

IN THE HIGH COURT OF SINDH AT KARACHI

Constitution Petition No. D-4978 of 2025

(Muzammil Hussain v. Province of Sindh through Chief Secretary, Sindh and others)

Present:

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

Petitioner : Through Mr. Jawed Ahmed Kalwar,
Muzammil Hussain Advocate

Respondents : Through Mr. Hakim Ali Shaikh,
Province of Sindh through Additional Advocate General, Sindh and
Chief Secretary, Sindh and Mr. Kamran Baloch, AAG alongwith M/s.
others Raza Mian, DSP (Legal-II), CPO, Karachi
and Inspector Riaz Hussain, on behalf of
SSP Security-I

Date of hearing and : 02.04.2026
order

ORDER

Muhammad Saleem Jessar, J.- Through this petition, petitioner claims following relief(s):-

- "i. Declare that the Petitioner is legally entitled to employment under the Deceased Son Quota in Sindh Police.*
- ii. Direct the Respondents to appoint the Petitioner forthwith on a suitable post (Police Constable/Naib Qasid or equivalent BPS) in accordance with law, with continuity of service and benefits.*
- iii. Restrain the Respondents from further recruitment under the Quota unless Petitioner's claim is accommodated.*
- iv. Issue any other relief deemed just and proper in the circumstances.*
- v. Award costs of the petition to the Petitioner."*

2. Learned counsel for the petitioner contended that father of the petitioner was serving as Police Constable in respondent's department and died while in service on 18.05.2019. He further contended that petitioner being son of the deceased employee applied for a job under deceased quota, which was forwarded to the concerned quarters viz. Central Police, Sindh, Karachi on the prescribed Proforma in the year 2020 by the SSP Security-I, Karachi, but no action till yet has been taken; therefore, this petition has been maintained.

3. Learned Additional Advocate General, Sindh contended that the petitioner claims the job of Police Constable, which cannot be allowed unless the petitioner qualifies the mandatory test and other conditions. He therefore prays for dismissal of the petition.

4. Heard the arguments and perused the material made available before us on record.

5. It is an admitted position that father of the petitioner served in the police department as Police Constable and passed away on 18.05.2019, and such obituary was notified by the department. Rule 11-A of Sindh Civil Servants (Appointment, Promotion & Transfer) Rules 1974 ("**APT Rules**") (As stood before omission in compliance to the judgment of Hon'ble Supreme Court of Pakistan passed in the case of *General Post Office, Islamabad and others Vs. Muhammad Jalal (PLD 2024 SC 1276)*, ("**GPO Case**") provided that the concerned administrative department was under obligation to accommodate one of the family members of the deceased employees, who died while in service or incapacitated to perform the job anymore. For ease of reference Rule 11-A of APT Rules is reproduced herein below:-

"11-A Where a civil seroant 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 seroant on any of the [Basic Pay Scale 1 to 11] in the Department where such civil seroant 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 seroant 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."

6. On the demise of father, petitioner moved an application to the department for appointment as Police Constable, which was forwarded to the Central Police, Sindh, Karachi by the SSP Security-I, Karachi in the year 2020, but the Competent Authority has failed to decide it after lapse of six years. It was obligatory upon department to consider the case of the petitioner for

appointment and issue an appointment letter against any suitable post in grade 1 to 11 by following the due process of law. The inaction and defiance on the part of the department compelled the petitioner to invoke the jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973.

7. Since the Rule 11-A (*surpa*) has been omitted pursuant to the directions contained in the judgment dated 27.02.2026 rendered by the Hon'ble Supreme Court of Pakistan in the GPO case (*supra*). A large number of petitions were allowed by a Division Bench of this Court comprising both of us holding that the GPO case would not apply retrospectively and accrued rights will not be vanished. The Government of Sindh assailed upon the orders passed by this Court before Honorable Federal Constitutional Court of Pakistan through F.C.P.LA No 508 of 2025 and others (*Re - The Province of Sindh vs. Muhammad Rizwan Khan & others*). The interpretation rendered by this Court was approved and petitions for leave to appeals were dismissed vide order dated 27.02.2026, the operative part of the esteemed order reads as under:

4. As noted above, petitioner is aggrieved of acceptance of writ petitions of the respondents by learned Sindh High Court. The controversy pertains to the fact that respondents are spouse/children of the deceased Sindh civil servants and sought appointments on the basis of Rule 11-A of Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974 (the Rules). The Supreme Court of Pakistan vide judgment passed in case reported as General Post Office, Islamabad and others Vs. Muhammad Jalal (PLD 2024 SC 1276) struck down Rule 11-A ibid and petitioner now seeks benefit thereof on the basis that since the Rule is no longer in the field, no appointment can be made. The nub of the controversy is that at the time when the judgment of the Supreme Court of Pakistan supra was handed down, had the right accrued in favour of the respondents? In this regard, the relevant event, which resulted in the accrual of the right, was the death of the civil servant. As and when the death of a civil servant takes place, one of the children and/or spouse acquires the right to be appointed in the civil service. The process of application and/or a formal appointment letter are administrative acts. Since right had accrued in favour of private respondents, hence judgment of the Supreme Court does not come in their way for appointment on deceased employee children/spouse quota. It is trite law that judgments of the Supreme Court operate prospectively and not retrospectively. Even-otherwise, the supreme Court in a subsequent decision, clarified that the judgment reported as PLD 2024 SC 1276 supra does not take away the accrued rights and/or set aside the past and closed transactions. In view of above position of law, we do not find any legal infirmity in the reasoning handed down by the learned Sindh High Court, in the impugned judgment, warranting interference.

8. Under Article 189 of the Constitution of Islamic Republic of Pakistan, 1973 judgments of the Federal Constitutional Court are binding upon the Supreme Court of Pakistan as well as to this Court, therefore, in view of the judgment rendered in the case of *Province of Sindh vs. Muhammad Rizwan Khan & others*, the petitioner is entitled for a job on the deceased quota in the respondent department.

9. Stance of the department that petitioner could not be appointed as he claimed the post of police constable, needless to say that Rule 11 - A lays down for appointment against any post in grade 1 to 11, it does not mandate the spouse/children of the deceased employee to claim a particular post. It is for the department to decide for the appointment against any suitable post for which the vacancy is available.

10. For the foregoing reasons, case for indulgence by this Court is made out; consequently, this petition is hereby **allowed**. The competent authority of respondent's department is directed to issue appointment letter to the petitioner against any suitable post within a period of one month from the date of this order.

11. Office is directed to send copy of this order through facsimile to the respondents for compliance. MIT-II to ensure compliance.

Judge
Head of Const. Benches

Judge

B-K Soomro

Approved for Reporting