

# HIGH COURT OF SINDH CIRCUIT COURT, MIRPURKHAS

**C.P No.D-1321 of 2024**

[Adnan Ali vs. Province of Sindh and Others]

Before:

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

Mr. Sandeep Kumar Maheshwari, advocate for petitioner(s)

Mr. Muhammad Sharif Solangi, Assistant A.G. Sindh a/w ADC-II  
MPK (Faisal Ali Soomro) and XEN Provincial Highways MPK  
(Humair Nisar)

Date of hearing & decision: 19.11.2025

**ADNAN-UL-KARIM MEMON J.-** The petitioner prays that this  
Court may:

- i) Direct the respondents to appoint him as Beldar BPS-01 under the invalidated/incapacitated quota in accordance with his qualifications and eligibility.
- ii) Ensure that the respondents comply with government policy regarding appointments under the invalidated/incapacitated quota and consider the petitioner's case in accordance with law.

2. Petitioner Adnan Ali submits that he is entitled to the fundamental rights guaranteed under the Constitution of the Islamic Republic of Pakistan, 1973, including equal protection of law and protection of his financial and employment-related well-being. Petitioner submits that his father Talib son Karim Dad was serving as Assistant / Head Clerk (BPS-16) in the Provincial Highways Department, Government of Sindh, posted at the Provincial Highways Circle, Mirpurkhas and retired on 22.02.2023 on the grounds of being invalidated/incapacitated. At the time of his father's retirement, the petitioner along with other legal heirs, executed a "No Objection" affidavit in favor of the petitioner to be considered for appointment against invalidated/incapacitated quota. After his father's retirement, the petitioner applied for the post of Beldar BPS-01 under the invalidated/incapacitated quota through proper channels addressed to the Secretary, Works & Services Department, Karachi. At the time of application, the petitioner was intermediate from BISE Mirpurkhas, rendering him eligible for the post in accordance with the prescribed criteria. Subsequently, the Chief Engineer Highways, Hyderabad, transmitted a formal communication (Letter No. S-30/8(DQ/APP:) E(iii)/

517 dated 02-11-2023) to the Secretary Works & Services Department, along with all required certificates and verifications to facilitate the petitioner's appointment under the said quota. Despite submission of all required documents and fulfillment of all codal, legal and departmental requirements, no further action has been taken by the respondents, leaving the petitioner in a state of uncertainty and hardship. The petitioner emphasizes that the policy guidelines governing appointments under the invalidated / incapacitated quota are clear and mandatory. Under Section 11-A of the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974, a child of a civil servant who is declared invalidated or incapacitated shall be provided a job, provided they apply within two years and meet the eligibility criteria for posts in BPS-01 to BPS-11. The petitioner contends that he has fully complied with all statutory and policy requirements, yet his case remains unprocessed. Despite multiple visits and follow-ups, the respondents have failed to take any action, thereby depriving the petitioner of his legal rights; therefore, he has filed this constitutional Petition.

3. Learned A.A.G submitted that the petitioner's case has been duly received and processed through appropriate channels. The Executive Engineer, Provincial Highways Division, Mirpurkhas, was responsible for compiling the petitioner's case and forwarding it to the Secretary, Works & Services Department, Karachi. The Chief Engineer, Highways Hyderabad, has transmitted the petitioner's documents for consideration in accordance with departmental procedures. It is further submitted that the District Selection Committee, of which the Deputy Commissioner is the Chairman, is mandated to conduct meetings, call for interviews, and issue recommendations for appointments under the deceased/invalidated/incapacitated quota, subject to approval by the Provincial Government. Offer orders are issued only after the completion of this formal process. However, learned A.A.G submits that in light of the recent Supreme Court order dated 26.09.2024 (announced in open court on 18-10-2024 in Civil Petition No. 3390 of 2021), the process for appointments under the deceased/invalidated/incapacitated quota has been significantly affected. The Law Department has advised that recruitment under Rule 11-A of the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974, may be violative of fundamental rights guaranteed under the Constitution and could constitute discrimination. Consequently, while the petitioner's application has been duly forwarded and processed through the proper

channels, the final decision on his appointment cannot be issued at this stage due to the prevailing legal and policy constraints. In view of the above circumstances, learned A.A.G submits that any order from this Court should consider the legal and administrative restrictions imposed by the recent Supreme Court ruling.

4. After hearing the arguments of the parties and perusing the record, it has been submitted that the recent Supreme Court judgment dated 26.09.2024 (Civil Petition No. 3390 of 2021) has raised legal and constitutional concerns regarding appointments under the deceased/invalidated/incapacitated quota. The Law Department has advised that recruitment under Rule 11-A of the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974, is violative of fundamental rights guaranteed under the Constitution and could constitute discrimination. As a result, the respondents assert that they cannot finalize the appointment purely under the purported quota at this stage.

5. Having considered the submissions of both parties, this Court observes that although the petitioner has fulfilled all procedural and eligibility requirements, the appointment under the invalidated/incapacitated quota cannot be granted automatically in view of the constitutional concerns highlighted by the Supreme Court. Nonetheless, the respondents retain full discretion to consider the petitioner's case on its own merits, independent of the disputed quota. The respondents are directed to take a final decision in this regard within one month from the date of this order, ensuring that the decision is fair, transparent and in accordance with law and to communicate the outcome to the petitioner without undue delay.

6. Accordingly, the petition is disposed of with the above directions. The respondents may consider and decide the petitioner's case purely on merits, independently of the invalidated/incapacitated quota, within one months' period.

JUDGE

JUDGE