

THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

BEFORE:
Justice Arbab Ali Hakro
Justice Muhammad Osman Ali Hadi

Const. Petition No. D-86 of 2018

[Mst. Wazeeran Khatoon (deceased) through L.Rs. Vs. Managing Director Pakistan Oilseed Development Board PODB Islamabad & ors]

Petitioner : Through Mr. Atta Hussain Chandio,
Advocate

Respondents : Through Mr. Riaz Hussain Khoso,
Deputy Attorney General for Pakistan

Date of Hearing : **13-10-2026**

Date of Judgment : **22-10-2026**

J U D G M E N T

ARBAB ALI HAKRO, J- Mst. Wazeeran Khatoon, the widow of the late Shadi Khan Jatoi, invoked the jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, praying that the respondents be directed to calculate and pay the retirement benefits of her husband, including pension, G.P. fund and commutation. She died while the petition was pending, and it is now pursued by her son Abdullah and her daughters Rozina and Sadaf (hereinafter referred to as '**the petitioners**'). The real question is a narrow one: did the deceased leave behind a service that the law treats as pensionable? We have heard the learned counsel and examined the record, and we answer it below.

2. Shadi Khan Jatoi (hereinafter referred to as '**the deceased**') joined the Ghee Corporation of Pakistan (hereinafter referred to as '**GCP**') as Naib Qasid on 11.03.1983. In October 1994, the Federal Government set up the Pakistan Oilseed Development Board (hereinafter referred to as '**PODB**') within the Ministry of Food, Agriculture and Livestock, now the Ministry of National Food Security and Research (hereinafter referred to as '**the Ministry**'), and transferred the staff of the National Oilseed Development

Project and the Seed Division of GCP to PODB.¹ By Notification No. F.17-3/94-PODB dated 08.02.1995 (hereinafter referred to as '**the notification of 08.02.1995**'), the persons listed therein, including the deceased, 'stand absorbed/merged' in PODB with immediate effect.²

3. The deceased died in service on 30.09.1996, having served PODB for one year, seven months and twenty-two days. PODB had no pension scheme at that time. His family was paid gratuity of Rs.25,528 and a provident fund of Rs.1,558. A pension arrangement with the State Life Insurance Corporation (hereinafter referred to as '**SLIC**') began only on 01.07.2000, for those in service on that date.³

4. The widow, Mst. Wazeeran Khatoon (hereinafter referred to as '**the widow**'), filed this petition in person on 01.02.2018, some twenty-one years after the death, pleading that her husband's service exceeded thirteen years and that she, who had lost both legs in 2008, had been transferred from one office to another.⁴ She died on 31.05.2019, and her heirs were brought on record.⁵ Over the years, the Court repeatedly called the Ministry's officers, who first promised redress and then took the stand that the claim was time-barred, a stand the Court noted on 11.09.2019 to be beyond the law.⁶

5. Along the way, the Secretary of the Ministry approved the family pension on 24.01.2019 'as admissible according to the rules'; the Accountant General Pakistan Revenues (hereinafter referred to as '**AGPR**') declined the pension papers of the youngest daughter, Sadaf, on 04.12.2019; the Finance Division clarified on 08.06.2020 that GCP service could not be counted under Articles 352, 361, 361-A and 362 of the Civil Service Regulations (hereinafter referred to as '**the CSR**'); the Ministry declared on 07.10.2020 that PODB is a Subordinate Office with effect from 25.10.1994, and a decree of

¹ Decision of the Economic Coordination Committee in Case No. ECC-245/14/94 dated 26.09.1994 (file p. 90); Resolution No. F.17-1/94-PODB dated 25.10.1994 (file p. 91).

² Notification No. F.17-3/94-PODB dated 08.02.1995 [supplementary record]; list of staff at file pp. 245–254; reply of PODB dated 29.03.2021, para 5 (file pp. 229–230).

³ Death Registration Certificate (file p. 10); comments of respondents Nos. 1 and 3, paras 9–10 (file pp. 103–105); letter of PODB dated 19.01.1997 (file p. 179); order sheet dated 30.03.2021; reply of PODB dated 29.03.2021, paras 4–5 (n.2 above).

⁴ Memo of petition, paras 4–9 and prayer (file pp. 6–7).

⁵ Order sheets dated 18.06.2019 and 24.03.2021; heirship certificate dated 03.07.2019 (file p. 188).

