

ORDER SHEET
HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Present:

Justice Arbab Ali Hakro-J
Justice Muhammad Jaffer Raza-J

C.P No.D-102 of 2026
[Muhammad Azeem v. Province of Sindh and 04 others]

Petitioner : Muhammad Azeem s/o Nadir Ali
Through Mr.Sandeep Kumar Maheshwari,
Advocate

Respondents by : Mr.Muhammad Sharif Solangi, Assistant
Advocate General, Sindh a/w Faisal Ali
Soomro, ADC-II Mirpurkhas

Date of hearing : 15.04.2026

Date of decision : 15.04.2026

O R D E R

ARBAB ALI HAKRO-J: Through this petition filed under Article 199 of the Constitution, the petitioner seeks enforcement of his accrued right of appointment against the deceased quota arising upon the demise of his father, who served as Kotar (BPS-01) in the Revenue Department and expired during service on 29.07.2022.

2. The facts as narrated in the contents of the petitioner are that the father of the petitioner, Late Nadir Ali Makrani Baloch, was serving as Kotar (BPS-01) at Tapa Doulatpur, Taluka Shujaabad, District Mirpurkhas and expired during service on 29.07.2022. The obituary issued by the Deputy Commissioner Mirpurkhas confirms the said demise. The petitioner, being one of the legal heirs, applied for appointment under the deceased quota on 20.12.2022 within the statutory period of two years. The heirship certificate, CNICs, educational documents, domicile, PRC and the no-objection affidavits of all legal heirs accompany the application. The Deputy Commissioner, Mirpurkhas, after scrutiny of the complete file, forwarded the case to the Commissioner, Mirpurkhas Division, on 27.01.2023 for countersignature and onward transmission. The Commissioner conducted the requisite interview

and written assessment, found the petitioner ineligible for the post of Junior Clerk (BPS-11), but recommended him for the post of Kotar (BPS-01). The case was returned to the Deputy Commissioner for reprocessing, who again forwarded the complete file to the Commissioner on 28.04.2023. The Commissioner, through a letter dated 25.05.2023, transmitted the entire 90-page file to the Secretary (Revenue), Board of Revenue Sindh, duly recommending the petitioner for appointment as Kotar (BPS-01). The Board of Revenue, by letter dated 17.11.2023, placed the petitioner's name at Serial No. 12 in the list of candidates forwarded to the Secretary, Law & Parliamentary Affairs Department, for placement before the Scrutiny Committee headed by the Chief Secretary. It is also averred that another candidate from the same list, namely Miss Rimsha D/o Late Muhammad Siddique Daudpota, has already been appointed, thereby demonstrating that the scrutiny process has been operational and appointments have been made from the same batch of recommendations. Despite the above, the petitioner's case has remained unattended, and no appointment order has been issued.

3. The Deputy Commissioner Mirpurkhas, in his para-wise comments, has admitted the factual assertions of the petitioner regarding the death of his father, the submission of the application, the forwarding of the case and the recommendation for appointment as Kotar (BPS-01). It is stated that the case has already been recommended to the higher authorities and is pending their decision. The only legal objection raised pertains to the omission of Rule 11-A of the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974, in view of the judgment of the Supreme Court in the GPO case¹.

4. Learned counsel for the petitioner contended that the right of the petitioner accrued on the date of death of his father, which occurred on 29.07.2022, much prior to the omission of Rule 11-A *ibid*. It was argued that the entire administrative hierarchy, from the Deputy Commissioner to the

¹General Post Office, Islamabad and others Vs. Muhammad Jalal (PLD 2024 SC 1276)

Commissioner and the Board of Revenue, has recommended the petitioner's case, and the respondents have no lawful justification to withhold the appointment. It is urged that the respondents' continued inaction amounts to a violation of the petitioner's constitutional right.

5. Learned Assistant Advocate General Sindh submitted that the case of the petitioner has been forwarded to the competent authority and is pending consideration. He contended that the department is constrained in issuing appointment orders until the Scrutiny Committee takes a final decision. However, he did not dispute the factual position that the petitioner's case was duly recommended and placed before the competent authority.

6. We have considered the submissions of learned counsel for the parties and have examined the entire record.

7. It is an admitted and undisputed fact that the father of the petitioner died during service on 29.07.2022. The petitioner applied within the statutory period, and his case was processed, scrutinised, and recommended at every administrative tier. The respondents have not pointed out any deficiency in the petitioner's eligibility, documentation or compliance with the procedural framework.

8. The only ground urged by the respondents pertains to the omission of Rule 11-A, *ibid*. This contention stands conclusively answered by the Federal Constitutional Court in cases of Rizwan Khan and others², wherein it has been held that the right accrues on the date of death of the civil servant and that the omission of Rule 11-A does not operate retrospectively to extinguish vested or accrued rights. The Court has further held that the process of application, scrutiny and issuance of appointment letters is merely an administrative act and the omission of the Rule does not undo past and closed transactions. The relevant portion of the Federal Constitutional Court's order, which binds this Court under Article 189 read with Article 201 of the Constitution, unequivocally states that, upon the death of the civil

² Province of Sindh v. Muhammad Rizwan Khan & others (order dated 27.02.2026)

servant, the right of the legal heir crystallises, and the subsequent omission of the Rule does not defeat that right.

9. In the present case, the petitioner's right accrued on 29.07.2022. His case was duly recommended and placed before the competent authority. The respondents have already appointed at least one candidate from the same list forwarded on 17.11.2023, thereby negating any plea of administrative impediment.

10. The continued inaction of the respondents, despite complete recommendations, constitutes arbitrary withholding of a vested right and violates the constitutional guarantees of equality, fair treatment and legitimate expectation. The petitioner cannot be left to wander indefinitely when the law, the record and the binding precedent of the Federal Constitutional Court all converge in his favour.

11. For the foregoing reasons, this petition is allowed. The competent authority of the respondent's-department is directed to issue the appointment order of the petitioner against the post of Kotar (BPS-01) or any other suitable post within BPS-01 to BPS-11, strictly in accordance with the recommendations already made, within a period of four weeks from the date of this order.

Office is directed to transmit a copy of this order to the Chief Secretary Sindh, Secretary (Revenue), Board of Revenue Sindh and the Deputy Commissioner Mirpurkhas for immediate compliance.

JUDGE

JUDGE

"Adnan Ashraf Nizamani"