JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No.4046 of 2019.

Mst. Naila Irum

Versus

OGDCL and another

Petitioner by:	M/s Jameel Hussain Qureshi, Faiza Sultan and Nawazish Ali Gondal, Advocates.
Respondent No. 1 by:	Mr. Muhammad Saqib Bhatti, Advocate.
Assisted by:	Muhammad Yahya Khan Niazi, Judicial Law Clerk.
Date of Hearing:	**12.06.2025**

INAAM AMEEN MINHAS, J:- Through the instant writ petition, the petitioner impugns the letter dated 06.11.2018 **("Impugned Letter")** issued by respondent No. 1 i.e. Oil and Gas Development Company Limited **("OGDCL")**, whereby the request of the petitioner for the transfer pension-benefit of her deceased father was declined.

2. The brief facts of the case are that the petitioner, being the daughter of the late Muhammad Ashraf Bhatti, who served as Principal Survey Officer with OGDCL and retired upon attaining the age of superannuation on 31.01.2004, seeks redress for the unlawful denial of her entitlement to family pension and restoration of the commuted portion of her deceased father's pension by OGDCL. At the time of retirement, the deceased's gross pension was calculated at Rs. 20,041/- per month, with half commuted and paid as a lump sum of Rs. 1,190,137/-, while the remaining half was drawn as a monthly net pension of Rs. 12,025/-. The portion of the pension commuted was to be restored with all

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increases before 2016, but OGDCL failed to restore the same. Upon the death of her father Muhammad Ashraf Bhatti on 07.08.2018, the petitioner, a divorced daughter, requested the transfer of the pension in her name, but her request was declined by OGDCL through the Impugned Letter on the ground that she was not eligible for family pension as a divorced daughter, hence, this petition.

3. The learned counsel for the petitioner contended that the petitioner is being unjustly deprived of her constitutional rights due to the arbitrary conduct of the respondents, as she was maintained by her deceased father and, as a divorced daughter, is entitled to the family pension. Learned counsel has relied on Regulation No. 22(1)(c) and (d) of the Oil and Gas Development Corporation Pension and Gratuity Regulations, 1985 **("The 1985 Regulations")**, which provide for the grant of family pension to the eldest surviving unmarried daughter and, in certain circumstances, to a widow daughter and argued that a divorced daughter should not be discriminated against. The learned counsel further asserted that OGDCL unlawfully withheld the restoration of the full pension, which was due in 2016, despite the recovery of the entire commuted amount, thereby violating fundamental rights of the petitioner guaranteed under the Constitution of the Islamic Republic of Pakistan, 1973 **("The Constitution")**. The learned counsel further submitted that the outstanding pension is petitioner's property and that OGDCL's actions are discriminatory and without lawful authority. The learned counsel prayed for the transfer of the pension in the petitioner's favour, restoration of the full pension with all increases since 2016, and a declaration that the impugned actions are void, illegal, and without force, emphasizing that the petitioner has no alternate or efficacious remedy except to invoke the constitutional jurisdiction of this Court.

4. The learned counsel for OGDCL raised preliminary objection to the maintainability of this writ petition, asserting that the petitioner has an alternate and efficacious remedy and that the petition is frivolous and devoid of merits. On facts, the learned counsel for OGDCL confirmed the retirement and pension details of the deceased but submited that the commuted portion of the pension was restored with all increases from 01.02.2016, and that the pension was stopped upon the death of Muhammad Ashraf Bhatti as no eligible family

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member existed under the 1985 Regulations. The learned counsel further submitted that the petitioner is not entitled to family pension as a divorced daughter since the 1985 Regulations do not provide for such eligibility; therefore, the Impugned Letter was lawfully issued. Lastly it was contended that the all the grounds raised by the petitioner are baseless, and prayed that this writ petition be dismissed with special costs.

5. On behalf of respondent No. 2, the Secretary, Finance Division submitted written reply stating therein that the primary issue pertains to the OGDCL, which is the competent administrative authority, and that no relief has been sought against respondent No.2 and prayed for deletion of respondent No.2 from the array of respondents.

6. I have given anxious consideration to the arguments of the learned counsel for the parties and perused the record with their able assistance.

