

IN THE HIGH COURT OF SINDH AT KARACHI

Before:

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

Constitutional Petition No. D – 502 of 2019

Mst. Rani widow of Mushtaque vs. Province of Sindh and 11 others.

Date of hearing
& decision : **10.01.2020.**

Mr. Jan Muhammad Khaskheli, advocate for the petitioner.

Mr. Hakim Ali Shaikh, Additional Advocate General.

ORDER

ADNAN-UL-KARIM MEMON, J. : Through the captioned constitutional petition, petitioner is seeking declaration to the effect that her late husband Constable Mushtaque Khaskheli embraced *Shahadat* during service on 04.3.2015 and he may be declared as Shaheed (martyr) and all the benefits as admissible under the law may be granted to her being widow.

2. Mr. Jan Muhammad Khaskheli learned counsel for the petitioner has argued that petitioner's husband who was constable died while performing duties and was thus fully entitled to the status of Shaheed however a committee in terms of The Sindh Shaheed Recognition and Compensation Act-2014 not competent to do so decided against granting her such status. Learned counsel refers to section 2(a) of The Sindh Shaheed Recognition and Compensation Act-2014 wherein the competent authority for the purpose of this Act is Chief Minister and not the committee which decided the fate of petitioner's husband and his family; that committee even otherwise was factually incorrect in holding that petitioner's husband died due to road accident without assigning reason in the findings; that committee erred in holding above; that petitioner is fully entitled to the benefits of Shaheed. He lastly prayed for allowing the instant petition.

3. At the very outset, Mr. Hakim Ali Shaikh, learned AAG has consented for disposal of this petition to re-consider her case as to whether Police Constable Mushtaque Khaskheli embraced *Shahadat* during service or his case does not fall under the criteria for Shaheed, as per The Sindh Shaheed Recognition and Compensation Act-2014.

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

5. We have noted that the impugned order dated 14th July, 2015 does not disclose the reasons for not considering the case of Police Constable Mushtaque Khaskheli son of Allah Bachayo under the criteria for Shaheed, therefore the order dated 14th July, 2015 is without reasoning, which is nullity in the eyes of law.

6. In view of the above, by consent, this petition is allowed with direction to the competent authority of the respondent-police department to take decision afresh as to whether Constable Mushtaque Khaskheli embraced *Shahadat* on 04.3.2015 or his case does not fall under the criteria for Shaheed as per The Sindh Shaheed Recognition and Compensation Act-2014. The aforesaid exercise shall be completed by a speaking order within a period of one month from the date of receipt of this order after hearing the petitioner.

Let notice be issued to the Chief Secretary and IGP Sindh for compliance.

JUDGE

JUDGE