her favour.

3. The learned counsel for the petitioner submits that the impugned order dated 11.03.2024 passed by respondent No. 2 is wholly without lawful authority,

as it retrospectively withdrew revisional orders passed under Rule 12 as discussed supra by a competent quasi-judicial authority. It is argued that respondent No. 2, in exercise of administrative power, could not sit in appeal over or recall quasi-judicial orders, particularly those which had already attained finality and had resulted in accrual of pensionary rights. It is further contended that the impugned order was passed without affording any opportunity of hearing to the affected persons, thereby violating the fundamental principles of due process and natural justice. More importantly, at the time of passing of the impugned order, the petitioner's husband had already passed away and was no longer in service; thus, no adverse order could legally be passed affecting accrued rights of his legal heirs. The learned counsel also submits that similarly placed officers have already been reinstated and granted consequential benefits pursuant to judicial orders of this Court, and denial of similar relief to the petitioner amounts to discrimination and violation of Article 25 of the Constitution. It is finally argued that once dismissal had been converted into compulsory retirement, and pensionary benefits had already been released, vested rights were created in favour of the petitioner which could not have been withdrawn arbitrarily, especially in the absence of any statutory backing or lawful authority. Prayer is accordingly reiterated for setting aside the impugned order dated 11.03.2024 and for the release of all pensionary and financial benefits, including GP Fund, along with arrears.

4. The learned Additional Advocate General submits that the instant petition is misconceived, devoid of merit, and is liable to be dismissed in the interest of justice. It is submitted that under the Sindh Police (Efficiency & Discipline) Rules, 1988, as amended, particularly Rule 13(b), it is expressly provided that there shall be only one appeal against the original order, and the decision of the appellate authority shall attain finality. It is emphasized that once the statutory appellate remedy is exhausted, the aggrieved person is required to approach the competent forum, namely the Sindh Service Tribunal, and no concept of a second appeal is recognized under the law. The learned AAG submits that despite the clear legal bar, certain reinstatement orders were passed by entertaining so-called second appeals, which were inherently without jurisdiction, illegal, and in violation of the statutory framework governing departmental proceedings. It is contended that such orders, being void ab initio, could not have created any lawful rights in favour of the concerned individuals. It is further submitted that to ensure compliance with the statutory scheme and to rectify the illegality, the Inspector General of Police, Sindh, in exercise of lawful administrative authority as head of the department, withdrew/cancelled such reinstatement orders vide orders dated 09.06.2023 and 11.03.2024. The said actions were taken strictly within the framework of law and to prevent the continuation of irregular and unauthorized departmental decisions. It is clarified that the departmental directives issued by CPO Sindh dated 24.12.2020 also categorically prohibit

entertaining second appeals and reinforce that only one statutory appeal is permissible, thereby leaving no room for any deviation from the prescribed legal procedure. On these premises, the learned AAG submits that the impugned actions of the department are lawful, justified, and in accordance with the Sindh Police (E&D) Rules, 1988. No illegality, mala fide, or jurisdictional defect can be attributed to the respondents. In view of the foregoing submissions, it is prayed that the instant constitutional petition, being devoid of merit, may be dismissed in the interest of justice.

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

6. It appears from the record that late Sub-Inspector Imtiaz Abbas, District West Karachi, was proceeded against under the Sindh Police (Efficiency & Discipline) Rules, 1988, based on an inquiry report establishing his contact with a known drug peddler. Despite issuance of show-cause and final show-cause notices, he failed to submit any reply, whereupon an ex parte decision was taken, and the major penalty of dismissal from service was imposed vide order dated 15.01.2021. His departmental appeal was duly considered and rejected on 05.04.2021. Thereafter, he filed Service Appeal No. 483 of 2021 before the Sindh Service Tribunal, which was later dismissed for non-prosecution on 17.01.2025. During the pendency of proceedings, he passed away on 12.02.2023. Subsequently, the petitioner, being his widow, sought conversion of the major penalty into compulsory retirement on humanitarian grounds. The request was allowed vide order dated 29.08.2023, and dismissal was converted into compulsory retirement for limited financial benefits. However, the said order was later withdrawn vide order dated 11.03.2024 on the ground that it violated Rule 13(b) of the 1988 Rules, which provides that only one appeal is permissible and the order of the appellate authority is final.