7. The petitioner's primary grievance pertains to the denial of her entitlement to family pension and restoration of the commuted portion of her deceased father's pension. While considering this background, the grounds raised by the parties reveal that following significant questions need adjudication by this Court:-

i. *Whether a divorced and financially dependent daughter is entitled to family pension under the Oil and Gas Development Corporation Pension and Gratuity Regulations, 1985?*

ii. *Whether the act of OGDCL excluding the petitioner vide the Impugned Letter as a divorced daughter from pension benefits is discriminatory and in violation of fundamental rights?*

8. In order to adjudicate the first question, it is essential to examine the legal framework governing the eligibility of family for the grant of pension. In the present matter, the 1985 Regulations are of particular relevance. Regulation 22 outlines the categories of family members eligible for family pension,

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specifically mentioning unmarried and widowed daughters. It is appropriate to reproduce Regulation 22 of the 1985 Regulations hereunder:-

> ***"22. Procedure for payment of family pension.—****(1) Family pension shall be allowed to—*
>
> *(a) the widow of the deceased if the deceased was a male employee, or to the husband if the deceased was a female employee:-*
>
> *Provided that:—*
>
> *(i) if the employee had more than one wife and the number of his surviving widows and children together does not exceed four, pension shall be divided equally among the surviving widows and children excluding the sons who are more than twenty one years of age and the married daughters; and*
>
> *(ii) if the number of surviving widows and children together are more than four, then each surviving widow shall get one fourth of the pension, and the balance, if any, shall be divided equally among the surviving children excluding the sons who are more than twenty one years of age and the married daughters;*
>
> *(b) where sub-clause (a) is not applicable, the eldest surviving son;*
>
> *(c) where sub-clauses (a) and (b) are not applicable, the eldest surviving unmarried daughter, and if the eldest daughter marries or dies, then the next eldest unmarried daughter;*
>
> *(d) where sub-clauses (a) to (c) are not applicable, the eldest widowed daughter;*
>
> *(e) where sub-clauses (a) to (d) are not applicable, the eldest widow of the deceased son of the employee;*
>
> *(f) where sub-clauses (a) to (e) are not applicable, the eldest surviving son of the deceased employee;*
>
> *(g) where sub-clauses (a) to (f) are not applicable, the eldest daughter of the deceased son of the employee;*

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(h) where sub-clauses (a) to (g) are not applicable, the eldest widowed daughter of the deceased son of the employee;

(i) where sub-clauses (a) to (h) are not applicable, the father of the employee; and

(j) where sub-clauses (a) to (i) are not applicable, the mother of the employee.

(2) In the event of the family pension not being payable under sub-regulation (1), the family pension may be granted to,-

(a) the eldest surviving brother;

(b) where clause (a) is not applicable, the surviving eldest unmarried sister, and if the eldest sister marries or dies then the next unmarried sister;

(c) where clauses (a) and (b) are not applicable, the eldest surviving widowed sister ;

Provided that pension shall not be payable under this sub-regulation—

(a) to any person entitled it unless reasonable proof that such person was dependent upon the deceased employee for support is produced;

(b) to an unmarried female member of an employee's family in the event of her marriage:

(c) to a widowed female member of an employee's family in the event of her re-marriage; or

(d) to the brother of an employee who is more than twenty year of age.

(3) A pension granted under this regulation shall not be payable to more than one member of the employee's family at the same time, except as provided in the proviso to clause (a) of sub-regulation (2).

(4) If a pension granted under this regulation ceases to be payable on account of death or re-marriage of the receipient

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> *or other cause, it shall be regranted to the person next lower in order.*
>
> *(5) Where the widow pensioner re-marries, family pension which she was in receipt of shall cease to be payable to her from the date of her re-marriage, and the next beneficiary shall be allowed to draw the pension with effect from the date on which it ceased to be payable to the widow.*
>
> *(6) A pension sanctioned under this regulation shall be payable in addition to any disability pension or gratuity that may be granted to any member of the of employee's family under these regulations."*

