

IN THE HIGH COURT OF SINDH KARACHI

Before :

Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Adnan-ul-Karim Memon

CPNo.D-6587 of 2015

Mst. Zahoori widow of
Shaheed Ghulam Yaseen Jakhro
Petitioner:

Through Syed Mureed Ali Shah, advocate

Respondents:

Through Mr. Abdul Jalil Zubedi, AAG a/w Raza
Mian, DSP, Legal

Date of hearing
& Decision:

13.01.2023.

ORDER

Adnan-ul-Karim Memon, J. Through the captioned petition, the petitioner is seeking direction to the respondents to the effect that SSP Thatta declared the husband of the petitioner-widow as Shaheed on the premise that he died in the line of duty such FIR No. No.255/204 of the incident was registered under section 302,324,353,427 PPC at PS. Thatta. Petitioner has averred that no action has been taken yet by the respondents to comply with the directives of the competent authority in terms of financial sanction order.

2. Syed Mureed Ali Shah, learned counsel for the petitioner, has submitted that the husband of the Petitioner was on patrolling duty to comply with the orders passed by this competent Court of law to remove the illegal encroachment in the forest; FIR was lodged under section 302,324,353,427 PPC, hence, the case of the Petitioner husband is on better footing than the other officers who embraced Shahadat in line of the duty. Per learned counsel, her husband died during duty and the family of the deceased constable Ghulam Yaseen Jakhro is facing a very terrible situation and financial problem due to discrimination meted out by the police department with the petitioner-widow. Learned counsel referred to the letter dated 14.09.2015 whereby the committee decided to reject the claim of petitioner-widow on the premise that her case does not fall under the criteria for recognition as Shaheed. Learned counsel further submitted that a committee in terms of The Sindh Shaheed Recognition and Compensation Act 2014 was/is not competent to reject the claim of the petitioner in terms of recommendations

made by the SSP Thatta. An excerpt of the recommendation of SSP Thatta is reproduced as under:

**“RECOMMENDATION ROLL
FINANCIAL HELP TO THE FAMILY/DEPARTMENT OF THE MARTYRED OF POLICE**

Name/F.Name	Ghulam Yaseen s/o Kamal Jakhro
Rank	Constable No.600
District	Sindh
Province	Sindh
Date of Birth	21.05.1981
Date of Appointment	09.09.2009
Brief Facts about the Death	<p>It is regretfully brought to your notice that SHO: Thatta has reported that on 21.11.2014 ASI Manzoor Ali Chandio non behalf of state, reported that in compliance of orders received from Honorable Court and superior officer to remove that encroachment from forest land by villagers, he with staff of PS in Mobile Thatta and CIA staff in APC, were patrolling in the area of Baopurandas forest, CIA staff in APC were moving ahead, at 1920 hours when they reached at (Bacha Band) whereat some unknown accused persons had dug out a ditch of their way to harm they while they were moving on the APC then overturned because of the ditch, due to which 01, PC/739Arz Muhammad, 02, PC/600 Ghulam Yaseen, 03, PC/34 Abdul Hakeem, 04, PC/826 Qurban Ali, 05, PC/488 Ghulam Abbas sustained seriour injuries and brought at Makli Hospital Thatta then they found that 01, PC/739 Arz Muhammad 02, PC/600 Ghulam Yaseen embraced Shahadat and other 003 were sent to Civil Hospital Karachi for further treatment due to their serious injuries. Such Case rime No.255/204 u/s 302,324,353,42 PPC has been registered at PS Thatta on the complaint of above named ASI against unknown Criminals. Constable No.600 Ghulam Yaseen of Thatta district embraced Shahadat in the line of duty. Therefore Constable No.600 Ghulam Yaseen may be given all admissible benefits of Shahdat accordingly. Original report of SHO Police Station Thatta (in all 02 leaves) in enclosed herewith for further action into the matter.</p>
Recommendation:	Rs: 20,00,000/- only
Claim of Admissibility Rules	<p>Rs: 20,00,000/- only financial help may kindly be sanctioned to the legal heirs of deceased/Shaheed Constable NO: 600 Ghulam Yaseen, as per contains in the Notification issued by the Finance Department Govt. of Sindh Karachi vide No.FD/(SR-III)10(06/2006, dated 20.06.2009.”</p>

Learned counsel refers to section 2(a) of The Sindh Shaheed Recognition and Compensation Act 2014 wherein the competent authority for this Act is the Chief Minister and not the committee which decided the fate of the petitioner's husband and his family; that the finding of committee even otherwise was factually incorrect in holding that case of deceased PC Ghulam Yaseen does not fall within the ambit of Shaheed without assigning cogent reasons in the findings vide letter dated 14.09.2015; that committee erred in holding above; that petitioner widow is fully entitled to the benefits of Shaheed as opined by the SSP Thatta endorsed by DIGP Hyderabad Zone. He lastly prayed for allowing the instant petition.

3. Learned AAG has supported the stance of the Committee on the premise that death in the line of duty or an encounter is different from death on duty. He emphasized that the death of PC Ghulam Yaseen Jakhro is not shown to be attributable to the discharge of any official function or duty. Thus his case does not fall in this category, as he was not killed in an encounter in the line of duty. This stance of respondents has been refuted by the learned counsel for the petitioner on the premise that the Daily Diary dated 20.11.2014 of Police Station Thatta explicitly shows that on the fateful day deceased PC Ghulam Yaseen Jakhro was on patrolling duty to stop the offense of illegal occupation over the forest land of Belo Bao Purndas and sustained injuries on the way, thus the stance of the respondent is erroneous. He relied upon the compensation awarded to different police officials who met with the accident and were declared Shaheed.

4. We have heard the learned counsel for the parties and perused the record with their assistance.

5. We have gone through the Daily Diary dated 20.11.2014 of Police Station Thatta explicitly shows that on a fateful day, PC Ghulam Yaseen Jakhro was on duty to enforce the orders of the competent court of law for the removal of illegal encroachment over the forest land i.e. Belo Bao Purndas and sustained injuries in the line of duty, such FIR No. No.255/204 u/s 302,324,353,427 PPC at PS. Thatta. For ready reference Section 2 (f) is reproduced as under:-

“Shaheed” means a person who offered the sacrifice of his life in the line of duty in counter-terrorism or becomes the victim of an act of terrorism

operation or targeted and killed by the terrorist group and declared Shaheed in the manner prescribed by the Government.”

6. We have noted that the impugned order dated 14.09.2015 passed by the committee does not disclose any valid reason for not considering the case of Police Constable Ghulam Yaseen Jakhro under the criteria for Shaheed, especially when he was admittedly in uniform and was on duty to enforce the orders passed by the competent court of law to remove the illegal encroachment over the forest land. Merely saying that at the relevant point in time, he met with just incident and died does not absolve the respondents to look into the claim of his widow that he embraced Shahadat during service on 20.11.2014, therefore the order dated 14.09.2015 is without reasoning, which is a nullity in the eyes of law is liable to be set aside.

7. In view of the above, this petition is allowed with the direction to the competent authority of the respondent-police department to re-visit the decision in terms of the Act 2014 as amended up-to-date i.e. Notification dated 23.08.2021 issued by the Government of Sindh, Police Department and if the other police officials who have met with the incident and their family were awarded compensation as per The Sindh Shaheed Recognition and Compensation Act-2014, his case shall be recommended on the same analogy without discrimination. The aforesaid exercise shall be completed by a speaking order within two (2) months 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

Nadir*