⁶ Order sheets dated 15.05.2018, 24.05.2018, 12.06.2018 and 11.09.2019; recital in the order sheet dated 24.03.2021.

16.12.2020 corrected Sadaf's date of birth to 01.10.1995.⁷ On 29.03.2021, PODB reported that AGPR would not count the GCP service. The Court then observed, on 30.03.2021, that factual controversies might take the case out of writ jurisdiction and fixed it for maintainability.⁸

6. Learned counsel for the petitioners submits that the deceased served for more than thirteen years, with the Seed Division of GCP having merged into PODB, so the service continued; that PODB's employees have been Government servants since 25.10.1994; that pension is a vested right which a letter from the Finance Division cannot defeat; that the respondents, having approved and processed the claim, cannot resile; and that similarly placed employees have received pension.⁹

7. Learned Deputy Attorney General answers that PODB service is one year, seven months and twenty-two days, contrary to the ten years required by the CSR; that GCP was a corporation whose employees had only gratuity and a provident fund; that the status of PODB was settled only in 2018 and that GFR-58 forbids retrospective financial sanction; that the approval was conditional and that the claim is stale and rests on disputed facts.¹⁰

8. Four questions arise: whether the petition is maintainable under Article 199 and not defeated by delay; whether the deceased had completed qualifying service for pension, in particular whether his GCP service can be counted; whether the notification of 08.02.1995, the status of PODB, the approval of 24.01.2019, estoppel, legitimate expectation, or equal treatment changes the answer; and what order is consequently due.

9. Before we turn to the merits, we must be clear about what this Court can do under Article 199. It examines whether a person performing functions in connection with the affairs of the Federation has acted without lawful authority, and it directs that what the law requires be done. It does not create an entitlement that the law has not created, and under clause (1A), as inserted

⁷ Letter of PODB dated 24.01.2019 (file p. 182); AGPR letter dated 04.12.2019 (file pp. 224–225); Finance Division letter No. F.10(2)R-7/2017-185 dated 08.06.2020 (file p. 235); notification No. F.10-1/2017-Admn-III dated 07.10.2020 [supplementary record]; judgment and decree dated 16.12.2020 in F.C. Suit No. 17 of 2020 (file pp. 268–269).

⁸ Reply of PODB dated 29.03.2021 (n.3 above); order sheet dated 30.03.2021.

⁹ Counter-objections to the progress report dated 29.03.2021, grounds 2–6 and 10 (file pp. 13–15).

¹⁰ Comments of respondents Nos. 1 and 3, paras 1–3 and 5–11 (file pp. 102–106).

by the Twenty-sixth Amendment, it grants no relief beyond that which an aggrieved person has applied for.¹¹

The prayer here is for the calculation and payment of the retirement benefits, including pension, G.P. fund and commutation. We confine ourselves to that prayer.

10. Is the petition competent? Where service is not governed by statutory rules, the relationship is that of master and servant, and the writ jurisdiction does not enforce it.¹² But PODB is not a company. It was created by a Resolution of the Federal Government, sits within a Ministry, and has been declared its Subordinate Office. The claim rests on the Civil Service Regulations of the Federation, which the Finance Division and AGPR themselves apply. As to the observation of 30.03.2021, the facts on which the case turns, namely appointment, absorption, death, and the payments made, are admitted. What divides the parties is their legal effect, and that is a question of law which a writ court is bound to decide. No party has raised Article 212 of the Constitution, and since the respondents' own case is that the deceased was not a civil servant when he died, the claim is for pension under the Regulations, which we decide on its merits.

11. Delay is the other objection. A claim to pensionary benefits is not defeated by laches or by any rule of limitation, and pension is a vested right earned by service, not a bounty.¹³ The widow was disabled and pursued the claim from the time of her husband's death, and the respondents themselves entertained it. We therefore do not dismiss the petition for delay. But we must add that the holding does not mean the lapse of time does not make a right where there is none, and whether there is one is the matter we turn to now.

12. A pension is earned; it is not conferred by sympathy. The Supreme Court has said in plain terms that a minimum qualifying service is the threshold that must be met before an employee, or after his death, his family can claim a pension, and that a family assistance package cannot

¹¹ Constitution of the Islamic Republic of Pakistan, 1973, Article 199(1)(a)(ii) and (1A), as amended up to the Twenty-seventh Amendment.

