

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

*Constitution Petition No. D- 299 of 2023*  
(Sajjad Hussain vs. P.O Sindh & others)

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**Before;**

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

**Date of hearing and Order: 14.05.2024.**

Mr. Muhammad Tarique Panhwar, Advocate for Petitioner.  
Mr. Liaquat Ali Shar, Additional Advocate General Sindh.

**ORDER**

*Adnan-ul-Karim Memon J:-* In the above-captioned petition, Petitioner Sajjad Hussain is seeking appointment based on the deceased Quota in Education and Literacy Department Government of Sindh on the premise that his brother Abdul Haq was serving as Chowkidar in Education and Literacy Department Government of Sindh and passed away during service on 8.5.2020.

2. Learned counsel for the petitioner has submitted that the Petitioner being eligible, in all respects for appointment to the post of Chowkidar against "Deceased Quota, however, due to non-consideration of his candidature, to appoint him against the deceased quota has approached this Court on 2.2.2023.

3. The Respondents who are represented by the AAG failed to file comments despite several chances. However, he has submitted that there was/is no concept of appointment based on the brother's deceased quota, as this petition is not maintainable and liable to be dismissed.

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

5. During arguments, much emphasis has been laid on the Rule-11-A of Sindh Civil Servant (Appointment, Promotion, Transfer Rules-1974), by the learned counsel for the Petitioner and argued that Petitioner can be accommodated under the aforesaid rules. It would be better to reproduce the Provision of Rule-11-A of Sindh Civil Servant (Appointment, Promotion, Transfer Rules-1974), which provides a complete mechanism for appointment against the son quota. The relevant portion of Rule 11-A of Sindh Civil Servants (Appointment, Promotion, Transfer) Rules 1974 is reproduced herewith:-

*“11-A. Where a civil servant dies while in service or is declared invalidated or incapacitated for further service, one of his children shall be provided job on any of the pay scales Nos.1 to 10 in the Department in which the deceased civil servant was working without observance of the prescribed formalities if such child is otherwise eligible for the post.”*

6. Reverting to the claim of the Petitioner that he being a brother of the deceased was/is entitled to the post of Chowkidar, we are not convinced with the assertion of the Petitioner for the simple reason that Petitioner has to meet firstly the eligibility criteria for the post before being appointed on a designated post, which in the present case are lacking. Besides under the Rule 11-A of Sindh Civil Servants (Appointment, Promotion, Transfer) Rules 1974, does not envisage

the appointment based on deceased brother's quota, as discussed supra. Additionally in place of father of petitioner, after his retirement, his brother was accommodated and appointed as Chowkidar, as such there is no concept of appointment on deceased quota twice as his brother had already exhausted the post of Chowkidar, for that the petitioner cannot claim the same post under the rules.

7. In the light of the above discussion, the instant constitutional petition along with the pending application(s) is dismissed being not maintainable.

**J U D G E**

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