

ORDER SHEET
HIGH COURT OF SINDH, KARACHI

C.P. No.D-230 of 2020

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar.

Mr. Justice Yousuf Ali Sayeed.

National Bank of PakistanPetitioner

Versus

President of Pakistan & others..... Respondents

Date of hearing 13.02.2020

Malik Khushal Khan advocate for the petitioner.
Mr. Ghulam Mohiuddin, Assistant Attorney General.
Rifat Sultana, Sr. V.P (Legal Division), NBP.
Abbas Raza, Manager (Legal Division), NBP
Arooba Javaid, respondent No.3 is present in peson.

Muhammad Ali Mazhar, J: The brief facts of the case are that the Respondent No.3 filed a Complaint before the Respondent No.2 (i.e. the Wafaqi Mohtasib) with the grievance that her father, Javed Akthar Abbasi, had passed whilst in service with the Petitioner (i.e. National Bank of Pakistan) as a driver, but despite her submitting an Application along with the requisite documents seeking employment on the basis of deceased quota, the Application was not considered by the Petitioner.

2. After issuing notice and hearing the representative of the Petitioner/Agency, the Respondent No.2, vide Order dated 16.11.2018, disposed of the Complaint with the recommendation that the “Agency may consider appointment of the complainant under employment policy and adopt proper procedure/rules/regulation which were violated by it, resulting in maladministration which caused the complaint.”

3. As it transpires, no representation against the recommendations of the Respondent No.2 was filed by the Petitioner before the President of Pakistan (i.e. the Respondent No.1), and the Petitioner instead elected to file a review petition before the Respondent No.2, which was rejected vide Order dated 03.05.2019, with the recommendation in terms of the earlier Order dated 16.11.2018 remaining unchanged.
4. Thereafter, the Petitioner filed a representation before the Respondent No.1 against the Order dated 03.05.2019, which was dismissed on the ground that the matter was barred by limitation as the Petitioner had not made any representation against the Order dated 16.11.2018 within the statutorily prescribed period of 30 days.
5. Learned counsel for the Petitioner referred to a Circular dated 02.12.2011 emanating from the Head Office of the Petitioner on the subject of **“Employment Opportunity for sons/daughters of In-service (Regular) deceased and retired/GHS/VHS optants in clerical and non clerical cadre”** and pointed out that Clause (II)(e) thereof stipulated that the “Dependents of deceased employee can avail employment offer under this policy up to two years from the date of death of employee”. He argued that whilst the father of the Respondent No.3 had passed away on 02.03.2012, her Application had been made on 18.11.2014, beyond the prescribed period of 2-years, which had not been appreciated by the Respondent No.2, whose functionaries were now issuing notices for the personal appearance of the Petitioner’s officers for initiating coercive measures towards ensuring compliance.

6. Conversely, the Respondent No.3, appearing in person submitted a copy of a Letter dated 31.08.2015, bearing Reference No. ROK/HR/2015, issued by functionaries of the Human Resource Department of the Petitioner to all Branch Managers/Operations Manager, containing specific reference to a further Circular Letter No. HRM&AG/DEQ/IRW/2015/636, dated 17.08.2015, pertaining to the same subject as the earlier Circular of 02.12.2011, and setting out a revised timeframe for submission of applications as follows:-

“The competent authority of the Bank has directed that any employee of the Bank who died during service from 01.01.2010 and their dependents could not submit applications within two years of stipulated time due to various reasons, their applications must be sent on prescribed format (enclosed) to Head Office by 15.09.2015. However, appointments will be made subject to availability of vacancies and approval of the competent authority.”

7. She submitted that as she had already applied for employment on the relevant basis on 18.11.2014, her case was covered under the aforementioned Circular dated 17.08.2015.
8. Indeed, this very Letter of 31.08.2015, quoting the Circular of 17.08.2015, has been referred to in the Order of the Respondent No.2 dated 03.05.2019, and when confronted therewith learned counsel for the Petitioner, with the assistance of the Senior Vice-President in attendance, agreed that the case of the Respondent No.3 would be duly considered in light of that Circular.

9. As such, this Petition is disposed of along with pending application, with the directions to the Petitioner to consider the Application of the respondent No.3 within a period of one month and submit a compliance report in Court within forty-five days. Till such time the Respondent No.2 shall maintain status quo and may not issue any notice to the officials of the Petitioner for their personal appearance. It is, however, clarified that the father of respondent No.3 died in service on 02.03.2012, therefore, her application for appointment shall be considered on priority with the cases of other applicants applied on deceased quota on the basis of death of their fathers in 2012.

JUDGE

JUDGE

Aadil Arab