

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P.No.2805 of 2020
Inam Ilahi Nasir and others

Versus

Federation of Pakistan through Secretary, Finance Division and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
-------------------------------	----------------------------	---

16.09.2021

**Mr. Muhammad Anwar Mughal, Advocate for the petitioners,
Mr. Arshid Mehmood Kiani, learned Deputy Attorney-General,
Barrister Iqbal Khan Nasar for respondents No.2 to 4.**

Through this order, I propose to decide writ petitions No.2805/2020 and 503/2021, as they entail common questions of law and facts.

2. Through the said writ petitions, the petitioners seek a direction to the National Bank of Pakistan (“NBP”) to decide their representations for the grant of 7% cost of living allowance as part of their emoluments reckonable towards pension along with interests accrued thereon.

3. The petitioners’ representations to the President of the NBP for the inclusion of the cost of living allowance at the rate of 7% of their basic pay to be made reckonable towards their pension are annexed at page-30 of writ petition No.2805/2020 and page-8 of writ petition No.503/2021.

4. The question whether the cost of living allowance at the rate of 7% of the basic pay is to be reckonable towards the pension of a retired employee of the NBP has been conclusively decided by the Hon'ble Supreme Court, vide order dated 17.10.2018 passed in civil petition No.3345/2017 titled “Rana Muhammad Khalil Vs. Regional Audit Chief, National Bank of Pakistan, Lahore” and order dated 09.01.2019 passed in civil review petition No.795/2018 titled “Rana

**Muhammad Khalil Vs. Regional Audit Chief,
National Bank of Pakistan, Lahore.”**

5. There is nothing preventing the NBP from deciding the petitioners’ pending representations in accordance with the law. However, it needs to be determined whether the instant petitions are maintainable given the fact that all the petitioners have not retired under any statutory rules or in the ordinary course but as a result of opting for the Golden Handshake Scheme offered by the NBP.

6. It is not disputed that all the petitioners retired from service after opting and obtaining benefits under the Golden Handshake Scheme offered by the NBP. After the option exercised by the petitioners was accepted by the NBP, the benefits under the Golden Handshake Scheme were granted to them. The petitioners have not annexed the terms and conditions of the Golden Handshake Scheme or the details of the benefits they obtained under the said scheme. Be that as it may, the petitioners having retired from service as a result of the Golden Handshake Scheme cannot be treated at par with those employees of the NBP who retired in the ordinary course. Furthermore, the petitioners cannot seek the issuance of a writ of *mandamus* directing the NBP for granting a benefit to them which they claim to be flowing from the Golden Handshake Scheme. In the case of State Bank of Pakistan Vs. Imtiaz Ali Khan (2012 SCMR 280), the respondent had opted for the Voluntary Golden Handshake Scheme introduced by the State Bank of Pakistan offering a voluntary exit to its employees on payment of retirement benefits under the existing rules in addition to other normal benefits as compensation. The writ petition filed by the respondent was accepted by the Hon'ble High Court directing the State Bank of

Pakistan to pay commutation on the respondent's gross pension irrespective of the Golden Handshake Scheme. The Hon'ble Supreme Court allowed the State Bank of Pakistan's appeal against the judgment of the Hon'ble High Court. It was held *inter alia* that the respondent had not retired from service by application of the State Bank of Pakistan's Regulations but after he had voluntarily accepted the Golden Handshake Scheme, which was to govern his case. In paragraph 28 of the said report, it was held as follows:-

“28. Since the respondent-employees have not retired from service of the appellant-Bank by application of the Regulations, 1980 nor under the Staff Regulations, 1993 but they have left the service of the appellant-Bank at their own by exercising their own right of option by accepting the Scheme, therefore, their cases are squarely governed and controlled under the terms and conditions as was clearly spelt out in the Scheme itself. As no reference can be made as to how and against whom the respondents were differently treated in a discriminatory manner, we have failed to understand as to how there was any violation of Article 25 of the Constitution.”

(Emphasis added)

7. In the case at hand, the petitioners did not retire by operation of any statutory rules but due to the option exercised by them for the Golden Handshake Scheme. Therefore, the ratio set in the case of State Bank of Pakistan Vs. Imtiaz Ali Khan (*supra*) is fully attracted in the instant case.

8. In view of the above, the instant petitions are dismissed as not maintainable.

**(MIANGUL HASSAN AURANGZEB)
JUDGE**