**JUDGMENT SHEET**

**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**

**INTRA COURT APPEAL NO. 214 OF 2022**

**GUL FARAZ**

**VERSUS**

**FREQUENCY ALLOCATION BOARD, ETC.**

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| **Appellant by** | **:** | **Appellant in Person.** |
| **Respondent by** | **:** | **Mr. Adnan Bashir, Advocate for Respondents.** |
| | | **Mr. Azmat Bashir Tarrar, learned A.A.G.** |
| | | **Mr. Hashim Khan, Advocate General Office.** |
| | | **Mr. Adnan, A.D Law, FAB.** |
| **Date of hearing** | **:** | **11.11.2025** |

**MUHAMMAD AZAM KHAN, J.** Through the instant Intra Court Appeal, the appellant has assailed judgment dated 10.03.2022, whereby Writ Petition No. 873 of 2015, filed by him, was dismissed with costs amounting to Rs. 50,000/–.

**2.** The appellant, appearing in person, submits that he is a senior citizen who retired upon attaining the age of superannuation; however, despite lapse of considerable time, his pensionary benefits have not been released. He contends that pension is not a gratuitous concession by the State but a vested right accrued to him, as the amounts claimed were deducted from his salary throughout his service career. According to him, withholding of his pensionary dues constitutes a violation of his constitutional and legal rights.

**3.** Conversely, learned A.A.G. argued that the appellant is a habitual litigant, and this conduct has previously been noted by various courts. It is submitted that the appellant, due to his persistent litigious conduct and alleged obstruction of departmental functioning, is not entitled to any equitable relief.

**4.** We have heard the arguments of both sides and have minutely examined the available record with the able assistance of the parties.

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**5.** The record reflects that the appellant retired from the Frequency Allocation Board (FAB), Islamabad, upon reaching the age of superannuation on 25.01.2015. His grievance stems from the non-release of his pensionary benefits. Being aggrieved by the inaction of the respondent-department, the appellant instituted Writ Petition No. 873 of 2015 seeking directions for the release of his pensionary dues pertaining to the post of Director (BPS-19), a position to which he had been formally promoted vide Notification dated 10.03.2014. For convenience, the operative portion of the said notification is reproduced as under: -

> *"On the recommendation of the Departmental Promotional Committee (DPC), Mr. Gul Faraz, Deputy Director (BPS-18/EG-3), Frequency Allocation Board (FAB) is promoted to the post of Director (BPS-19/EG-4) in FAB w.e.f. 20-12-2008, i.e. the date from which his juniors were promoted."*

**6.** The respondent-department furnished a detailed report; however, significantly, it does not contain a single word addressing the core issue raised by the appellant regarding the non-release of his pensionary benefits. Instead of justifying its inaction or pointing to any legal impediment under the applicable service rules, the report focuses almost entirely on portraying the appellant as a habitual litigant. Various instances of past litigation have been catalogued, and it is asserted, without any lawful basis, that such conduct disentitles the appellant from receiving his post-retirement benefits. The department's stance, in essence, suggests that because the appellant has previously challenged departmental actions through judicial forums, he should be deprived of his pension. Such reasoning is manifestly misconceived. The right to pension flows from statute and the terms of service, not from the department's subjective assessment of an employee's litigious conduct. The act of approaching the courts for redressal of grievances cannot, by any stretch of legal imagination, be equated with misconduct warranting forfeiture of pensionary entitlements. The department's failure to provide any substantive explanation for withholding the pension, coupled with its reliance on irrelevant

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and extraneous factors, reflects a complete disregard of its legal obligations and renders its report devoid of evidentiary or legal value.

**7.** The stance adopted by the respondent-department is not only legally untenable but also contrary to the established principles settled by the Hon'ble Supreme Court of Pakistan. Pension, in the eyes of law, is neither charity nor bounty. It is a vested right of a retired employee, accruing from his long service, and cannot be denied except under due process of law. The Hon'ble Supreme Court, in the recent judgment reported as *2024 SCMR 1689*, has held: -