7. It appears that colleagues of the petitioner's husband challenged the order dated 11.03.2024 passed by the Inspector General of Police, Sindh, before this Court in C.P No. D-1.480 of 2024 and C.P.No.D-1855 of 2024, whereby their reinstatement in service was withdrawn on the ground that the same was based on a second appeal, in violation of Rule 13(b) of the Sindh Police (Efficiency & Discipline) Rules, 1988, which permits only one appeal. However, this Court, after hearing learned counsel for the parties and examining the record, observed that, without entering into the merits of the case, a procedural irregularity was apparent, as the impugned order had been passed without issuing notice to the petitioners or affording them an opportunity of hearing. Accordingly, this Court set aside the impugned order dated 11.03.2024 to the extent of the petitioners and directed the competent authority to issue notices within seven (07) days, inviting their responses regarding the proposed withdrawal of reinstatement. The

petitioners were directed to submit their replies within twenty-one (21) days, after which the competent authority shall pass a fresh order, strictly in accordance with law, after providing an opportunity of personal hearing. The entire process was directed to be completed within three (03) months. The petitions were disposed of in these terms along with pending applications.

8. We have noticed that the controversy essentially revolves around two legal aspects, the scope and application of Rule 13(b) of the Sindh Police (Efficiency & Discipline) Rules, 1988, and the legality of the impugned order dated 11.03.2024, particularly in the context of accrued rights of the petitioner as a widow of the deceased employee.

9. There is no cavil to the proposition advanced by the learned AAG that Rule 13(b) of the 1988 Rules provides for only one statutory appeal, and the order of the appellate authority is to attain finality. However, the record reflects that the order dated 29.08.2023, whereby the penalty of dismissal was converted into compulsory retirement, was not passed in exercise of appellate jurisdiction, but rather under revisional powers conferred by Rule 12 of the said Rules. The distinction between appellate and revisional jurisdiction is well recognized in law; therefore, the bar contained in Rule 13(b) cannot be stretched to nullify a lawful revisional order passed by a competent authority. Any interpretation to the contrary would render Rule 12 redundant, which is impermissible under settled principles of statutory interpretation.

10. Moreover, the impugned order dated 11.03.2024 suffers from a patent procedural illegality. Admittedly, it was passed without issuance of notice and without affording any opportunity of hearing to the affected persons. This aspect is already judicially recognized by this Court in connected matters C.P. No. D-1480 of 2024 and others, wherein identical orders were set aside on the ground of violation of principles of natural justice. The respondents could not demonstrate any distinguishing feature in the present case to justify a departure from the said view.

11. More importantly, at the time of passing of the impugned order, the delinquent officer had already expired. Upon conversion of dismissal into compulsory retirement and commencement of pension, vested rights had accrued in favour of the petitioner as a legal heir.

12. It is settled law that such vested rights, particularly relating to pensionary benefits, cannot be divested arbitrarily or retrospectively without due process of law. The respondents, therefore, lacked lawful authority to pass an adverse order affecting the rights of a deceased employee and his dependents, especially without impleading or hearing the legal heirs.

13. As regards the objection to maintainability, it is by now well settled that legal heirs are competent to agitate rights which had accrued to a deceased employee, particularly where such rights pertain to pensionary and financial benefits. The cause of action in the present case directly affects the petitioner's entitlement to family pension; hence, she is fully competent to call in question the impugned order dated 11.03.2024.

14. In view of the above, this Court is of the considered view that the impugned order dated 11.03.2024 is not sustainable in law, being violative of the principles of natural justice, beyond jurisdiction, and based on a misconstruction of Rule 13(b) of the 1988 Rules. The same is set aside to the extent of the petitioner's late husband.

15. Consequently, the petitioner, being the widow of the deceased employee, is entitled to restoration of pensionary benefits/compulsorily retirement pension, arising out of the order dated 29.08.2023, along with all consequential benefits in accordance with law, which shall be released forthwith.

16. This petition, along with pending application(s), stands disposed of in the above terms. Let a copy of this order be communicated to all concerned for compliance in time.

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