

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Constitutional Petition No. D- 234 of 2024

Before:

**Mr. Justice Amjad Ali Bohio,
Mr. Justice Ali Haider 'Ada'**

09.02.2026.

Mr. Sohail Ahmed Khoso, Advocate for Petitioner.

Mr. Ali Raza Baloch, Additional Advocate General, along with Nouman Ali Abro, Deputy Director (R&P), Home Department Sukkur Division, and Focal Person, Home Department.

ALI HAIDER 'ADA' J.- Through C.M.A. No.2674 of 2025, the petitioner has expressed his grievance against the acts of the respondents, who have been arrayed as alleged contemnors therein, on the ground that despite the order dated 31.07.2024 passed by this Court in the aforesaid petition, the directions contained therein have not been complied with.

2. To summarize, the petitioner approached this Court through the instant petition, contending that his father, who was serving as a Junior Clerk, died on 24.06.2019. The petitioner, being the son of the deceased employee, claimed appointment under the deceased quota. This Court, vide order dated 31.07.2024, issued directions, the relevant paragraph whereof is reproduced as under: –

“i. Petitioners/family/ one of the legal heirs of the deceased civil/public servants shall submit their application along with supporting material/documents to the Chief Secretary, Government of Sindh, through any recognized courier service on or before 06-08-2024, for scrutiny and consideration on any ministerial post based on deceased quota and decision through a speaking order on or before 19-08-2024 strictly under the law and the prescribed rules, procedure and policy, and after providing the opportunity of hearing to the petitioners. The competent authority shall also consider the case of those candidates who could not apply within the time being underage (minor); thereafter, by efflux of time, they attained the majority and applied in time.

ii. Offer letters shall be issued to the deserving candidates/petitioners if their case for appointment on deceased quota as well as based on invalidated or incapacitated for further service quota, is approved by the Chief Secretary/competent authority where after petitioners shall complete all legal and codal formalities required under the law and the relevant rule, procedure, and policy.

iii. Petitioners' case if not approved by the competent authority, may seek their remedy, if any, before the competent forum under the law.

iv. The cases of those petitioners/family members /legal heirs of deceased civil/ public servants already regretted on any account are required to be re-considered by the competent authority, in the light of the dicta laid down by the Supreme Court and observation recorded in the preceding paragraphs.

v. The compliance report in the above terms shall be filed by the Chief Secretary, Government of Sindh, through learned A.A.G. with the 'Additional Registrar of this Court.'

3. Learned counsel for the petitioner submits that, no doubt, in the case reported as **PLD 2024 Supreme Court 1276 (Jalal case)**, Rule 11-A of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 (**Rules-1974**) was declared null and void; however, the said judgment was rendered by the Honourable Supreme Court on 26.09.2024. It is contended that the petitioner's petition had already been allowed by this Court much prior to the said verdict of the Honourable Supreme Court; therefore, the judgment in the *Jalal* case does not operate as a bar to the petitioner's claim. On these grounds, learned counsel for the petitioner prays that the petitioner may be appointed under the deceased quota and, in addition, that appropriate action be initiated against the alleged contemnors for non-compliance of the directions of this Court.

4. Conversely, learned Additional Advocate General draws the attention of this Court to an order dated 25.09.2025 passed by the Chief Secretary, Sindh, in compliance with the directions of this Court, whereby the case of the petitioner was declined. He has also placed on record certain relevant legal provisions and case-law under the cover of his statement.

5. Heard and perused the material available on record.

6. No doubt, the Honourable Supreme Court, in the case of **Muhammad Jalal**, has categorically held that Rule 11-A of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 is ultra vires. Additionally, the Honourable Supreme Court, in the case of **Registrar, High Court of Sindh v. Rehana & others**, observed as under: —

