

**IN THE FEDERAL SHARIAT COURT**  
(ORIGINAL JURISDICTION)

**PRESENT**

**MR. JUSTICE IQBAL HAMEEDUR RAHMAN, CHIEF JUSTICE**  
**MR. JUSTICE KHADIM HUSSAIN M. SHAIKH**  
**MR. JUSTICE DR. SYED MUHAMMAD ANWER**

**SHARIAT PETITION NO. 06/I OF 2023**

1. Mrs. Noor Aisha widow of late Ghulam Qadir Khan, Resident of Village Pind Sultani, Tehsil Jand, District Attock.
2. Mrs. Nusrat Qadir wife of Ghulam Abbas, presently resident of House No.4/6-C, Street No.24, Sector G-7/2, Islamabad.

**PETITIONERS**

**VERSUS**

1. Federation of Pakistan through its Secretary, Resident of Federal Secretariat Cabinet Division, Islamabad.
2. Ministry of Aviation through its Focal Person Pension, resident of Metrological Department, MET Headquarters, Sector H-8/2, Islamabad.

**RESPONDENTS**

**Counsel for Petitioners:** Mr. Taj Muhammad Khan, Advocate.  
**Date of Institution:** 04.05.2023  
**Date of Hearing:** 11.09.2023  
**Date of Judgment:** 12.09.2023

**JUDGMENT**

**DR. SYED MUHAMMAD ANWER, J:** Through the instant Shariat Petition, Petitioner No.1 namely Mrs. Noor Aisha widow of late Ghulam Qadir Khan, prays that she is entitled to receive her share from pensionary funds as *Tarka* of her deceased son i.e. late Dr. Azmat Hayat Khan, who was a civil servant in the Government of Pakistan and died during the tenure of his service as Chief Meteorologist / Director in the department of Respondent No.2.

2. In support of her prayer, Petitioner No.1 has relied up the judgment passed by the Supreme Court Shariat Appellate Bench in the case titled "Wafaqi Hukumat-

*e-Pakistan v. Awamunnas*” [PLD 1991 SC (Shariat Appellate Bench) 731].

Furthermore, the petitioners are also seeking direction from this Court against the respondent departments to ensure implementation of policy in regard to calculation of pension and other emoluments of deceased person in order to entitle the parents of a deceased person, if they are alive, to get their due share automatically.

3. The Court heard the preliminary arguments advanced by the learned counsel for the petitioners and confronted him on specific point, which has already been decided by this Court in numerous judgments, that the pension of a person does not fall within the definition of “*Tarka*” as it is governed by the departmental Pensionary Rules of that department. This question recently has also been reiterated by this Court in the case titled “*Zartashi Nadia and others v. Federation of Pakistan and others*” (Shariat Petition No.09/I of 2021) based on the view of the Supreme Court Shariat Appellate Bench opined in a case reported as “*Federation of Pakistan v. Public at Large*” (PLD 1991 SC 731), which is the same case upon which the petitioner has relied upon solely. For ready reference, the relevant portion of our judgment passed in Shariat Petition No.09/I of 2021 *supra* is reproduced as under:

“5. ....pensionary benefits do not fall within the definition of *Tarka* nor can be treated as ‘*Tarka*’. The law stands settled that for the purpose of entitlement of pensionary benefits, the Employer is at liberty to define the family. Similarly, the question of entitlement to gratuity has also been decided by the Hon’ble Shariat Appellate Bench of Supreme Court of Pakistan in the case titled “وفاقی حکومت پاکستان بنام عوام الناس” (PLD 1991 SC 731).”

4. Similar matters have also been decided categorically in a number of judgments passed by the superior courts of the country, including the Supreme Court of Pakistan in case titled “*Ameeran Khatoon vs. Mst. Shamim*

*Akhtar*” (2005 SCMR 512) as well as by the Islamabad High Court in a recent case titled “*Farhat Nigar v. The Auditor General of Islamic Republic of Pakistan, etc.*” (2018 CLC 392 Islamabad) and Peshawar High Court in cases titled “*Mst. Riffat Yasmeen v. Hassan Din & another*” (2014 CLC 126 Peshawar) and “*Mst. Mehmooda Begum v. Zubair Ahmad, etc.*” (2013 CLC 1834 Peshawar).

5. In addition to above, the petitioners have failed to identify any law or rule to be against the injunctions of Islam as laid down in the Holy Quran and Sunnah, which is the constitutional requirement to invoke the jurisdiction of this Court through a Shariat Petition under Article 203-D of the Constitution of Islamic Republic of Pakistan, 1973. Therefore, a Shariat Petition without mentioning any law or Rule, which is considered as against the Holy Quran and Sunnah by the petitioner, is not maintainable before this Court. In addition, from the contents of the instant Shariat Petition as well as from its prayer, it is very much clear that the petitioners are seeking a relief in personam, which is all together out of this Court’s jurisdiction.

6. In view of the above, the instant Shariat Petition being not maintainable was ***dismissed*** *in limine* vide short order announced in open Court on 11.09.2023 and these are the detailed reasons for the same.

**(JUSTICE DR. SYED MUHAMMAD ANWER)  
JUDGE**

**(JUSTICE IQBAL HAMEEDUR RAHMAN)  
CHIEF JUSTICE**

**(JUSTICE KHADIM HUSSAIN M. SHAIKH)  
JUDGE**

*Khalid/\**

**APPROVED FOR REPORTING.**