

HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD

C.P. No.D-957 of 2025

[Mst. Afsheen vs. Province of Sindh and Others]

BEFORE:

**JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE RIAZAT ALI SAHAR**

Mr. Noor Nabi Samoo, advocate for petitioner

Mr. Rafique Ahmed Dahri, Assistant A.G. Sindh a/w XEN Highways Hyderabad Ali Asghar Malik

Date of hearing & decision: 27.11.2025

ORDER

ADNAN-UL-KARIM MEMON J .- The petitioner has prayed as under:

- a) *That this Honorable Court may be pleased to allow the petition by directing the respondents to consider an additional 2 years & 6 months relaxation of age in favour of the petitioner.*
- b) *That, direct the Deputy Commissioner Hyderabad and Executive Engineer, Highways Division Hyderabad to issue an appointment order for the post of Helper (BPS-1) in favor of the petitioner.*
- c) *That, this Honorable Court may be pleased to restrain all the respondents not to making any advertisements or any recruitment for the post of Helper BPS-1 in the Office of the Executive Engineer, Highways Division, Hyderabad till the decision of the instant petition.*
- d) *Any other relief(s) which this Honourable Court deems fit, just and proper in favour of the petitioner.*

2. Learned counsel submits that the petitioner's husband, who was employed as Beldar in Highways Division, Hyderabad, passed away during service on 25.07.2021. On 24.12.2022, the petitioner applied for appointment under deceased quota. Correspondence was thereafter exchanged amongst the respondents, and ultimately the petitioner's case was placed before respondent No.5/ Deputy Commissioner, being the Head of District Recruitment Committee, on 06.06.2024. The Committee recommended the petitioner's name for appointment under the deceased quota. Pursuant to these recommendations, the petitioner approached respondent No.5 / Deputy Commissioner, requesting for issuance of directions to the Executive Engineer, Highways Division, Hyderabad, for her appointment order. In response, respondent No.5 directed her to submit representation to respondent No.2 for relaxation of an age deficiency of 2 years

and 6 months. The petitioner then furnished a copy of judgment passed in Writ Petition No.3012 of 2021 by the learned Lahore High Court, Bahawalpur Bench, asserting that under Section 17-A of the Service Rules, her age should be assessed on the date the challan was submitted. Nevertheless, respondent No.2 declined to consider her stance and required her to file a formal representation. Accordingly, the petitioner submitted a representation before respondent No.1, but despite repeated efforts, she has not been considered. The petitioner earlier filed C.P. No. D-147 of 2025, which was dismissed on the ground that the deceased quota had been declared ultra vires by the Supreme Court. However, in a recent judgment, the Supreme Court has clarified that the earlier decision does not operate retrospectively, prompting the filing of the present petition. He prayed to allow the instant petition.

3. Learned Assistant Advocate General Sindh contends that Rule 11-A of the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974 has been declared ultra vires by the Supreme Court through its judgment dated 26.09.2024 in Civil Petition No.3390 of 2021. It is further argued that the petitioner's earlier petition was dismissed by this Court on the same grounds; therefore, a second petition seeking identical relief is not maintainable and is liable to be dismissed. With respect to the recent judgment of the Supreme Court, learned AAG submits that the said pronouncement applies only to the cases in which appointment orders had already been issued. Since no appointment order was ever issued to the petitioner, the subsequent decision of the Supreme Court does not extend to her case. He prayed to dismiss the petition.

4. We have heard learned counsel for the parties and perused the material available on record.

5. The petitioner's husband died on 25.07.2021 while serving as Beldar. She applied for appointment under deceased quota on 24.12.2022, and her name was recommended by the District Recruitment Committee on 06.06.2024. However, no appointment order was issued; instead, she was asked to obtain age relaxation of 2 years and 6 months, which she duly submitted. Despite repeated representations, the department failed to appoint her. The petitioner maintains that at the time of her application and recommendation, Rule 11-A of the APT Rules was fully operative, as it had not yet been formally omitted, and that her right had already accrued under this beneficial provision meant to support families of deceased civil servants. She submits that the department wrongly denied her appointment by relying upon the Supreme Court judgment in General Post Office v. Muhammad Jalal (PLD 2024 SC 1276). She further relies on the Supreme Court's later decision in Zahida Parveen v. Government of Khyber Pakhtunkhwa (CPLA No. 556-P/2024, decided on 17.03.2025), wherein the Supreme Court clarified in para 11 that the *Jalal* judgment, though striking down the relevant

rule, “has no application on appointments already made” and operates prospectively unless stated otherwise; thus, pending cases where rights had already matured remain unaffected.

6. In view of the foregoing, and keeping in consideration that the petitioner’s claim had matured at the time when Rule 11-A of the APT Rules was still in force, coupled with the fact that the District Recruitment Committee had already recommended her case before the omission of the Rule. Without touching the merits of the case, the petitioner’s case requires reconsideration by the competent authority and in light of the subsequent clarification issued by the Supreme Court in *Zahida Parveen v. Government of Khyber Pakhtunkhwa* (CPLA No. 556-P/2024, decided on 17.03.2025), wherein it was held that the said judgment operates prospectively and does not affect cases in which rights had already matured.

7. Accordingly, this petition is disposed of with direction that the competent authority shall reconsider the petitioner’s case for appointment strictly in accordance with the decision of Supreme Court in *Zahida Parveen v. Government of Khyber Pakhtunkhwa* (CPLA No. 556-P/2024, decided on 17.03.2025), and shall pass a speaking and reasoned order within three months from the date of receipt of this order.

JUDGE

JUDGE

Karar Hussain/PS*