

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

Intra Court Appeal No. 58 of 2019

In

W.P No. 2330 of 2016

Dr. Asif Majeed Paul and another.

Versus

Federation of Pakistan through Secretary, Ministry of Finance and others.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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28.02.2019.	Syed Hassan Ali Raza, Advocate for the appellants.
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The appellants are retired employees of Habib Bank Limited and seek enhancement in their pension by way of enforcement of the order/decision by the Financial Division, Government of Pakistan dated 30.11.1977. It is pertinent to observe that respondent No.2 was a nationalized Bank and was privatized in or about 2004. After the referred change the respondent Bank did not pay its retired employees the pension under the referred decision. The issue of payment of pension to such like employees as the appellants working in Institutions including respondent No.2, Allied Bank Limited and United Bank Limited was considered by the Hon'ble Supreme Court of Pakistan in Suo Motu case No.20 of 2016, which was decided on 13.02.2018.

2. Learned counsel for the appellants, *inter alia*, contended that the impugned judgment is not tenable in the facts of the case. In this behalf, it was contended that it is obligation of respondent No.1 to ensure the payment of pension and other benefits at the rates commensurating with the civil servants or the employees of nationalized banks. When confronted, whether there is any statutory or contractual protection in the case of the retired employees of Habib Bank Limited the answer was in the negative.

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

4. As noted above, the appellants seek enforcement of pensionary benefits in light of the above mentioned decision of the Federation of Pakistan. In case titled as "**Abdul Wahad Vs. HBL**" (2013 SCMR 1383). The Hon'ble Supreme Court of Pakistan held that HBL Staff Service Rules, 1981 are non-statutory. It was also observed that a petition under Article 199 of the Constitution is not maintainable against respondent No.2. Moreover, respondent No.2 is no longer under the Administrative and financial

control of respondent No.1 hence we find no substance in the arguments of the learned counsel for the appellants that the direction be made to respondent No.1 either to pay pension to the appellants at the rate at par with the employees in the Federal Government. The august Apex Court in Suo Motu case No.20 of 2016 and Human Right Case No.7094 and others while concluding the matter in its judgment dated 13.02.2018 directed as follows:-

“1. With immediate effect the minimum pension paid to any pensioner (including their widows, where applicable) of UBL, HBL and ABL will be Rs. 8,000 (rupees eight thousand) per month.

2. The payments will be prospective, that is, from the date of this judgment.

3. There will be an increase of 5% in the aforesaid pension every year, effective on the 1st of January every year. 4. The aforesaid pension will be paid to all three categories of pensioners mentioned above, i.e. the “original retirees”, those whose pensions were linked to basic pay “frozen” in past years, and in the case of UBL to retrenched employees including those who had served the bank for more than ten years on the date of retrenchment. For avoidance of doubt it is clarified that the pension of employees who are receiving sums in excess of Rs.8,000/- shall continue to do so, and those whose pension would fall below the minimum pension (after 5% annual increase, effective on the 1st of January) they shall be paid the minimum pension with 5% annual increase. However, those who have availed the benefit of VSS (Voluntary Separation Scheme) or Golden Handshake Scheme will not be benefitted by this judgment.

5. In light of the above decision by the august Apex Court, which includes respondent No.2, the minimum pension has been fixed as Rs.8,000/- in

case the appellants are not being paid the said amount they have remedy of instituting contempt for violation of order. The august Apex Court after discussing the factual and legal aspects has fixed the amount in question and no exception can be taken thereto.

6. The impugned judgment does not suffer from any error of law or fact warranting interference.

7. For the above mentioned reasons, the instant appeal is without merit and dismissed in *limine*.

(MOHSIN AKHTAR KAYANI)
JUDGE

(AAMER FAROOQ)
JUDGE

Shakeel Afzal

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