

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-941 of 2026  
(*Mst. Iqbal Bano versus Federation of Pakistan & others*)

Date	Order with signature of Judge
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Mr. Justice Adnan-ul-Karim Memon  
Mr. Justice Zulfiqar Ali Sangi

**Date of hearing and order: 04.5.2026**

Ms. Kausar Saeed advocate for the petitioner  
Ms. Mehreen Ibrahim, DAG  
M/s Kashif Hanif and Ali Hyder advocates for respondent No.2 / SSGC  
Mr. Sawan Meghwar advocate for respondent No.3

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**ORDER**

**Adnan-ul-Karim Memon, J.** Petitioner Mst. Iqbal Bano has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking the following relief: -

- A. *To issue an appropriate writ of Mandamus directing Respondent No.2 (Sui Southern Gas Company Limited) not to release or disburse the pension, gratuity, provident fund, and other retiral benefits of Respondent No.3 exclusively into his personal control.*
- B. *To direct the respondent No.2 to make lawful arrangements for the protection of the petitioner's legal and dependent rights under the supervision of Nazir of this Court.*
- C. *To restrain Respondent No.3 from receiving, withdrawing, or utilizing the retiral benefits in a manner that may prejudice, defeat, or frustrate the lawful claims of the petitioner pending adjudication before this Court.*

2. The case of the petitioner is that she is the legally wedded first wife of Respondent No.3. Her marriage is valid, subsisting, and has never been dissolved. She submits that Respondent No.3 is an employee of Sui Southern Gas Company Limited and is nearing retirement/or retired, upon which he will become entitled to pension, gratuity, provident fund, and other retirement benefits. she adds that during the subsistence of the first marriage, Respondent No.3 contracted multiple marriages; the second wife has since passed away, while the third wife/Respondent No.4 is alive. She submits that under Islamic injunctions and settled legal principles, a husband is obligated to treat all wives equally, particularly in matters of maintenance and financial support. However, Respondent No.3 has consistently failed to fulfill this obligation and has deprived her lawful financial rights throughout life. It is emphasized that the petitioner has already filed a maintenance suit, which is pending before the learned Family Court, district central. She is an indigent woman living in severe financial hardship along with her dependent children and grandchildren, including a widowed daughter. She has no independent source of income and resides in rented premises under extremely poor conditions. It is urged that, in contrast, Respondent No.3 has extended substantial financial benefits and privileges to

Respondent No.4, including the provision of residential property and financial security, thereby demonstrating clear discrimination against the petitioner. The petitioner apprehends that upon retirement, if the retirement benefits are released solely into the control of Respondent No.3, he will again deprive her of her lawful share, rendering her remediless. These benefits are statutory in nature, and their misuse would result in grave injustice. It is submitted that Respondent No.2, being a public functionary, is under a constitutional duty to act in accordance with law and to ensure that its actions do not facilitate discrimination or violation of fundamental rights. It is submitted that failure to safeguard the petitioner's rights would amount to arbitrary and unlawful conduct. In these circumstances, the petitioner has no other adequate or efficacious remedy available, and denial of relief at this stage would cause irreparable loss, particularly in view of her extreme financial vulnerability. Counsel for the petitioner prayed to allow this petition.

3. Learned counsel for Respondent No. 2/Sui Southern Gas Company Limited submits that the instant petition is not maintainable and is liable to be dismissed. At the outset, it is contended that the petition has become infructuous, as Respondent No. 3 had already retired on 31.12.2025 and all his retiral benefits, including provident fund and gratuity, had been duly disbursed to him in accordance with applicable rules and procedures, before any restraining order by this Court. Consequently, no funds remain with Respondent No. 2 against which any writ of mandamus can operate. It is further submitted that the petitioner has approached this Court with misleading assertions, as she alleged that Respondent No. 3 was/is yet to retire, whereas in fact he had already retired and received his dues. It is submitted that the Respondent Company has neither violated any statutory duty nor infringed any fundamental rights of the petitioner; rather, it has strictly acted in accordance with its legal and contractual obligations as an employer. Counsel submits that the dispute raised by the petitioner is purely a private matrimonial and financial matter between the spouses. Respondent No. 2, being a public utility, has no role, authority, or jurisdiction to adjudicate upon issues of marital fairness, maintenance, or distribution of personal assets. Such matters fall exclusively within the domain of the Family Court, where the petitioner has already instituted a maintenance suit which is presently pending. He prayed to dismiss the petition.

