

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Present:

Justice Arbab Ali Hakro-J
Justice Riazat Ali Sahar-J

1.	C.P No.D-663/2024	Shehzore vs. Province of Sindh and others
2.	C.P No.D-666/2024	Tarique Mehmood vs. Province of Sindh and others
3.	C.P No.D-670/2024	Mark Masih vs. Province of Sindh and others
4.	C.P No.D-904/2024	Shams ul Arfine vs. Province of Sindh and others
5.	C.P No.D-1072/2024	Asad Ahmed vs. Chief Secretary and others
6.	C.P No.D-1074/2024	Man Mohan vs. Government of Sindh and another
7.	C.P No.D-1076/2024	Ahmed Taha Khan and another vs. Province of Sindh and others
8.	C.P No.D-1080/2024	Aroon vs. Province of Sindh and others
9	C.P No.D-1093/2024	Fida Hussain vs. District & Sessions Judge, Sanghar
10.	C.P No.D-1337/2024	Mir Hassan vs. Province of Sindh and others

30.4.2025

Mr.Sandeep Kumar Maheshwari, Advocate for Petitioner
in C.P No.D-1074 of 2024

Mr.Kanji Mal Meghwar, Advocate for Petitioner
in C.P No.D-670 of 2024

None is present for the petitioner (s) in C.Ps No. D-666, 1072, 1076, 1080 and 1337 of 2024

Mr.Muhammad Sharif Solangi, Assistant Advocate General Sindh
a/w T.E.O (ES&HS) (Male) Sanghar (**Muhammad Zulfiqar**) and
Focal Person of Education Department (**Sajid Ali Rao**)

Through these constitutional petitions, the petitioners seek appointment under the Deceased/Son Quota in various departments of the Government of Sindh, pursuant to Rule 11-A of the Sindh Servants (Appointment, Promotion, and Transfer) Rules, 1974¹.

2. In C.P. No. D-1093/2024, Mr. Mir Muhammad Nohri, Advocate, holding a brief for Mr. Ghulam Shabbir Mari, Advocate for the petitioner,

¹ Omitted, vide Notification No.SORI(SGA&CD)2-25/2024, dated 19.12.2024, by Government of Sindh, Services, General Administration & Coordination Department (Regulation Wing), by exercising powers conferred under Section 26 of the Sindh Civil Servants Act, 1973.

seeks an adjournment on the ground that the latter is out of station but is unable to advance arguments.

3. In C.P. No. D-904/2024, Mr. Aijaz Ali, Advocate, holding a brief for Mr. Mian Taj Muhammad Keerio, Advocate for the petitioner, seeks an adjournment on the ground that the latter is engaged before the Circuit Court at Hyderabad; however, being unaware of the factual matrix, he is unable to argue the matter.

4. In C.P. No. D-663/2024, Mr. Tehseen Ahmed Qureshi, Advocate, apprises the Court that Mr. Bharat Kumar, Advocate for the petitioner, has passed away. The petitioner is called absent.

5. Advocates Mr. Kanji Mal Meghwar (C.P. No. D-670/2024) and Mr. Sandeep Kumar Maheshwari (C.P. No. D-1074/2024) appeared and advanced arguments.

6. Mr. Sandeep Kumar Maheshwari contends that after Rule 11-A was declared ultra vires, the District Education Officer (Elementary, Secondary, and Higher Secondary), Larkano, issued an offer letter to one Ayaz Hussain under the Deceased Quota vide letter dated 19.03.2025. He places on record a copy of the Order dated 20.03.2025², as well as an offer letter issued to one Ayaz Hussain³. He also relies upon judgments dated 17.03.2025 passed in the case of **Zahida Parveen**⁴, and dated 16.04.2025 passed in a case of **Chief Commissioner, Regional Tax**⁵, as well as **2021 SCMR 1305**.

7. We have heard the learned counsel for the parties, thoroughly examined the available record, and reviewed the judgments pronounced by the Supreme Court of Pakistan, as relied upon by the learned counsel.

8. In the instant petitions, the petitioners assert their entitlement to appointment under the *Deceased/Son Quota* pursuant to Rule 11-A of the Sindh Servants (Appointment, Promotion, and Transfer) Rules, 1974. The factual matrix delineated across these petitions unveils a common grievance: each petitioner's deceased parent was an employee serving in various departments of the Government of Sindh, and despite fulfilling the requisite eligibility criteria, no action has been taken on their respective applications.

² passed in C.P. No. D-76/2025 by the High Court of Sindh, Circuit Court, Larkano

³ An Offer letter dated 19.3.2025, issued by the office of the District Education Officer, Elementary, Secondary & Higher Secondary, Larkano

⁴ passed in C.P.L.A. No. 566-P/2024 (*Zahida Parveen v. Government of Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education, Civil Secretariat, Peshawar & Others*)

⁵ passed in C.P.L.A. No. 808/2023 (*The Chief Commissioner, Regional Tax Office, Bahawalpur & Others v. Shaheen Yousaf*)

9. However, the determination of these petitions necessitates a deeper analysis of the authoritative rulings of the Supreme Court of Pakistan, particularly the precedent established in the case of **General Post Office, Islamabad & Others**⁶, as well as subsequent clarifications in the **Chief Commissioner, Regional Tax Officer and Zahida Parveen** cases.