9. The afore-stated regulation expressly delineates the distribution of pension among the family members of a deceased employee. This regulation identifies two categories of daughters as eligible recipients of family pension: (i) unmarried daughters and (ii) widowed daughters. Notably, this regulation does not expressly refer to a divorced daughter. However, it is imperative to examine both the legal and social implications of the term "divorced." Upon dissolution of marriage, a divorced daughter ceases to possess the legal status of a married woman. In practical and social terms, particularly where she lacks financial independence and was supported by her deceased father, she reverts to a position akin to that of an unmarried dependent. The legislative intent to include unmarried and widowed daughters as pension beneficiaries in Regulation 22 is to provide support to female dependents, who lack spousal support or independent means. A divorced daughter, by virtue of her dependency and vulnerability, stands on the same footing as an unmarried or widowed daughter. To interpret the 1985 Regulations narrowly so as to exclude divorced daughters would not only defeat the spirit and object of the Regulation 22 but would also result in unjust discrimination. In such circumstances, the principles of equity and social justice require that a divorced daughter, particularly one who was financially dependent on her deceased father, be treated at par with an unmarried or widowed daughter for the purposes of pension entitlement.

10. It is well established that beneficial legislation, and pension laws in particular, ought not to be construed in isolation or by resorting solely to the

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literal meaning of words. Rather, such laws must be interpreted in light of their underlying purpose and the context in which they were enacted. This interpretation of law has been laid down by the Superior Courts in the following cases:-

(i) In case of ***Saif-ur-Rehman vs. Additional District Judge, Toba Tek Singh and 2 others, (2018 SCMR 1885)***, it was held as follows:-

> *"It is an equally settled law that beneficial provisions in a Statute must be interpreted liberally in a manner so that the benefit conferred is advanced rather than frustrated or subverted"*

(ii) In the case of ***Pakistan Engineering Co. Limited, Lahore through Managing Director vs. Fazal Beg and 2 others, (1992 SCMR 2166)*** it has been held as follows:-

> *"The basic and first principle to be kept in view in construing a beneficial legislation is to interpret its provision to advance its purpose rather than thwart or subvert it by specious sophistry."*

(iii) In the case of ***Dr. Tariq Iqbal and 8 others vs. Government of Khyber Pakhtunkhwa through Secretary Administration Peshawar and others (2019 SCMR 859)*** it has been held as follows:-

> *"The tone and tenor of the Statute is clearly beneficial in nature, therefore, its provisions must necessarily be interpreted liberally so as to advance the benefit rather than curtail it."*

(iv) In the case of ***Lahore Development Authority through D.G., Lahore and another vs. Abdul Shafique and others, (PLD 2000 SC 207)*** it has been held as follows:-

> *"The I.R.O. is basically beneficial legislation which provide for protection of the rights of labour classes. Its object amongst other is to ameliorate the conditions of workers. Such a legislation has to be construed liberally and beneficially. A restricted constructure of the provisions of the I.R.O: would defect the manifest objective of the legislation."*

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11. Although, the arguments and averments of OGDCL are based on strict reading of the text of 1985 Regulations, however, as per the dicta of the Superior Courts as well as in accordance with jurisprudence as has been developed in the matter of beneficial legislation and pension laws, the Courts are more inclined to adopt and further an approach which advances the purpose of the legislation in question. This interpretation is to be preferred rather than an interpretation, which defeats its objects so as to give full meaning and effect to various provisions of law. Similarly the Indian Supreme Court in the case of ***Tirath Singh vs. Bachittar Singh & others, [1955 AIR (SC) 830],*** while quoting a passage from Maxwell on the Interpretation of Statutes, Twelfth Edition, expressed and recognized it as a well-established rule of interpretation. The said passage is as follows: -

> *"Where the language of a statute, in its ordinary meaning and grammatical construction, leads to a manifest contradiction of the apparent purpose of the enactment, or to some inconvenience or absurdity, hardship or injustice, presumably not intended, a construction may be put upon it which modifies the meaning of the words and even the structure of the sentence."*

12. Further reference, in this behalf, may be made to the judgments reported as ***JS Bank Limited, Karachi and others vs. Province of Punjab through Secretary Food, Lahore and others,*** **(2021 SCMR 1617)**; ***Commissioner Inland Revenue Zone-II, Regional Tax Office, Multan vs. Mrs. Ambreen Fawad Co. Pak Arab Fertilizers Limited, Multan,*** **(2014 PLD 72 [Lahore])**; ***Abdul Salam vs. Federation of Pakistan through Secretary and 3 others,*** **(2019 PTD 1862)**; ***Rab Nawaz Dhadwanai Advocate and others vs. Rana Muhammad Akram Advocate and others, (PLD 2014 Lahore 591); Messrs Sui Southern Gas Company Limited through Attorney vs. Oil and Gas Regulatory Authority through Chairperson and 2 others,*** **(PLD 2021 Islamabad 378)** and ***Hudabiya Engineering (Pvt.) Limited vs. Pakistan through Secretary, Ministry of Interior, Government of Pakistan and 6 others,*** **(PLD 1998 Lahore 90)**.