> *"Pension articulates payment of fixed amount, according to scheme of pension in accordance with law, rules and regulations, or pension scheme in vogue, which is recompensed on regular basis to a person at the end of superannuation — Foremost and predominant strength of mind is to afford and safeguard economic refuge and shelter and recuperate old age security — In general phenomena, superannuation or stepping down is considered a second innings in which a retired person aspires to live up to his highly anticipated imaginings or dreams and devote time to his kith and kin and friends — After retirement, timely payment of pension is considered as main source of income or livelihood — Despite serving for a long time with sheer commitment, if pensionary benefits are delayed or denied without any lawful justification or without assigning any reason or providing any opportunity of hearing, it would be a very sorry state of affairs, rather an appalling and deplorable situation for a person who performed his duties with utmost dedication and enthusiasm throughout his career but at the eve of his retirement, he was treated inhumanly, coldheartedly and gets nothing on the pretext of totally misconceived interpretation of some rule — Pension could not have been denied to petitioner/civil servant without issuing show cause notice and providing opportunity of hearing — Petitioner/civil servant was deprived of his pensionary benefits despite serving the department for at least 24 years, 05 months and 15 days without adjustment of his earned leaves — Payment of pensionary benefits are protected under the law, rules and regulations, even in private sector, where scheme of pension in vogue is according to the organizational/management policy — Where 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."*

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**8.** It is a settled and time-honored principle of service jurisprudence that pension is neither a privilege nor a matter of grace, but a vested and enforceable right of an employee who has served the State in accordance with law. The Hon'ble Supreme Court, in a long line of authoritative precedents, has categorically held that pensionary benefits constitute deferred wages, earned by the employee during his tenure of service, and cannot be withheld, curtailed, or denied except in strict conformity with law.

**9.** The superior courts have repeatedly emphasized that the purpose of pension is to ensure economic security, dignity, and subsistence for a retired employee at a stage of life when alternative sources of livelihood are limited. The State, as a model employer, is expected to act fairly, justly, and reasonably; any delay, withholding, or denial of pension without lawful justification has been declared unconstitutional, arbitrary, and violates of Articles 3 and 25 of the Constitution. The Supreme Court has described the deprivation of pension as a "deplorable and inhumane act," particularly where an employee has devoted decades of service with commitment and integrity, only to be confronted with administrative apathy at the time of retirement.

**10.** This principle finds deep support in Islamic jurisprudence as well. In the Qur'an, the concept of fulfilling obligations and the prohibition against withholding the dues of any worker form the ethical foundation of employee rights. Islam does not permit the exploitation of labor nor the denial of rightful compensations. A retired employee who has devoted his energy, skill, and years to public service retains a moral and equitable claim to sustenance from the very institution he served. Allah Almighty commands in **Surah Al-Baqarah (2:188)**:

> *"And do not usurp one another's wealth by unfair means, nor bribe the judges with it to consume a part of the people's wealth sinfully, while you know (that it is immoral and unlawful to do so)."*

**11.** This verse lays down a fundamental prohibition against unlawfully withholding, consuming, or depriving any person of their rightful dues.

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Pensionary benefits, which represent deferred wages accumulated during an employee's service, clearly fall within the ambit of "wealth" that cannot be wrongfully withheld or consumed. Similarly, in **Surah Al-Nisā (4:58)**, the Divine command is clear and categorical:

> *"Allah commands you to deliver trusts to their rightful owners, and if you judge between people, judge with justice. Excellent indeed is the instruction Allah gives you! Surely, Allah is All-Hearing, All-Seeing."*

**12.** Further, In the present age, marked by pervasive global economic instability, escalating inflation, and significant erosion in purchasing power, pension assumes a role far more critical than in earlier times. Today, pension constitutes not just a retirement benefit but often the sole lifeline for a retired employee. Prices of essential commodities, healthcare, housing, and utilities have risen sharply worldwide, and a retired individual, due to age and health constraints, stands deprived of alternate means of livelihood. In such circumstances, any delay or denial of pension exposes the retiree to severe hardship, impacting his ability to obtain food, medication, and other necessities of daily life. The constitutional guarantee of dignity under Article 14, the right to livelihood implicit in Article 9, and the framework of social justice embedded in the Objectives Resolution collectively obligate the State and its instrumentalities to ensure timely disbursement of pension. Failure to do so would amount to an infringement of fundamental rights and an abdication of the State's responsibility to protect its senior citizens from destitution.

**13.** Viewed collectively, the denial or withholding of pension cannot be justified on the basis of administrative convenience, departmental displeasure, or allegations of litigious conduct. Pension is a legal, moral, and constitutional entitlement, firmly grounded in statutory law, Islamic principles, and contemporary human welfare considerations. Its timely release is indispensable for safeguarding the dignity and survival of a retired employee. Accordingly, any attempt to deprive a pensioner of this right is liable to be struck down as illegal and unconstitutional.

