JUDGMENT SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P. No. 1269/2024

Parveen Akhtar

Versus

Ministry of Foreign Affairs, Government of Pakistan, etc.

Petitioner by: Mr. Ikhlaq Ahmed, Advocate.

Respondents by: Mr. Azmat Bashir Tarar, AAG.
Muhammad Iftikhar, Assistant Director (LA) M/o Foreign Affairs.

Date of Decision: 18.02.2025.

KHADIM HUSSAIN SOOMRO, J: Through this writ petition, the petitioner is claiming pensionery benefits for her deceased husband, namely Muhammad Latif S/o Ghulam Qadir.

2. Precise facts of the instant petition are that the petitioner's husband namely, Muhammad Latif, was appointed as Bearer cum Naib Qasid (BPS-1) in the Ministry of Foreign Affairs, Islamabad, vide office order dated 25.08.1985 and his date of birth as per old NIC is 1961 and the same date of birth is also mentioned in computerized NIC as well as in the pay slip. The petitioner's husband retired from service on 30.06.2021 vide office order dated 18.03.2022 and applied for retirement benefits, but the respondent department delayed the matter on one pretext or the other and finally claimed that as per the service book date of birth of the petitioner's husband is 1960. During this, the petitioner's husband died on 15.06.2022, and the petitioner approached the respondent department for family pension as well as

retirement benefits, but to date, family pension and retirement benefits have not been given. Hence, this petition.

3. Learned counsel for the petitioner contends that respondents are not issuing the retirement benefits and family pension in favour of the petitioner illegally and unlawfully and not considering the date of birth of the employee mentioned in his CNIC, passport and pay slip; that during service petitioner's husband was not informed that his date of birth mentioned in service book is 1960 and after his retirement, he and his family are waiting for the retirement benefits and pension due to the negligent behaviour of the respondents.

4. Conversely, learned AAG, along with the Assistant Director (LA), M/o Foreign Affairs, contends that there is a difference in the date of birth of the petitioner's husband mentioned in the service book and CNIC, however, it has been held by the High Court of Sindh at Sukkur, vide order dated 11.10.2018 that date of birth of a civil servant once recorded at the time of joining the Government service shall be final and would not be altered except where a clerical mistake occurs; that in the light of said Court order, date of birth of petitioner's husband is 1960 instead of 1961 and his date of retirement is 30.06.2020; that respondent department is ready to process the case of the petitioner for retirement benefits and family pension after submission of requisite documents by the petitioner, therefore, petitioner be directed to provide the requisite documents in the office for forwarding the case to the AGPR.

5. Arguments heard, record perused.

6. The appointment and the retirement of the petitioner's husband had not been denied by the respondent. The respondent did not even deny the right of the petitioner for the pensionary benefits; however, the dispute which is apparent from the pleadings is that, according to the petitioner, the pensionary benefits are to be calculated in accordance with the entries in CNIC; however, the respondent categorically stated that the petitioner during his lifetime did not make any application for rectification of the date of birth in the service record. Now, the question before this court is whether such a rectification in the date of birth can be made after the lapse of 29 years. It is a settled principle of law that the date of birth of a civil servant, once recorded in the service book and other official records at the time of entry into government service, cannot be altered except in cases where a clerical error occurred in recording the correct date of birth or as permitted under the exceptions explicitly provided in the relevant Rules.

7. The record reveals that the deceased civil servant never approached his department to rectify his date of birth during his lifetime. This petition was filed posthumously, following his retirement and subsequent death. The petitioner cannot seek rectification of date of birth of her husband. Reliance is placed to the case of the Chief Secretary Government of Balochistan, Quetta

and Others V/S *Asmatullah Kakar* (2020 SCMR 1678), Qamaruddin v. Pakistan through Secretary, Establishment Division, Islamabad and another 2007 SCMR 66; Dr. Muhammad Aslam Baloch v. Government of Balochistan through Secretary Health Department and others 2014 SCMR 1723, Ali Azhar Khan Baloch and others v. Province of Sindh and others 2015 SCMR 456 and Dr. Zulfiqar Ahmed Malik v. Federation of Pakistan through Secretary Revenue Division, Chairman FBR, Islamabad and others 2019 SCMR 1973 in support of this position.

8. Similarly, the Hon'ble Apex Court, in C.P. No. 4428 of 2019, titled Muhammad Khaliq Mandokhail v. Government of Balochistan, has made pertinent observations with regard to the issue at hand. The Apex Court graciously observed as under:-

> "As we have noticed that the whole proceedings were carried out after the lapse of 22 years of active service, therefore, it can be safely held that the proceedings carried out by the petitioner were based upon an afterthought just to prolong the service tenure and it was nothing but an attempt to continue with the service on the basis of frivolous and tainted documents which speak volume in relation to its genuineness."

9. Now, turning to the wards aspect of the pensionary benefits, Article 09 of the Constitution guarantees the right to life and liberty, which extends to the protection of a person's livelihood and the basic dignity of human existence. The denial of a pension to a retired employee, especially one who has passed away, not only strips legal heirs of their essential means of sustenance but also significantly impacts their physical and mental well-being.

10. Article 14 of the Constitution safeguards the dignity of man, stating that no person shall be subjected to torture or cruel, inhuman, or degrading treatment. The denial of pensionary benefits to a retired, elderly person who depends on this pension for basic survival amounts to degrading treatment that is inconsistent with the principle of human dignity.

11. Further, this Court hereby directs all Government departments, agencies, and officers entrusted with the responsibility of serving the general public, as mandated by the Constitution of Pakistan as well as by relevant laws and regulations, to ensure that there are no unnecessary hurdles or delays in the processing and finalization of pensionary and retirement benefits cases. It is imperative that such cases be treated with the utmost priority and urgency, as the delay in the payment of pensions and retirement benefits not only causes undue hardship to retirees but also violates their fundamental rights to dignity, sustenance, and security, which are guaranteed under Articles 9 and 14 of the Constitution. The Government must uphold its duty to ensure that retired public servants who have faithfully served the State are not subjected to unnecessary delays that undermine their well-being or dignity. The responsible officials must act without hesitation to process such cases in an expeditious manner and, where applicable, ensure that all entitlements, including arrears, are paid promptly. This Court expects that all concerned authorities will adhere to the principles of

justice and fairness in fulfilling their constitutional and legal obligations and shall take all necessary steps to eliminate any systemic inefficiencies or bureaucratic inertia that may contribute to delays in the disbursement of pensionary or retirement benefits. All the Government Departments are further directed to implement a streamlined and transparent procedure for the timely disbursement of such payments to avoid future delays and ensure that retirees' rights are fully protected.

12. In light of the above observations, it is hereby declared that the Petitioner is entitled to her pensionary benefits under the relevant laws; the Respondent is directed to release the outstanding pension and pensionary benefits are to be calculated from the entries of service book and such dues be paid to the legal heirs of the deceased within 30 days from the date of this order along with any arrears owed and to ensure that the pension is paid in a timely manner in the future.

This petition stands ***disposed of***.

(KHADIM HUSSAIN SOOMRO)
JUDGE

Approved for Reporting

Zahid