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13. The family pension system is designed to provide continued financial support to the legal dependents of a deceased employee. The primary objective of family pension is rooted in the principles of social welfare and economic protection, ensuring that those who were financially dependent on the deceased during his lifetime are not left in hardship or destitution after his demise. Accordingly, when interpreting pension laws, Courts must be guided by this broader social and economic purpose, eschewing a narrow or overly technical approach especially in situations, where an apparent limited scope of a particular provision of law may result in a situation that may defeat the very purpose of that law. Pension is not a gratuitous benefit or an act of charity; it is a rightful and earned entitlement, representing deferred remuneration for services rendered by the employee, which becomes payable upon retirement or death. The Honorable Supreme Court of Pakistan in the case of ***Muhammad Yousaf vs. Province of Sindh and others, (2024 SCMR 1689)*** held that:-

> *"11. ……. where the pension is payable, it is a vested right and not charity, alms or donation by the employer but a compensation of services rendered assiduously by giving blood, sweat, toil, and tears……. Even the widows and orphans of retired employees are faced with such a terrible and disgraceful situation for the payment of family pension which is a right and not charity."*

14. The language of Regulation 22 must be construed in a manner that ensures the equitable extension of benefits to all children, irrespective of marital status. A plain and purposive reading of the Regulation reveals that a divorced daughter, having reverted to an unmarried status upon dissolution of her marriage, falls within the ambit of "unmarried daughter" and cannot be excluded solely on the basis of her prior marital status. In the present case, the Impugned Letter issued by the OGDCL is fraught with legal and constitutional infirmities. Foremost, by purporting to interpret and restrict the scope of Regulation 22, the OGDCL has, through the Impugned Letter, engaged in an unauthorized executive act that effectively amends the regulation by administrative authorization, exceeding its lawful authority. More significantly, the Impugned Letter introduces a discriminatory classification by excluding divorced

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daughters from eligibility, despite the absence of any such express restriction in Regulation 22 itself.

15. This is the other aspect of the instant matter i.e. the element of discrimination framed in the second question. This Court shall now see whether the Impugned Letter is discriminatory or not. In this regard it is important to mention that Courts support reasonable or positive discrimination for women under the Constitution. It is appropriate to produce the relevant article of the Constitution hereunder:-

> *"**Article 25. Equality of citizens.***
> *(1) All citizens are equal before law and are entitled to equal protection of law.*
> *(2) There shall be no discrimination on the basis of sex.*
> *(3) Nothing in this Article shall prevent the State from making any special provision for the protection of women and children."*

16. The above referred Article allows for special provisions for women, which are not considered discriminatory but necessary for achieving substantive equality especially when such measures are designed to address systemic barriers faced by women. True equality may require treating women differently in order to level the playing field and ensure their full participation in society. It is trite law that fundamental rights in a living Constitution must be liberally interpreted so that they continue to embolden freedom, equality, tolerance and social justice as held in ***Jurist Foundation vs. Federal Government through the Secretary Ministry of Defence and others, (PLD 2020 SC 1).*** Thus, when interpreting a constitutional provision, the approach should be dynamic, progressive and driven by a desire to address the situation effectively. The interpretation must not be restricted or pedantic.

17. In this context, the exclusion of divorced daughters lacks any rational foundation. There exists no discernible difference between a divorced daughter and an unmarried daughter that would justify such exclusion, particularly in light of the underlying purpose of Regulation 22, which is to provide compassionate and earned economic relief to the bereaved family of a deceased. A divorced daughter remains a dependent of her deceased parent, and to deny

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her entitlement on the basis of marital status is to deny her constitutional identity. The arbitrary nature of this classification by the OGDCL renders it not only unconstitutional but also unreasonable, as it contravenes the fundamental rights enshrined in the Constitution.