*“9. In a nutshell, the High Court in the present case passed the original judgment on 17.04.2024 the judgment in the case of General Post Office (supra) was rendered by this Court on 26.09.2024, much after the decision of the High Court. The Administration Committee of the High Court on the anvil of aforesaid judgment, decided to withdraw the earlier policy which was in force for dealing the appointments on deceased/retired employees’ quota but in all fairness, the said decision neither can affect the past judgments of this Court on the same subject nor its decision can be enforced with retrospective effect to subside/overrule, nullify or quieten down the effect or existence of original decision passed on 17.4.2024, which attained finality much earlier. The law declared by this Court will apply to the cases arising in future but the cases which have attained finality are protected and all actions taken contrary to the declaration of law prior to its date of declaration shall be deemed to be valid and binding. Therefore, in our view, the learned *High Court rightly passed the order for implementation of its judgment and the Registrar, Sindh High Court and District Judge, Larkana had no lawful justification to challenge the order*

10. As a result of the above discussion, we do not find any illegality, perversity, or impropriety in the impugned order passed by the learned High Court. The Civil Petitions are dismissed and leave is refused.”

7. Furthermore, in the case of **Ayaz Ali & another v. Federation of Pakistan & others** (Civil Petition No.1242-K of 2024), the Honourable Apex Court, while dealing with a matter about the deceased quota, observed as under: —

“8. Good management exemplifies and represents a set of distinctive virtues and standards including wisdom, uprightness, empathy, fairness, nondiscriminatory employment policies, equal opportunity employer, congenial working environment which enables to carry on and manage the affairs of institution/establishment effectively. Here the grievance of the petitioners is that despite prevailing policy, their applications were ignored and no consideration was made for their appointment in view of the policy. If the management circulates any beneficial employment/recruitment policy then such policy should have been implemented equitably and evenhandedly across the board and not

through cherry-picking to deprive its benefits to the deserving contenders.

9. *As a result of the above discussion, this Civil Petition is converted into an appeal and allowed. As a consequence thereof, the impugned order of the High Court is set aside and the matter is remanded to the President of National Bank of Pakistan to consider the applications of both the petitioners, moved in 2019 and 2022 and decide the fate of their applications in accordance with the policy of the National Bank of Pakistan prevailing at that time and decide the matter and communicate the decision to the petitioners, preferably within a period of three months after receipt of the copy of this judgment."*

8. Moreover, a full bench of this Court, in **C.P. No. D-99 of 2025**, has also held as under:—

"16. Resultantly, the subsequent judgments of Supreme Court discussed above, which of course do not over rule Muhammad Jalal, cannot be relied upon to advance the proposition that Muhammad Jalal does not apply to applications under process."

9. Likewise, after the decision in the **Muhammad Jalal** case, the Government of Sindh amended and, through Notification dated 11.12.2025, introduced the following amendment:—

"Provided that only the cases of deceased quota conclusively decided by the Honorable High Court of Sindh, prior to the judgment of Honorable Supreme Court of Pakistan dated 26.09.2024, passed in Civil Petition No.3390 of 2021 shall be decided under the provisions of omitted Rule 11-A of the Rules ibid of the merits of the cases."

10. Now, coming to the present petition, it is observed that this Court had initially directed that the petitioner's application be submitted to the Chief Secretary, Sindh, who, after due scrutiny and hearing, was required to pass a reasoned speaking order. Upon perusal of the order passed by the Chief Secretary, it is evident that the directions of this Court were complied with, as reflected in the preface of the said order. In view of this compliance, the instant contempt application is not attracted and is, therefore, dismissed.

11. It is further observed that the order of the Chief Secretary was primarily passed on the ground that the decision in **Muhammad Jalal** (PLD 2024 Supreme Court 1276) has come into effect, and **Rule 11-A** of the Sindh Civil Servants (Appointment, Promotion and Transfer)

Rules, 1974, no longer exists. Consequently, the petitioner's claim was declined. However, the said order does not take into account the law laid down by the Honourable Supreme Court and this Court, after the verdict in the **Muhammad Jalal** case.

12. In view of the foregoing, respondent No.1, the Chief Secretary Sindh, is hereby directed to re-examine the petitioner's case and pass a reasoned speaking order, taking into consideration the relevant law as discussed supra, including the new amendment and the principles established by the Apex Court and this Court.

JUDGE

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