¹² *Pakistan Electric Power Company v. Syed Salahuddin* 2022 SCMR 991, para 10.

¹³ *Muhammad Usman v. Federation of Pakistan* 2026 SCMR 429, paras 5–6.

convert non-pensionable service into pensionable service.¹⁴ The law applied is that at the date of death, 30.09.1996. The ten-year requirement in Article 474-B appears in the text substituted in 1983, and the other provisions below are older, so the 2018 edition of the CSR before us states the law that governed.¹⁵

13. Article 349-AAA places officers who entered Government service after 01.07.1966 under Article 474-B. That Article provides a gratuity for service of five years or more but less than ten, and a pension only for ten years or more, on a scale that begins at 70/300 of average emoluments. Family pension under Article 474-D is half of the gross pension, which presupposes that a gross pension was earned.¹⁶ What counts as qualifying service is then defined. It begins when the officer takes charge of the office to which he is first appointed (Article 358). It must satisfy three conditions: it must be under Government, the employment must be substantive and permanent, and it must be paid by Government (Article 361). The officer must be appointed, and his duties and pay must be regulated by Government (Article 362), and he must hold a substantive office in a permanent establishment (Article 368). Service under another employer counts only where Article 367 says so, and that Article names a single, unrelated case.¹⁷

14. The Regulations relax these rules only in defined cases. Temporary and limited-duration engagements earn no pension (Article 352); the temporary service of Government servants counts under Articles 370 and 371-A where it is long and continuous or is followed by confirmation; the Government of Pakistan may, in individual cases of service paid from General Revenues, allow service to count (Article 361-A); and a shortfall of up to six months is condoned automatically, and one of less than a year by sanction, where the officer died in service (Article 423).¹⁸

¹⁴ *Syeda Sakina Riaz v. Federation of Pakistan* 2018 SCMR 1272, paras 3–5. The Federal Constitutional Court has recently reaffirmed that pension is a vested right, while enforcing it where the qualifying conditions were met or condoned: *Bashir Hussain (deceased) through Mst. Abida Parveen v. Government of Khyber Pakhtunkhwa* C.P.L.A. No. 4153 of 2022, decided by the Federal Constitutional Court of Pakistan on 06.08.2026.

¹⁵ CSR (Finance Division, 2018 edition), Articles 474-B, 474-D and 423, with footnotes recording the dates of substitution.

¹⁶ CSR, Articles 349-AAA, 474-B and 474-D.

¹⁷ CSR, Articles 358, 361, 362, 367 and 368.

¹⁸ CSR, Articles 352, 361-A, 370, 371, 371-A and 423.

15. The rules on Local Funds also deserve mention, as GCP's service may be viewed in that light. A 'Local Fund' is revenue administered by bodies under Government control. Service paid from a Local Fund does not qualify for pension, except under the special provisions of Chapter XLII of the CSR, and arrear contributions to make past service qualify are not accepted (Articles 796 and 802). Fundamental Rule 130, in the chapter on service under Local Funds, is the converse rule: one who enters Government service from a Local Fund starts afresh, and earlier service counts as duty only if the competent authority allows it, a power delegated in full to Ministries and Divisions.¹⁹ Two points follow. A discretion to count earlier service as duty is not a right of the employee, and its object is service as duty, while pension remains governed by the CSR. And nothing shows that any such discretion was ever exercised for the deceased.

16. Take first the service in PODB. It is one year, seven months and twenty-two days, under two years even if reckoned from the establishment of PODB on 25.10.1994. That is below the five years at which gratuity begins and far below the ten years for pension. The family received gratuity and the provident fund, which is what service of that length attracts.²⁰

17. The petitioners' case therefore depends on including the GCP service from 11.03.1983 to 08.02.1995, which would carry the total beyond thirteen years. They bear the burden of showing that this addition is lawful, and on this record they have not done so. The documents describe GCP as a corporation, and PODB's statement that its employees had gratuity and a contributory provident fund, with no pension, stands uncontroverted. Nothing shows that the Seed Division was a Government establishment, that its staff were appointed, paid and regulated by Government within Articles 361, 362 and 368, or that they were paid from General Revenues. If GCP is the kind of body Article 33 calls a Local Fund, Article 796 excludes its service; if it is not, it is still no more than service under a corporation. On either view, the service was not under Government, and under Article 358

¹⁹ CSR, Articles 33(1), 796 and 802; Fundamental Rules, Rule 130 (Chapter XIII, Service under Local Funds); Compilation of the Fundamental Rules (Finance Division, 2018), Vol. II, Appendix 4, S. No. 25 (delegation under FR 4 and 6).