18. Moreover, the Honorable Supreme Court of Pakistan in the case of ***Muhammad Yousaf vs. Province of Sindh and others, (2024 SCMR 1689)*** held that:-

> *"8. According to Article 9 of the Constitution of the Islamic Republic of Pakistan, 1973 ("Constitution"), to enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen and (a) no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law; (b) no person shall be prevented from or be hindered in doing that which is not prohibited by law; and (c) no person shall be compelled to do that which the law does not require him to do. In the case of Shahla Zia v. WAPDA (PLD 1994 SC 693), this Court held that the word "life" is very significant as it covers all facets of human existence. The word "life" does not mean, nor can it be restricted to, only vegetative or animal life or mere existence from conception to death. The word "life" includes all such amenities and facilities which a person born in a free country is entitled to enjoy with dignity, legally and constitutionally. According to Article 3 of the Universal Declaration of Human Rights (UDHR), everyone has the right to life, liberty and security of person, while under Article 23, everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment; everyone, without any discrimination, has the right to equal pay for equal work;* ***everyone who works has the right to just and favourable remuneration, ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection*** *and everyone has the right to form and to join trade unions for the protection of his interests.* ***In our view, right of accrued pension in accordance with law is also an integral part of one's lifeline for sustenance and salvation and after serving a long period, its denial without any lawful justification amounts to denying the right to life*** *of a retired person who, on attaining the age of superannuation, solely depends on his pension for his livelihood as a source of income.* ***The immensity of the expression "life" embedded in the Constitution under Article 9 has a manifold and multifarious understanding and interpretation, and it cannot be read in a***

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restricted or limited sense, rather it should be read in its wholeness with all the fundamental rights, privileges, and obligations, and in case of any deprivation of lawful or accrued right, it amounts to cause serious impairment and defacement to the right to life."

(Emphases Added)

19. The Constitution, through Articles 4, 25, and 14, guarantees every citizen's right to be treated in accordance with law, ensures equality before the law, safeguards property rights, and upholds human dignity. The exclusion of divorced daughters from pension benefits, while unmarried and widowed daughters are included without any rational or justifiable basis, creates an arbitrary and unjust distinction. This exclusion fails to satisfy the test of reasonable classification under Article 25 of the Constitution. Such differential treatment is in violation of the constitutional guarantee of equality and results in discriminatory practices that cannot be sustained in law. It is a settled principle that any classification must be based on an intelligible differentia and must bear a rational nexus to the object sought to be achieved by the law. Reference, in this behalf, may be made to the judgments of Honorable Supreme Court of Pakistan reported as ***Federation of Pakistan vs. Shuja Sharif, (2023 SCMR 129); Hadayat Ullah vs. Federation of Pakistan, (2022 SCMR 1691); Syed Azam Shah vs. Federation of Pakistan, (2022 SCMR 201)*** and ***Dr. Mobashir Hassan vs. Federation of Pakistan, (PLD 2010 SC 265).*** Therefore, the petitioner, being a divorced and financially dependent daughter, is entitled to be placed on an equal footing with unmarried and widowed daughters for the purposes of pension entitlement. In view of the foregoing, the Impugned Letter is liable to be struck down as being ultra vires, discriminatory, and repugnant to the Constitution.

20. It is further observed that the commuted portion of the deceased's pension, which was legally due for restoration with all applicable increases in 2016, has not been reinstated by the OGDCL. Once the full amount of the commuted portion has been recovered from the deceased's monthly pension, the continued withholding of that portion is without justification and amounts to the unlawful retention of public funds owed to the legal heirs of the deceased. The

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restored amount, together with all applicable increases, forms part of the estate of the deceased and must be disbursed to the legal dependent in accordance with the relevant rules.

21. In view of the above discussion, the instant wit petition is **allowed.** The Impugned Letter is declared without lawful authority and of no legal effect. The Respondents are directed to transfer the family pension of the deceased in favour of the petitioner within a period of thirty (30) days from the receipt of copy of this judgment. The Respondents are further directed to restore and disburse the commuted portion of the deceased's pension, along with all increases accrued since 2016, to the petitioner, with effect from the due date.

(INAAM AMEEN MINHAS)
JUDGE

Announced in open Court on 27.06.2025

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APPROVED FOR REPORTING

M. YAHYA KHAN NIAZI, L.C

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