

**ORDER SHEET.**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

**Writ Petition No.2748 of 2013**

**Kalsoom Bibi**

**Vs.**

**Government of Pakistan and others**

<b>S. No. of order/ proceedings</b>	<b>Date of order/ proceedings</b>	<b>Order with signature of Judge and that of parties or counsel where necessary.</b>
<b>(7)</b>	<b>15.04.2022.</b>	<b>Mr. Muhammad Ramzan Khan, Advocate for the Petitioner. Rana Imran Farooq, AAG. Mr. Abdul Rehman Goher, S.O. Establishment Division, Representative of Respondent No.1. Capt. (Retd.) Nisar-ul-Haque, (PASB), Deputy Director, Representative of Respondent No.2 &amp; 4. Ejaz Rafique, CMA (ISO), Rawalpindi, Representative of Respondent No.3.</b>

Through the instant writ petition, the Petitioner (Kalsoom Bibi) seeks direction to the Respondents to pay the Assistance Package as per policy of the government.

2. Brief facts, as per the Memo of Petition, are that the husband of the Petitioner namely Surat Ali was appointed on 15.09.2006 as Naib Qasid with Respondent No.2 (Secretary, District Armed Services Board). He died during service on 24.03.2013.

3. The Petitioner being widow of a government servant claims the benefit of the Assistance Package for families of government employees who die in service as per Office Memorandum dated 13.06.2006 of the Respondent No. 1

whereby approval of the Prime Minister for the said package was conveyed.

4. Learned counsel for the Petitioner, *inter alia*, contended that the Petitioner being widow of government servant who died in service was entitled under the Assistance Package for families of government employees who die in service; that the Petitioner has requested Respondents No.2 to 4 time and again for grant of the said benefit but Respondent No.1 has taken no steps towards the payment of the said package; and that after the death of the husband of the Petitioner, the Petitioner has no source of income to support her young children and is in dire straits. Learned counsel for the Petitioner further contended that Respondent No.1 are legally bound to implement the Office Memorandum dated 13.06.2006; that Respondent No.1 should act judiciously and substantial justice must be done to the Petitioner. The delay is equal to denial and this is arbitrary use of power which is against the law laid down in *Tariq Aziz-ud-Din and others*, 2010 SCMR 1301, *Mst. Arshan Bi Vs. Maula Bakhsh*, 2003 SCMR 318 and *Samiullah Khan Marwat Vs. Government of Pakistan*, 2003 SCMR 1140.

5. Learned AAG, on the other hand, submitted that the Prime Minister Assistance Package is not

admissible to Armed Forces Personnel re-employed after retirement. It is submitted that as per Government of Pakistan Establishment Division's O.M. No.7/40/2005/E-2 dated 13.06.2006 it is clarified that assistance package for families of Government servants who die in service is not applicable to ex-servicemen re-employed after retirement from armed forces and is also not applicable to Armed Forces Personnel. He requested that instant petition be dismissed.

6. Arguments advanced by learned counsel for the parties have been heard and documents placed on record examined with their able assistance.

7. The issues that emerge from the submissions of the learned counsel and representatives of parties in attendance are whether the Assistance Package is available to ex-servicemen who have been re-employed as civil servant or not and secondly whether the Petitioner's deceased husband was an ex-service man re-employed as civil servant or not.

8. As far as the first issue is concerned as per the learned Assistant Attorney General following the issuance of Office Memorandum dated 13.06.2006 the Respondent No.4 had sought explanation as to whether or not such package would be available to families of government

servants who die in service but were ex-servicemen who had been re-employed as government servants after retirement from armed forces. The explanation was given vide Office Memorandum dated 23.11.2006 issued by Establishment Division, whereby it was stated that assistance package for families of Government servants who die in service is not applicable to ex-servicemen re-employed after retirement from armed forces and is also not applicable to Armed Forces Personal.

9. Mr. Abdul Rehman Gohar, S.O. Establishment Division, Representative of Respondent No.1, in attendance, explained that despite such explanation it was a policy decision that has been left up to the relevant ministries as the funds would come out of their resources.

10. Capt. (Retd.) Nisar-ul-Haque, (PASB), Deputy Director, Representative of Respondent No.2 & 4, in attendance, submitted that the Ministry of Defence has no such objection if the families of ex-servicemen re-employed after retirement as Government servants are also given the benefit of Assistance Package for Families of Government Employee who die in service.

11. However, Ejaz Rafique, CMA (ISO), Rawalpindi, Representative of Respondent No.3,

submitted that according to their policy, such Assistance Package is not applicable for ex-service men in light of the explanation given by Respondent No.1 vide Office Memorandum dated 23.11.2006.

12. It is settled matter that this Court does not interfere with the policy matters of the government especially with regard to financial matters. Respondent No.1 made it clear that whether or not Assistance Package is available to ex-service men is up to Respondent No.3 whereas Respondent No.3 has submitted that their resources do not allow provision of this package to ex-service men as they already receive benefits upon their retirement.

13. Be that as it may, given that it is a policy matter this Court does not find itself in a position to direct the Respondent No.3 to make available any financial package which is against their policy.

14. Even otherwise the Petitioner claims that her husband was not an ex-service man which position is vehemently denied by the Respondents. Such factual dispute cannot be resolved by this Court in its Constitutional jurisdiction. It is noted that Respondent No.3 has

submitted in their comments that they have not received any application of the Petitioner.

15. In view of the foregoing Petitioner is directed to approach Respondent No.3 directly and Respondent No.3 is directed to ascertain whether the Petitioner's husband was or was not an ex-service man and to decide the Petitioner's application in accordance with their policy within a reasonable period of time. It is also made clear that any such decision, whatever it may be, will be final.

16. It is noted that the matter has been pending since 2013 and therefore, it is expected that Respondent No.3 will decide the matter swiftly and expeditiously so that the Petitioner's issue is resolved once and for all.

17. Petition **disposed of** in the above terms.

**(SAMĀN RAFA'Ī IMTIAZ)**  
**JUDGE**

JUSMID