

ORDER SHEET
HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Present:

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

C.P No.D-105 of 2026
[Mohsin Khan v. Province of Sindh and 05 others]

Petitioner : Mohsin Khan s/o Juma Khan.
Through Mr.Sandeep Kumar Maheshwari,
Advocate

Respondents by : Mr. Ayaz Ali Rajpar, Assistant Advocate
General, Sindh a/w Dr. Sandeep Kumar
D.H.O, Mirpurkhas and Dr. Mudasir Ali Khan
R.M.O D.H.Q Hospital, Mirpurkhas.

Date of hearing : 21.04.2026

Date of decision : 21.04.2026

ORDER

ARBAB ALI HAKRO-J: The petitioner seeks enforcement of his claim to appointment on deceased quota upon the demise of his father, late Juma Khan, who was serving as Operation Theatre Attendant (BPS-05) at Civil / DHQ Hospital, Mirpurkhas and expired during service on 18.10.2022. The petitioner applied within the statutory period, fulfilled all codal requirements, and his case travelled through the entire administrative hierarchy without objection.

2. Heard and perused the record.
3. The record demonstrates that the Medical Superintendent forwarded the petitioner's application to the District Health Officer, who verified all documents, confirmed the death in service, certified that the petitioner applied within two years and that no other legal heir had been appointed earlier. The Director General Health Services, Sindh, Hyderabad, thereafter transmitted the complete verified file to the Health Department. The competent authority, i.e., the Chief Secretary, Government of Sindh, approved the petitioner's appointment and placed his name at Serial No. 05

in the list of thirty-four candidates approved for appointment against the deceased quota as O.T. Attendant (BPS-03) vide letter dated 15.12.2023. The case was subsequently placed before the District Recruitment Committee on 10.07.2024 for implementation. Despite this, no appointment order has been issued.

4. The respondents' comments do not dispute the factual matrix. Their only legal objection rests on the omission of Rule 11-A of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, pursuant to the judgment in the GPO case¹. This contention cannot prevail in view of the latest pronouncement of the Federal Constitutional Court of Pakistan in the case of Muhammad Rizwan Khan², wherein it has been conclusively held that the right under Rule 11-A accrues on the date of death of the civil servant, and that the subsequent omission of the Rule does not operate retrospectively to extinguish accrued rights or unsettle past and closed transactions.

5. The petitioner's father died on 18.10.2022, when Rule 11-A was fully operative. The petitioner applied within two years; his case was duly verified, recommended and approved by the competent authority. His right, therefore, crystallised prior to the omission of Rule 11-A and stands fully protected under the binding law declared by the Federal Constitutional Court. The respondents' continued inaction is arbitrary and unjustified.

6. For these reasons, this petition merits interference; therefore, the same is allowed. The respondents are directed to issue the appointment order of the petitioner as Operation Theatre Attendant (BPS-03) against the deceased quota, in accordance with the approval already granted by the competent authority, within thirty (30) days from the date of this order, subject to completion of routine pre-appointment formalities not already fulfilled.

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

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

Office is directed to transmit a copy of this order to the Chief Secretary, Government of Sindh; the Secretary, Health Department, Government of Sindh; the Director General Health Services, Sindh, Hyderabad and the Deputy Commissioner / Chairman District Recruitment Committee, Mirpurkhas, for information and strict compliance.

JUDGE

JUDGE

“Adnan Ashraf Nizamani”