²⁰ Reply of PODB dated 29.03.2021, para 5 (n.3 above).

the Government service of the deceased began only at his absorption on 08.02.1995.²¹

18. Does the notification of 08.02.1995 bridge the gap? We have read it closely and think not. It provides for absorption into posts with stated designations and pay scales. Its only term touching conditions is a note that the non-gazetted GCP staff are to draw minimum pay on a provisional basis, subject to final settlement by the Ministry of Finance. It says nothing about past service or pension. Absorption into a post and the carrying across of past service are different things, and an instrument that provides for the first and is silent on the second cannot be read as providing the second, least of all where even the pay of the staff was left to the Finance Division to settle and that Division has since declined to count the GCP service. Nor do Articles 367, 370 and 371-A apply, for reasons already given; Article 361-A(2) calls for an individual act of the Federal Government, which has not been shown, and Article 423 cannot bridge a shortfall of more than eight years.²²

19. The case law points the same way once the facts are put side by side. In the case closest to ours, a director of a public company who was absorbed into a Government secretariat could not count his company service, because the company was not pensionable and its employees were not civil servants.²³ Prior contract service may be added to compute a pension to which the employee is otherwise entitled, but not to fill a shortfall in the ten years.²⁴

20. The petitioners can draw support from two recent decisions of the Supreme Court, and we have given them due weight. In one, an employee with twenty-four years' contract service, first on a project and then against a permanent Federal post, was regularised to the same post and allowed to count her contract years under Article 371-A, because a contract so prolonged was not an engagement for a limited time or a specified duty. In

²¹ Reply of PODB dated 29.03.2021, paras 5–6 (n.3 above); Finance Division letter dated 08.06.2020 (file p. 235); order sheet dated 30.03.2021. GCP's constituent instrument is not on the record, and we rest on no finding as to its precise legal character beyond what is stated here.

²² Notification dated 08.02.1995 (n.2 above) and the note at its foot (file p. 254); letter of PODB dated 25.02.2021, paras 2(ii)–(iii) [supplementary record], whose contention that the notification regularised earlier service finds no support in its text. One page of the notification (serial nos. 189–207) is missing from our copy; the respondents admit the absorption of the deceased, and nothing turns on that page.

²³ *Senate v. Shahiq Ahmed Khan* 2016 SCMR 460, para 9. The Finance Division's O.M. of 22.10.1985 mentioned there is not on our record, and we rely on it only as described in that judgment.

²⁴ *Ministry of Finance v. Syed Afroz Akhtar Rizvi* 2021 SCMR 1546, paras 6–8.

the other, officers appointed on contract against permanent posts on the recommendation of the Public Service Commission and regularised some nineteen months later were allowed to count the contract period, as it would be unjust to forfeit past service after confirmation.²⁵ Both rest on the same footing: the earlier service was service of the Government itself against a permanent post, continuous with the later service and followed by regularisation by the same employer, so that the shortfall was the Government's own doing. None of that is present here. The service in GCP was that of a corporation with its own terms; the deceased was never confirmed or regularised by Government but died within twenty months of absorption, and the shortfall arises from death, not from a prolonged contract.

21. Nor does the recent decision of the Federal Constitutional Court help the petitioners. A family pension was allowed there where the shortfall was less than eleven months, as the competent authority could condone it.²⁶ Condonation is a statutory power for minor deficiencies and cannot be stretched to a deficiency of more than eight years. The petitioners are right that an executive letter cannot take away what the Regulations give; but the bar here is Article 361 of the CSR, which the Finance Division's letter of 08.06.2020 merely applies.

22. The Government left the status of PODB open for more than two decades, and we have therefore taken the case at its highest for the petitioners, namely that from 08.02.1995 the deceased served in a Subordinate Office and so the Government. That makes his PODB service Government service, but that service is too short, and a declaration about PODB's status cannot turn earlier service under another employer into Government service. The objection of the Finance Division under GFR-58 therefore does not call for decision.²⁷

²⁵ *Federation of Pakistan v. Seema Tauseef* C.P.L.A. No. 1380 of 2025, decided by the Supreme Court of Pakistan on 16.02.2026 (2026 SCP 159), paras 6–11; *Secretary, Schools Education Department, Government of the Punjab v. Mst. Najma Parveen* C.P.L.A. No. 2354-L of 2025 and connected petitions, decided by the Supreme Court of Pakistan on 09.04.2026, paras 5–15.