4. The learned counsel for Respondent No. 3, argued that the petition is premature and based merely on apprehension, without any accrued or enforceable legal right. It is urged that the petitioner has no present vested claim over the retirement benefits of Respondent No. 3 during his lifetime, as such benefits are his personal entitlements governed by service and pension rules. It is emphasized that constitutional jurisdiction under Article 199 of the Constitution can only be

invoked for the enforcement of an existing legal right coupled with a corresponding statutory duty. In the present case, no such right or duty has been established. It is submitted that the relief sought by the petitioner is, in substance, an attempt to secure a pre-judgment attachment or freezing of Respondent No. 3's lawful assets without any adjudication, which is not permissible in writ jurisdiction. Counsel further submits that no legal injury has yet been caused to the petitioner, and her claim is based solely on speculative apprehension that Respondent No. 3 may not provide financial support in the future. Such conjectural fears do not constitute a cause of action under constitutional law. It is lastly contended that entertaining the petition at this stage would unjustly deprive Respondent No. 3 of his lawful retirement benefits and livelihood without due process, and would amount to converting a private family dispute into a constitutional matter. In view of the foregoing submissions, it is prayed that this Court dismiss the instant petition as being misconceived, not maintainable, and infructuous, with costs.

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

6. The primary relief sought by the petitioner, i.e., restraint upon the disbursement of retirement benefits, has already been overtaken by events, as Respondent No.3 stands retired and the admitted position is that his retirement dues have already been released by Respondent No.2 in accordance with applicable rules. To that extent, the petition has lost its original efficacy, and a writ of mandamus, in its strict sense, cannot now operate against Respondent No.2.

7. The petitioner is the legally wedded first wife whose marital status is undisputed, and her right to maintenance is recognized under law, including Muslim personal law and statutory family law. Such right is not contingent or illusory but a continuing legal obligation upon the husband, which directly implicates her fundamental right to life and dignity.

8. At the same time, this Court is conscious that retirement benefits are the lawful entitlement of Respondent No.3, and in the absence of any adjudicated claim, such benefits cannot be subjected to attachment or pre-emptive restraint in constitutional jurisdiction. The relief sought by the petitioner, if granted in its present form, would amount to creating a charge over the assets of Respondent No.3 without due process, which is not permissible.

9. Nevertheless, the facts on record reflect that the petitioner is an indigent woman facing severe financial hardship, while her maintenance claim is already pending adjudication before the competent Family Court. The apprehension

expressed by her, though not sufficient to invoke writ jurisdiction for freezing benefits, cannot be brushed aside altogether, particularly in view of the admitted relationship and the legal obligation of maintenance.

10. In these circumstances, a balanced and legally sustainable approach is warranted to protect the petitioner's rights if any without infringing upon the lawful entitlements of Respondent No.3. Accordingly, while declining the reliefs sought in terms of restraining or withholding retirement benefits, this Court observes and directs that the learned Family Court, where the petitioner's maintenance suit is pending, shall proceed to decide the matter expeditiously, preferably within a stipulated period, strictly in accordance with law. Respondent No.3 is under a continuing legal and moral obligation to provide maintenance to the petitioner/dependents, and failure to do so shall entail legal consequences under the relevant family laws. The petitioner shall be at liberty to seek appropriate interim maintenance or any other relief, including attachment in accordance with law, before the competent forum. Any amount received by Respondent No.3 as retirement benefits shall remain subject to the outcome of the proceedings before the Family Court, and the petitioner's lawful share, if determined, shall be enforceable in accordance with law.

11. Resultantly, the instant petition is disposed of in the above terms, along with pending applications, if any.

JUDGE

JUDGE