

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**  
**Constitution Petition No. D-1025 of 2020**

*(Murk Zehra Vs. Government of Sindh & others)*

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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**Before;**

*Adnan-ul-Karim Memon, J;*  
*Muhammad Abdur Rahman, J;*

**Date of hearing and order: 14-05-2024.**

Mr. Mansoor Hussain Maitlo, advocate for the petitioner.  
Mr. Ali Raza Baloch, Assistant Advocate General, Sindh.

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**ORDER.**

**Adnan-ul-Karim Memon J:-** The petitioner Murk Zehra seeks direction to the respondents-Chairman Enquiries & Anti-Corruption Establishment Government of Sindh to appoint her against deceased quota in terms of Rule 11-A of Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 and dicta laid down by the Supreme Court in the case of *Province of Sindh Vs. Muhammad Taqi Shah (2018 SCMR 1607)*.

The grievance of the petitioner is that her father Hadi Bux was serving as Foot Constable in respondent-department, who during his service passed away on 08-05-1997 and at that time, she was minor and when she became major, she approached the respondent-department for her appointment on deceased quota and her application was forwarded by respondent No. 3 to respondent No. 2 vide letter No. 7822-23 dated 27-10-2016 and then respondent No.2 recommended the case of the petitioner to respondent No. 1 vide letter dated 16-12-2016, but till today they are not considering the case of the petitioner and are avoiding to appoint her, although the petitioner is entitled for such relief, hence this petition.

Learned AAG has opposed this petition on the analogy that petitioner did not apply for deceased quota within two years of death of his father of as per Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974. He prayed for dismissal of the petition.

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

Prima facie this is apathy on the part of the respondent-department as this lis has been pending since 2020 and there is no progress in the matter; as such we are compelled to hear the learned counsel for the petitioner and learned AAG on the subject issue without further delay.

At this stage, we put the question to the learned AAG as to why the petitioner has not been considered for the subject post against the quota reserved for deceased Civil Servants, he simply said that this is a policy matter and the Government has not considered her case for such appointment on any ministerial post and the same could only be filled as per recruitment Rules and not otherwise. However, he submitted that petitioner's father passed away in the year 1997 and petitioner applied for the subject post at the belated stage, who ought to have applied within two years from the date when her father passed away as such, she was/is not entitled for the subject post based on deceased.

We do not agree with the reasoning of the learned AAG on the aforesaid proposition for the reason that petitioner was minor at the time of the death of her father as per record and as and when she reached the age of majority, she applied for the post of ministerial nature; however, her request was erroneously declined in principle in the case of minor legal heir of deceased Civil Servant, the period of two years to apply for appointment on deceased quota would start after he/she attains the majority. This proposition has not been disputed by the learned AAG Sindh. Additionally Rule 11-A as

discussed *Supra* is clear in its terms and needs no further deliberation on our part as the Supreme Court has already dilated upon the subject issue so far as clog of two years is concerned. Additionally in the eventuality of the death of a Civil Servant during service, it empowers the appointing authority to appoint one of the children of such deceased Civil Servant in any of the basic pay scales and the only requirement provided by the law was that the child must possess minimum prescribed qualifications. There was not condition of any examination, test or interview, and such appointment should be made in any department of the Government of Sindh only in case of death of a Civil Servant during service.

Prima facie the action of the respondent department does not align with the law laid down by the Supreme Court of Pakistan on the subject issue and the petitioner has been subjected to the irony of the department which is a hardship as her father passed away in the year 1997 during service and the petitioner applied within the policy terms, which application was processed and later-on declined on erroneous premises, compelling the petitioner to file this petition on 06-10-2020.

The respondents have failed and neglected to look into the matter in its true perspective and violated the command of the Constitution and law; therefore, this petition is liable to be allowed with direction to the Chief Secretary Government of Sindh and respondents to take into consideration the verdict of the Supreme Court on the subject issues as well as keeping in view the Rule 11-A of Sindh Civil Servants (Appointment, Promotion, and Transfer) Rules, 1974, where after if the petitioner is found eligible in all respect for appointment against the quota reserved for deceased Civil Servant, she shall be accommodated in any suitable ministerial post by allowing her to complete all legal and codal formalities as required under the law and the relevant rule, procedure, and policy.

Let notice be issued to the Chief Secretary Sindh, Government of Sindh, Chairman Enquiries and Anti-Corruption Establishment

Government of Sindh, Karachi, along with a copy of this order for its compliance in letter and spirit within 30 days.

**Judge**

**Judge**

Nasim/P.A