²⁶ *Bashir Hussain (deceased) through Mst. Abida Parveen v. Government of Khyber Pakhtunkhwa* (n.14 above).

²⁷ Notifications dated 21.03.2018 (file p. 98) and 07.10.2020 (n.7 above); Establishment Division's O.M. dated 26.06.2018 and Finance Division's O.M. dated 11.06.2018 (file p. 103); GFR-58 (file p. 173).

23. The approval of 24.01.2019 was in terms 'as admissible according to the rules'. It was conditional on the rules being met. No pension was ever sanctioned or paid. AGPR returned the case on the very ground that the service is not countable and that nothing shows the family acted to its prejudice on the faith of it. Estoppel does not run against the law, and an authority cannot, by approval, confer what the law withholds. The plea of legitimate expectation falls with it, for an expectation is legitimate only when the law allows it to be met.

24. The plea of similarly placed employees has not been particularised. Those of PODB's employees who retired after 01.07.2000 are paid under the SLIC scheme, which counted service from appointment in GCP but was confined to employees in service on that date. About 147 are now paid through AGPR. The deceased died four years earlier and was never within it; a cut-off date, as every scheme must have one, is not discrimination. The record, on the contrary, shows that another Seed Division employee absorbed by the same notification had his GCP service refused by AGPR, and the Finance Division declined on 28.05.2021 to condone his shortfall of one month and eight days. The respondents have thus treated like cases alike, and Article 25 is not violated.²⁸

25. The decree of 16.12.2020 has corrected the error in Sadaf's date of birth and has not been challenged. However, as the claim to pension fails for want of qualifying service, which is common to all the heirs, her individual eligibility for family pension does not arise.

26. One part of the prayer remains, namely the provident fund and other terminal dues. The petitioners have not shown that anything more is due. However, the sums paid are small for thirteen years of service. No computation of either is on file, and the Ministry's own letter of 06.10.2017 speaks of regularising the provident fund. The service in GCP, though not pensionable, was service for which gratuity and the provident fund were payable under the corporation's terms, and the heirs are entitled to be paid

²⁸ Letter of PODB dated 25.02.2021, paras 2-3 [supplementary record]; reply of PODB dated 29.03.2021, para 4 (n.3 above); AGPR letters dated 02.04.2020 and September 2020; Ministry O.M. dated 22.09.2020; Finance Division O.M. No. F.10(2)R-07/2017-637 dated 28.05.2021 [supplementary record]; the person appears at serial no. 123 of the list (n.2 above).

what those terms provided for the whole of it. That question is within the prayer, and a writ court may see that it is answered.²⁹

27. The petition is maintainable and not barred by delay. However, the deceased did not complete the qualifying service required for pension. His service in GCP cannot be counted towards it under the law as it stands, and neither the notification of 08.02.1995, the status of PODB, the approval of 24.01.2019, estoppel, legitimate expectation nor equal treatment alters that result. The petitioners' claim to pension, family pension and commutation therefore fails. We regret that after so many years the family should be left with so little, but the law gives this Court no power to confer what it has not provided.

28. The petition is accordingly disposed of in the following terms:

- i. The prayer for pension, family pension and commutation is declined.
- ii. Within thirty days of receipt of this judgment, the Managing Director of respondent No. 1 shall file before the Additional Registrar of this Court a certificate showing the gratuity, provident fund and other terminal dues of the deceased for his entire service in GCP and PODB, computed under the terms applicable on 30.09.1996, the amounts paid and the dates of each payment.
- iii. If the certificate shows that any amount remains payable, respondent No. 1 shall pay it to the legal heirs of the deceased within thirty days of the filing of the certificate and shall file proof of payment with the Additional Registrar within seven days of payment.
- iv. The Additional Registrar shall place the certificate and, where payment is due, the proof of payment on the file. Upon their filing, compliance with this judgment shall be complete; no further order shall be required, and the petition shall remain finally disposed of.

JUDGE

JUDGE

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²⁹ Letter dated 06.10.2017, para 2 (n.3 above); comments of respondents Nos. 1 and 3 (file pp. 103–105).