

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR.
Constt: Petition No.D-1995 of 2012

Abdul Aziz S/o Dr.Imdad Ali Soomro,
R/o Military Road, Sukkur.
Cell.No.0333-2672870..

.....PETITIONERS.

VERSUS

1. Province of Sindh,
through Chief Secretary, Government of Sindh,
Karachi.
2. Secretary,
Livestock & Fisheries, & *Animal Husbandry*
Govt. of Sindh, Sindh Secretariat,
Karachi.
- 3- Director,
Animal Husbandry Sindh, *Shahbaz Building*
at Hyderabad.
- 4- Deputy Director,
Animal Husbandry Sindh,
Sukkur.

.....RESPONDENTS

CONSTITUTION PETITION UNDER ARTICLE-199
OF THE CONSTITUTION OF ISLAMIC REPUBLIC
OF PAKISTAN, 1973.

ORDER SHEET
COURT OF SINDH BENCH AT SUKKUR

C.P. No. D- 1995 of 2012.

For Katcha Peshi.

30th April, 2013.

Mr. Noor Hassan Malik for the Petitioner.
Mr. Liaquat Ali Shar, Additional A.G.

From the pleadings, it appears that the petitioner's father, namely, Dr. Imdad Ali Soomro was serving in the respondents department as Director and lost his breaths on 06.10.1998 while being in service.

2. Learned counsel for the petitioner contends that the petitioner is entitled to employment in respondents department in terms of Rule 11-A of Sindh Civil Servants (Appointment, Promotions & Transfer), Rules, 1974.

3. In their para-wise comments, furnished by respondents No.3 & 4, they have not disputed the claim of the petitioner, however, they stated that the case of the petitioner does not fall under Rule 11-A of Sindh Civil Services (Appointment, Promotions & Transfer), Rules, 1974 on the ground that at the time of death of petitioner's father, there was no policy for the appointment against deceased quota.

4. Under similar circumstances, Divisional Bench of this court has allowed Const. Petition No. 498 of 2008, decided on 30.9.2010, wherein it has been held as under:

"It is by now well settled that notifications operate only prospectively. A vested right can be taken away retrospectively only through an enactment passed by an assembly or parliament but not through subordinate legislation i.e. through issuance of notifications by executive. In the present case, as the

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COURT OF SINDH BENCH AT SUKKUR

has been brought about through a notification, it can only have prospective effect. Therefore, the notification issued on 17.7.2009 shall become applicable from 17.7.2009 onwards only. Prior to this date, if a right of employment has already accrued to any of the children of a deceased or invalid or incapacitated civil servant then the former cannot be deprived of the benefit accrued to him under notification dated 11.3.2008 through a subsequent notification issued on 17.7.2009. These petitions are therefore, allowed to the extent stated above. Office to issue copy of this order to the learned AAG".

5. Since the respondents have not disputed the claim of the petitioner on merits, therefore, in the given circumstances and dicta laid down by this court in Const. Petition No. D-498 of 2008, we allow this petition and direct the respondents to do the needful within 40 days after receipt of this order and compliance report through Additional Registrar of this Court. Non-compliance of this order may expose the respondents to the Contempt of Court proceedings.

14/12
JUDGE,

JUDGE,

Ahmad