

IN THE HIGH COURT OF SINDH, KARACHI

C.P.No.D- 6067 of 2025

(Mst. Rabia v/s. Chief Secretary Government of Sindh & Ors)

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Before: Mr. Justice Muhammad Saleem Jessar.
Mr. Justice Nisar Ahmed Bhanbhro.

Petitioner:

Mst. Rabia Through Mr. Muhammad Ramzan, Advocate

Respondents:

Government of Sindh Through Mr. Faizan Hussain Memon
Additional Advocate General, Sindh

Date of hearing: 20.05.2026

Date of Decision: 04.06.2026

ORDER

MUHAMMAD SALEEM JESSAR, J:- Through instant Petition, the Petitioner has claimed the following relief(s):

- i. To direct the respondents to complete the scrutiny of the document of petitioner and issue appointment order in favour of the Petitioner on deceased quota.*
- ii. To direct the respondents to issue appointment letter for any suitable job as admissible to her qualification in the department immediately.*
- iii. To direct the respondents to issue appointment letter from the date of applied for job I.e. 17.04.2023 along with all back benefits.*
- iv. Any other relief which this Honorable Court may deem fit and proper under the circumstances.*

2. It is contended by Learned Counsel for the Petitioner that her Husband namely Mumtaz Ahmed was serving as Assistant (BS-16), in the Excise, Taxation & Narcotics Department, Government of Sindh. He died of natural death while in service on 10.11.2022. That the petitioner being widow applied for job against deceased quota vide application dated

17.04.2023 submitted to Secretary to Government of Sindh, Excise, Taxation & Narcotics Control Department. That pursuant to her application Department issued a letter dated 12.05.2023 directing Petitioner to submit required documents. That Petitioner has submitted all the relevant documents but no any action has as yet been taken. Hence this Petition.

3. Conversely, Learned Additional Advocate General Sindh contended that deceased employee was survived by two widows and from both wives deceased employee has children. He contended under Rule 11 - A of Sindh Civil Servants (Appointment, Promotion & Transfer), Rules 1974 (APT Rules), the Government of Sindh has framed a policy, wherein nomination from the family and no objection certificate is mandatory requirement to seek job under deceased quota. He contended that deceased employee's first wife Mst Sughra has refused to tender nomination and no objection certificate in favor of Petitioner, therefore, her case for appointment has not been processed. He contended that unless petitioner gets no objection certificate from first wife, her case shall not be processed. He contended that Petitioner was getting pension benefits, therefore, she was not entitled for job. He prayed for dismissal of the Petition.

4. Heard Learned Counsel for the parties and perused material made available before us on record.

5. The case of petitioner involves a controversy for appointment under Rule 11 - A of APT Rules (deceased quota), wherein deceased employee was survived by minor children and two widows. Petitioner being the Second wife of deceased seeks appointment, whereas First wife of deceased is reluctant to concede to such appointment. Under the guidelines issued by Services & General Administration Department, Government of Sindh unanimous nomination and consent of all the legal heirs was a *sine qua non* for appointment under deceased quota.

6. The Sindh Civil Servants Act, 1973 and Sindh Civil Servants (Appointment, Promotion & Transfer), Rules 1974 (APT Rules) are the governing laws regulating appointment in civil service in province of Sindh. A quick review of the APT Rules, revealed that Rule 11 - A was inserted in APT Rules through sub ordinate legislation by the Government of Sindh vide notification dated 02.09.2002, to accommodate the children of

deceased employees in civil service. Rule 11 - A of APT Rules was a beneficial legislature aimed at supporting the bereaved families of deceased civil servants who died while in service or incapacitated to further perform duties. Rule 11 - A as introduced in year 2002 read as under:

11-A. Where a civil servant dies while in service or is declared invalidated or incapacitated for further service one of his children shall be provided job on any of the pay scales Nos. 1 to 10 in the Department in which the deceased civil servant was working without observance of the prescribed formalities if such child is otherwise eligible for the post.

7. The initial sub-ordinate legislation provided for appointment of one of children of deceased employee in Basic Pay Scales 1 to 10. Rule 11- A was amended by the government of Sindh vide Notification dated 11.03.2008, provision of job was extended until grade 15. Amended Rule 11 - A reads as under:

11-A. Where a civil servant dies while in service or is declared invalidated or incapacitated for further service, one of his children shall be provided job on any of the basic pay scales .No. 1 to 15 in the Department where the deceased, declared invalidated or incapacitated civil servant was working without observing the prescribed formalities, if such child is otherwise eligible for the post in accordance with the recruitment rules.

8. Government of Sindh again amended Rule 11 - A vide notification dated 17.09.2009, providing a cut-off date to apply for the job, Rule 11-A read as follows:

11-A. Where a civil servant dies while in service or is declared invalidated or incapacitated for further service, one of his children shall be provided job who applies within a period of two years of death, or declaration of invalidity or incapacity of civil servant, on any of the basic scales 1 to 15, in the Department where such civil servant was working;

Provided that such appointment shall be made after fulfillment of formalities as required in the recruitment rules and holding interview, for the post applied for.

Further provided that the cut-off date for appointment under deceased quota to the posts in BS-1 to 15 will be 17th July, 2007.

