

## **IN THE HIGH COURT OF SINDH AT KARACHI**

Constitutional Petition No.1893 of 2021  
(*Bakhmina Vs. The Govt. of Sindh through Home Secretary & others*)

Present:

Mr. Justice Irfan Saadat Khan

Mr. Justice Agha Faisal

Dates of hearing : 08.11.2021, 17.11.2021 and 23.11.2021.

For the petitioner : Mr. Badar Hussain, Advocate.

For the respondents : Mr. Ali Safdar Deepar, Assistant Advocate General (AAG) alongwith Mr. Raza Mian, DSP (Legal) and SI Saleem Ahmed Faridi, PHQ, Garden, Karachi. \_\_\_\_\_.

### **J U D G M E N T**

**IRFAN SAADAT KHAN, J.** The instant petition impugns the order dated 10.02.2021 passed by the AIGP Welfare Sindh, Karachi, whereby the claim of the petitioner for declaring her late husband (hereinafter referred to as deceased), namely, Amjad Ali, PC No.29755, as “Shaheed” was declined.

2. Briefly stated, the facts of the case as per the petitioner are that deceased has embraced Shahadat, while performing his duty, on 26.12.2012. When the claim of the petitioner for declaring deceased as “Shaheed” was not accepted by the respondents, a petition bearing No.D-483 of 2017 was preferred. This petition was allowed by a Divisional Bench of this Court, vide order dated 11.12.2020, by giving directions to the competent authority to take decision afresh as

to whether deceased has embraced Shahadat or his case does not fall under the criteria prescribed for Shaheed, as per The Sindh Shaheed Recognition and Compensation Act-2014. The impugned order thereafter was passed in compliance of the order of the High Court dated 11.12.2020 wherein, as stated above, it was found that the deceased does not qualify to be declared as a “Shaheed”.

3. Mr. Badar Hussain Advocate has appeared on behalf of the petitioner and stated that the deceased had embraced Shahadat while he was on duty on 26.12.2012 and in uniform as he was killed by Lyari gang war criminals. He stated that a FIR in this regard, bearing No.400/2012, was also registered at P.S. Pak Colony under Section 302 PPC read with Section 7 ATA. He, therefore, stated that since AIGP Welfare has not considered the facts of the case in their proper perspective, hence the order dated 10.02.2021 may be vacated and the deceased may be declared as a “Shaheed”.

4. Mr. Ali Safdar Deepar, AAG has appeared on behalf of all the respondents and stated that the deceased has not died on the place he was posted for duty but his body was recovered some 4.2 km away from the place he was deputed for duty. He also stated that the Roznamcha entries were duly made in this regard clearly mentioning that the deceased was found absent on the said date from his duty and subsequently his body was recovered from Raxer Lane, Lyari. He further stated that it has remained a mystery as to what the deceased was doing there as his duty was some 4.2 km away from the place where his body was found. He stated that a full-fledged enquiry in this

regard was conducted and thereafter it was found that the deceased had not lost his life in the line of duty, therefore, according to the learned AAG, he could not be considered as Shaheed and the emoluments /benefits as available to a Shaheed's family could not be given to the petitioner.

5. We have heard both the learned counsel at some length and have also perused the record.

6. It is seen from the order passed by this Court dated 11.12.2020 that the Bench has already observed that "Merely saying that at the relevant point in time he was absent from duty does not absolve them to look into claim of his widow". The record further shows that on one hand the impugned order has opined that the deceased unlawfully left his duty point with official weapon and went to the area which was prominent in drug dealings, whereas on the other hand have opined that the possibility of the deceased being killed by drug dealers could not be ruled out. It is also noted that though the deceased was found dead at some distance from the place of his duty but there is no denial to the fact that he was in uniform and was found missing from his place of duty. Though the FIR registered in this regard subsequently was disposed of under 'A' Class but the I.O. of the case had clearly indicated that it was likely that he was targeted by Lyari gang war criminals upon which an inference could be drawn that he was killed by criminals while he was in uniform. In our view these aspects /facts had skipped the attention of the AIGP Welfare while considering the case of the deceased.

7. We, therefore, under the circumstances, once again direct the competent authority to examine the case of the deceased afresh and after considering all the pros and cons of the case decide the matter of the deceased strictly in accordance with law, after providing opportunity of hearing to the petitioner. Since the matter pertains to the year 2012, it is expected that this exercise would be completed within one month's time from the date of receipt of this order. It would not be out of place to mention that in compliance of this Court's order dated 17.11.2021 a cheque bearing No.0460600, dated 19.11.2021 amounting to Rs.300,000/- has already been handed over to the petitioner. The respondents are further directed to pay a sum of Rs.1,75,000/-, being the Group Insurance, within ten (10) days' time from the date of this order, after fulfilling all the legal and codal formalities in this behalf. Let a copy of the order be sent to the Inspector General of Police Sindh (respondent No.2) for information and compliance.

8. Petition stands disposed of in the above terms.

JUDGE

JUDGE

Karachi:

Dated: .11.2021.