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**14.** So far as the allegation regarding the petitioner's tendency of filing petitions is concerned, it is sufficient to observe that the appellant appears to have been constrained to approach the Courts only when the respondent-department declined to recognize or redress his lawful and vested rights. The act of invoking constitutional jurisdiction cannot, in any manner, be treated as a disqualification or as conduct disentitling a citizen from statutory benefits. Rather, the repeated need to file petitions reflects, more appropriately, persistent non-responsiveness or administrative neglect on the part of the public authority.

**15.** When a person approaches the Court, he does not merely ventilate a grievance but also places his trust in the judicial system and the constitutional promise of justice. The right to seek judicial redress is a fundamental facet of the rule of law, and its exercise is neither a concession nor a favor; it flows from Articles 4 and 199 of the Constitution. Approaching the Court for enforcement of rights cannot be trivialized as litigious behavior. Every citizen is entitled to seek intervention where State functionaries fail to adhere to law or perform statutory duties. Thus, the mere fact that the appellant has pursued litigation on multiple occasions does not create any adverse presumption against him. On the contrary, it may signify that the administration has repeatedly failed to address his lawful claims, compelling him to seek judicial protection.

**16.** The judicial forums exist precisely to examine and rectify allegations of illegality, arbitrariness or denial of rights. Courts are guardians of constitutional guarantees, and it is their solemn obligation to hear the grievances of aggrieved persons and to adjudicate them in accordance with law. The label of "habitual litigant," therefore, cannot be employed to deprive a citizen of his pensionary benefits, nor can it relieve the public authority of its duty to act fairly, promptly, and in compliance with the legal framework.

**17.** Before concluding, it is appropriate to address the aspect of costs imposed by the learned Single Judge while dismissing the writ petition. The

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record shows that the petitioner approached the Court only after the respondent-department failed to release his pensionary benefits despite repeated requests. In such circumstances, the petitioner cannot be faulted for invoking the constitutional jurisdiction of this Court. When a public authority does not discharge its statutory obligations, an aggrieved person is left with no forum except the Court. The Hon'ble Supreme Court in **PLD 2014 SC 32** unequivocally held that *no person can be left remediless*, and where the law recognizes a right, it must also provide a corresponding remedy. In view of this foundational principle, approaching the Court for enforcement of vested and statutory entitlements, such as pension, cannot be construed as improper conduct warranting penal costs.

**18.** Moreover, the imposition of punitive costs in such circumstances may inadvertently discourage litigants from seeking redress against administrative inaction and may undermine public confidence in judicial oversight. The constitutional promise of access to justice under Articles 4 and 199 mandates that Courts remain available to those who seek enforcement of lawful rights, particularly where the State or its functionaries have failed to perform their duties.

**19.** This principle finds moral reinforcement in the teachings of Islam. In Surah *Al-Duha* (93:10), Allah Almighty commands: **"** وَ اَمَّا السَّآئِلَ فَلَا تَنْهَرْ **"** — "***And as for the one who asks, do not repulse him.***" This divine injunction embodies a universal ethic: a person who seeks help, assistance, or redress must be treated with dignity and compassion, not with harshness or rebuke. A litigant who approaches the Court is, in essence, a *sa'il,* one who asks for justice. To repel him through punitive costs, particularly when his grievance is legitimate and arises from governmental failure, runs contrary not only to constitutional obligations but also to the ethical foundations of justice deeply rooted in our faith. Courts, being custodians of rights and dispensers of justice, must ensure that litigants are not deterred or humiliated for asserting their lawful claims.

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**20.** In this perspective, and keeping in view the peculiar facts of the case, the imposition of costs upon the petitioner was not warranted. The petitioner acted within his lawful rights, and the matter raised concerns pensionary benefits, entitlements that are recognized as vested and enforceable. Accordingly, the order imposing costs does not appear justified in the circumstances.

**21.** In view of the foregoing discussion, and for all the reasons recorded hereinabove, the impugned judgment dated 10.03.2022 passed in Writ Petition No. 873 of 2015 is not sustainable and is hereby set aside. The instant Intra Court Appeal is accordingly ***ALLOWED***. The respondent-department is directed to forthwith process and release the pensionary benefits of the appellant, strictly in accordance with law, from the date they became due, along with all arrears accruing thereon. The exercise shall be completed within a period of thirty (30) days from the receipt of this judgment, under intimation to this Court. No order as to costs.

**(MUHAMMAD ASIF)**
**JUDGE**

**(MUHAMMAD AZAM KHAN)**
**JUDGE**

Announced in the open court on _____.

**JUDGE**

**CHIEF JUSTICE**

*Sajid*

***Approved for Reporting***
***Blue slip added.***

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