9. Rule 11-A underwent substantial changes through substitutions vide notification No.SOR-I (S&GAD) 2-3/02 (P-III) dated the 30th July, 2011, published in the Sindh Government Gazette vide notification No. 334, dated 1st September, 2011. Third Proviso to the Rule was added by the Notification No. SORI(SGA&CD)2-3/2002(P-III) dated 16th September, 2014. The words “basic pay scale 1 to 15” were substituted by the Notification No. SORI(SGA&CD)2-3/2002(P-IV) dated 12th August, 2016 and finally The word “widow” was substituted by the Notification No. SORI(SGA&CD)2-3/2002(P-IV) dated. 10th October, 2016. Rule 11 - A, as amended lastly in year 2016 read as follows:

11-A. Where a civil servant dies while in service or is declared invalidated or incapacitated for further service, one of his/her children or, as the case may be, spouse (when all the children of the deceased employee are minor) shall be provided job who applies within a period of two years of death or declaration of invalidity or incapacity of civil servant on any of the Basic Pay Scale 1 to 11 in the Department where such civil servant was working:

Provided that such appointment shall be made after fulfillment of formalities as required in the recruitment rules and holding interview, for the post applied for:

Provided further that the cut of date shall be within two years of the death of the officer or official.

Provided further that if a right of employment has already accrued to any of the children of deceased or invalidated or incapacitated civil servant then the former shall not be deprived of the benefit accrued to him under Notifications dated 11.03.2008 and 17.07.2009 of these rules.

10. From the perusal of above provisions of Rule 11 - A, it transpired that scheme to accommodate widow of the deceased employee was introduced in year 2016, however, appointment of widow was subject to the condition that all children of deceased employee were minor. The basic intent of the legislation was to accommodate the children of civil servant who died while in service or became incapacitated to perform further job.

The legislation with deliberate intent created room and conceived law for appointment of children as widow on death of husband becomes entitled for service benefits that includes monthly pension etc., as such children of deceased employee were placed at preference and priority for fresh job.

11. In order to get appointment under deceased quota, Services and General Administration Department has laid down certain conditions that included affidavit of other legal heirs raising no objection on appointment of aspirant candidate. Rule 3 of the APT Rules in that regard empowered the concerned administrative department to lay methods, conditions and qualification for appointment to a particular post in consultation with the Services & General Administration Department. The mechanism so devised by Services & General Administration Department falls within its dominion and cannot be interfered with by this Court as appointments in civil service purely fell under executive authority.

12. In the case of deceased Mumtaz Ahmed, he died while in service leaving behind two widows and children from both of them. At the time of death of Mumtaz Ahmed, his children were minor and either of the two widows were eligible for job. Petitioner applied for job, she was required by the department to submit No Objection Certificate (NOC) of other surviving legal heirs, which she failed, therefore, her case for appointment was not processed. In the given situation, when the deceased employee dies while in service and he is survived by two wives, legislative authorization was not invented. In such cases, when NOC of all the legal heirs was not possible, then department has to exercise its discretion for appointment. If children of deceased were not eligible for appointment to a job, then either of the widows may be taken into service subject to certain conditions including but not limited to waiver of monthly pension by the aspirant appointee. If one of the children from either of wives was eligible to appointment and NOC of all the legal heirs was not possible then discretion must be exercised in favor of said child irrespective of fulfillment of mandatory requirement of NOC.

13. It further transpired from record that as of now deceased Mumtaz Ahmed is survived by two widows namely Mst. Sughra and Mst Rabia, one daughter Maryam aged about 19 years, three sons namely Zamin aged about 17 years, Madad Ali aged about 11 years and Shehryar aged about 9

years. From perusal of Rule 11 - A of APT Rules, it is crystal clear that preference for appointment under deceased quota shall be given to the children of deceased employee. Since by now Baby Maryam is only eligible person to be considered for job against deceased quota being daughter of deceased employee and her entitlement to job excluded Petitioner from that category, therefore, department by exercising its discretion should consider Baby Maryam for job, irrespective of the mandatory requirement of affidavit by all legal heirs.

14. In order to avoid multiplicity of litigation, it would be appropriate to remind Respondents of their responsibility to make appointment of Baby Maryam the daughter of deceased employee Muntaz Ahmed under deceased quota, though no such request has been made by either side. Baby Maryam has attained the age of Majority in year 2025 and her case shall not be defeated in any manner on account of NOC from her step mother and cut off date to apply. She shall be accommodated in civil service to a post commensurate to her qualification. The department shall consider Mst Maryam's case for appointment in the light of the policy and applicable rules keeping in view the guidelines rendered supra and decide it within a period of 3 months' time from date of this order. It is also expected that Services and General Administration Department will carve rules to cope up with the situations as happened in the present case.

15. The discussion made herein above leads us to an ineluctable conclusion that the petitioner has failed to make out a case for indulgence by this Court under its writ jurisdiction vested under article 199 of the Constitution for issuance of writ. Consequently this petition fails and is accordingly dismissed.

Office is directed to send copy of this Order to the Respondents for compliance, Learned MIT - II to ensure compliance of the order in terms of Para 13 and 14 of the order. The Petition stand disposed of in the above terms.

Judge

HEAD OF THE CONSTT. BENCHES

Judge

Approved for reporting