10. In the case of **General Post Office**, the Supreme Court of Pakistan meticulously analyzed the constitutional framework governing public employment and unequivocally held that provisions enabling appointments under *Deceased/Son Quota*, including Rule 11-A, are discriminatory and violative of Articles 3, 4, 5(2), 18, 25(1), and 27 of the Constitution. The Court reasoned that appointment mechanisms circumventing open advertisement and merit-based competition inherently violate the fundamental rights of citizens to equal opportunities in public service. Nevertheless, the Supreme Court introduced a significant carve-out:

"The instant judgment shall not affect the appointments already made of the widow/widower, wife/husband or child of deceased or retired civil servants."

11. This pronouncement sets a critical distinction; appointments made before the declaration of Rule 11-A as unconstitutional are protected and shall not be disturbed. However, it is clear that in the instant petitions, the petitioners' applications for appointment were pending, and no appointment had been effectuated prior to the Supreme Court's ruling in the case of the **General Post Office**. Consequently, the legal shelter provided to *past appointments* does not extend to *pending applications*, including those of the present petitioners. Thus, the rationale underpinning the **General Post Office** judgment directly applies to the instant petitions, leading to the inescapable conclusion that the petitioners cannot be granted relief.

12. In the case of **the Chief Commissioner, Regional Tax Officer**, the factual matrix was distinct from the present cases. The petitioner, in that case, the widow of a deceased employee, had already been appointed pursuant to the Deceased Quota, but her services were subsequently terminated based on an office memorandum. The Supreme Court, while reaffirming its ruling in **General Post Office**, explicitly held that:

"The judgment in the case of General Post Office has no application on appointments that have already been made."

13. This ruling reinforces the precedent established in the case of the **General Post Office** but does not alter its prospective effect. Since the widow in the case of the **Chief Commissioner, Regional Tax Officer**, had

⁶ General Post Office, Islamabad and Others v. Muhammad Jalal (PLD 2024 SC 1276)

already secured an appointment, her case was evaluated in a different legal context, one pertaining to unlawful termination rather than initial eligibility under an unconstitutional rule. Unlike the **Chief Commissioner** case, the present petitioners were never appointed; their claims remain at the preliminary stage of consideration. Accordingly, the protection afforded by the Supreme Court in cases where appointments had already been made is entirely inapplicable to the instant petitions.

14. The judgment in the **Zahida Parveen** case presents another instructive clarification. In that case, the petitioner was already appointed as a Primary School Teacher under the *Deceased/Son Quota*, but her appointment order was subsequently withdrawn following the Supreme Court's declaration of unconstitutionality. However, the Court observed:

"For completeness of record, it is clarified that the judgment of this Court in General Post Office has struck down Rule 10(4) of the Rules as ultra vires the Constitution but has no application on appointments that have already been made. Therefore, the present case remains unaffected by the said judgment."

15. The operative reasoning in the case of **Zahida Parveen** echoes that of **the Chief Commissioner, Regional Tax Officer** case: *appointments already made* are not impacted, but those *pending adjudication* remain subject to the overarching constitutional framework. Thus, in the present cases, wherein the petitioners are seeking an initial appointment rather than contesting termination of prior appointments, the *General Post Office* ruling must be applied in its entirety.

16. The contention advanced by Mr Sandeep Kumar Maheshwari, Advocate, that an offer letter was issued to Ayaz Hussain under the Deceased Quota, despite Rule 11-A having been declared *ultra vires*, does not confer legitimacy upon such an act, nor does it create a binding precedent warranting similar treatment for the petitioners herein. It is a well-established principle of law that "**Ex injuria jus non oritur**", a right cannot arise from a wrongful act⁷. The declaration of unconstitutionality of Rule 11-A by the Supreme Court of Pakistan operates with full legal force, and any appointment or offer letter issued under its framework post-declaration is devoid of lawful authority. Administrative authorities are bound to strictly adhere to judicial pronouncements and cannot rely on an act contrary to settled law to justify further irregularities. In defiance of the binding Supreme Court ruling, the issuance of an offer letter to Ayaz Hussain does not create any entitlement for the petitioners. Instead, such an act violates the

⁷ (see *Jadhav (India v. Pakistan)*, Judgment, I.C.J. Reports 2019, p. 418, Para-64)

apex Court's mandate and does not furnish any legal basis for granting relief in the present petitions. Accordingly, this contention stands **disregarded**.

17. In view of the binding precedent set forth by the Supreme Court of Pakistan, the declaration of Rule 11-A as unconstitutional applies uniformly to all courts and authorities, precluding any exception for petitioners whose appointments remain pending. The protection extended to appointments already made, as articulated in the **General Post Office** judgment, does not encompass pending applications, including those in the instant petitions. Moreover, the rulings of the **Chief Commissioner, Regional Tax Officer and Zahida Parveen** are distinguishable on factual and legal grounds, as they pertain to appointments that had already been effectuated before the declaration of unconstitutionality. Granting relief to the petitioners in the present matters would not only contravene the settled position of law but also undermine the sacrosanct principle of *stare decisis*. Consequently, these petitions stand **dismissed** along with any pending miscellaneous applications.

JUDGE

JUDGE

AHSAN K. ABRO