

**Stereo. H C J D A 38.**  
**Judgment Sheet**

**IN THE LAHORE HIGH COURT LAHORE**  
**JUDICIAL DEPARTMENT**

**W.P.No.69226 of 2017.**

**Zakia Shaukat Rizvi Versus Controller Military Accounts, etc.**

**J U D G M E N T**

|                 |  |
|-----------------|--|
| Date of hearing | 21.06.2018   |
| Petitioner by   | M/s Taffazul H Rizvi and Muhammad Usman, Advocates.  |
| Respondents by  | Mr. Muhammad Iqbal Khan, Deputy Attorney General for Federation of Pakistan.<br><br>Mr. Khursheed Ahmad, AAO, CMA (P), Lahore. |

**Shahid Jamil Khan, J:-** Through this petition, petitioner has challenged Rule 8(2)(a)(iii) of the Pension Rules for Civil Servant's Family Pension (Federal Government), which was introduced through Office Memorandum dated 03.07.1997, whereby eldest surviving unmarried daughter was entitled to receive pension of her father. The same is reproduced hereunder:-

“(iii) failing (i) and (ii) to the eldest surviving unmarried daughter till her marriage; if the eldest daughter marries or dies the next eldest daughter till her marriage.”

The petitioner, being second and unmarried daughter, felt aggrieved of the rule and challenged the same on the touchstone of Article 25 of the Constitution of Islamic Republic of Pakistan, 1973 (“**Constitution**”).

2. Learned counsel for the petitioner submitted that in Punjab, the rule was rationalized and pension is divided amongst all unmarried daughters.

3. The petitioner also challenged letters dated 21.02.2017 and 31.03.2017, whereby respondent No.1 refused to give pension to the petitioner with objection firstly that only eldest unmarried daughter is entitled and secondly with the observation that even if the second daughter is entitled, the eldest daughter cannot surrender her right in favour of the petitioner.

4. Reply was filed by the learned Deputy Attorney General, operative part of which is reproduced hereunder:-

“It is submitted that point was referred to Finance Division (Regulation Wing) by the MAG office Rawalpindi that **“if the eldest un-married daughter surrenders her right to pension in favour of youngest sister, the pension may be granted to youngest daughter instead of eldest un-married daughter”**. The Government of Pakistan Finance Division (Regulations Wing) vide their U.O No.F.2(2)-REg.6/96-XIV-1325 dated 08.12.2017 (copy enclosed) has clarified that after extending the benefit of family pension to daughter for life/till marriage vide Finance Division O.M. No.2-(2)-R.6/96 dated 03.07.1997, and to widowed daughter/divorced for life or till marriage re-marriage, without any age limit in terms of Finance Division O.M. No.2(2)-R.6/96.IX-700 dated 07.07.2015, there is no need to impose this restriction as it would not make any difference. Further, no embargo has been imposed in Liberalized Family Pension Rules, 1983 for grant of family pension to the younger daughter if the elder daughter refused to receive family pension.

In view of the above, it is submitted that family pension claim in respect of the appellant i.e. Zakia Shaukat will be finalized on receipt of MES department.”

5. From perusal of the above noted reply, the grievance of the petitioner to extent of surrendering pension in favour of the petitioner was being processed and was expected to be completed. The reply was silent about the query of this Court

vide order dated 13.09.2017, whereby it was asked to reply why rule has not been rationalized as had been done by the Government of Punjab. The respondents were further asked to justify the impugned rule for depriving a widow/divorcee/unmarried daughter, standing on the same pedestal. It was undertaken before the Court that summary for the purpose was forwarded for necessary amendments in the rule.

6. Heard. Record perused.

7. The challenged rule under caption of Family Pension i.e. 4.8(2)(A)(ii) of The Punjab Civil Services Pension Rules 1967 (“**Rules**”) is reproduced hereunder:-

“(ii) Failing a widow or husband, as the case may be, the pension shall be divided equal among the surviving sons not above 24 years and unmarried daughters.”

8. Learned Deputy Attorney General assisted by representative of respondents produced Office Memorandum dated 19.06.2018 to apprise that amendments, as directed, are incorporated by substituting the rules. Said Office Memorandum is reproduced for ease of reference:-

Government of Pakistan  
Finance Division  
(Regulations Wing)

No.F.13(16)-Reg.6/2017-516

Islamabad, the 19<sup>th</sup> June, 2018.

**OFFICE MEMORANDUM**

Subject:- **FURTHER LIBERALIZATION OF LIBERALIZED PENSIO RULES FOR CIVIL SERVANTS-FAMILY PENSION.**

The undersigned is directed to refer to Finance Division’s O.M.No.F.1(13)-Reg.6/83, dated the 23<sup>rd</sup> October, 1983 on the subject noted above and to state that in compliance with honourable Lahore High Court, Lahore order dated 10.01.2018 in Writ Petition No.69226/18 titled Zakia Shoukat Rizvi vs Controller Military Pension. It has been decided that paras 8(1) (2) (a) (ii) (iii) (iv) (v) of Finance Division O.M. No. F. 1(13)-Reg.6/83 dated 23<sup>rd</sup> October, 1983 would be substituted with following new para 8(1) (a) (ii) as under:-

- (ii) failing widow or husband, as the case may be, the pension shall be divided equal among the surviving son(s) not above 21 years and unmarried daughter(s)/widow daughter(s)/divorced daughter(s) till marriage/re-marriage.

[(Note) the serial numbers of the paras 8(1)(2) (a) would be amended accordingly].

(Abdul Ghaffar Khan)  
Section Officer (Reg.6)

9. In view of the amendment, as noted in above Office Memorandum dated 19.06.2018, the discrimination is cured and now pension shall be distributed equally amongst the surviving unmarried daughter(s)/widow daughter(s)/divorced daughter(s) till marriage/re-marriage.

10. Under the circumstances, instant petition being fructified is ***disposed of***.

(Shahid Jamil Khan)  
Judge

Sajjad

**APPROVED FOR REPORTING**

Judge