

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

*Constitution Petition No. D- 1222 of 2022*  
(Ramiaz Ali vs. P.O Sindh & others)

---

**Before;**

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

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

Mr. Farhan Ali Shaikh, Advocate for Petitioner.

Mr. Liaquat Ali Shar, Additional Advocate General Sindh.

**ORDER**

*Adnan-ul-Karim Memon J:-* Through the captioned Constitutional petition, the petitioner Ramaiz is seeking the appointment to the ministerial post, on the quota reserved for the deceased civil servants, in the office of Provincial Anti-Corruption Court Sukkur Division, in terms of the policy decision / directives of the Hon'ble Chief Justice of this Court vide letters dated 03.03.2010, 23.7.2012 & 4.3.2013, Rule 11-A of Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974 and dicta laid down by the Supreme Court of Pakistan on the subject issue. It is urged that the father of the petitioner namely Raees Ahmed was serving as Assistant in the office of Provincial Anti-Corruption Court Sukkur Division, who passed away during service on 20.3.2021, therefore he was/is entitled to the post of ministerial nature, however, the respondent No.3 was/is reluctant to reply the notice of this court as such the matter of the petitioner is in doldrums since 2022.

2. Learned counsel for the petitioner has submitted that petitioners' father passed away during service; that upon his death, the petitioner applied to the respondent No. 3 for any suitable post and since then no decision has been taken for his appointment on deceased quota on a suitable post per his qualification and eligibility. In support of his contention, he heavily relied upon Rule 10-A and Rule 11-A of Sindh Civil Servants (Appointed, Promotion & Transfer) Rules, 1974 and

argued that the petitioner is entitled to be considered for any ministerial post and/or any suitable post under the law. It appears from the record that the notice of this petition was/is issued to the respondents; however, respondent No. 3 is not bothered to reply the notice issued by this Court; therefore, this Court having no option, but to hear the parties present in Court on the premise that the lis in hand is pending on the dock of the Court file since 2022. However, learned AAG is of the view that the matter be referred to respondent No.3 to decide whether the petitioner is entitled to be appointed in the Office of Special Judge Anti-Corruption (Provincial) Sukkur Division Sukkur or otherwise, with their assistance.

3. We have heard the learned counsel for the petitioner as well as learned AAG, Sindh on the issue of deceased quota in the office of Provincial Anti-Corruption Court Sukkur Division Sukkur under the aforesaid policy decision taken by the Administrative Committee of this Court and perused the material on record.

4. It appears from the record that the Registrar of this Court suggested that the respondent No.3 was/is in a better position to decide the subject issue. This was the stance of the law department Government of Sindh. If this is the position of the case, it would be better to refer Rule 11-A of Sindh Civil Servant (Appointment, Promotion, and Transfer) Rules, 1974 which spells out that where a civil servant dies while in service or is declared invalidated or incapacitated for further service, one of his/her children or, as the case may be a widow (when all the children of the deceased employees are minor) shall be provided job on any of the basic scales 1 to 15, in the Department where such civil servant was working provided that such appointment shall be made after fulfillment of formalities as required in the recruitment rules and holding interview, for the post applied for. However, at the same time, we are of the considered view that the subordinate judiciary has to make recruitment to every post applied by the candidates on open merit as well as based on invalidated or incapacitated/minority/differently-abled and deceased quota reserved

for those employees by issuing appointment order by invoking Rule 11-A of Sindh Civil Servants (Appointment, Promotion, and Transfer) Rules, 1974. Additionally, public employment is a source of livelihood; therefore, no citizen shall be discriminated in the said matter on the grounds as provided under Article 27 of the Constitution. The government is bound to make certain quotas in appointments or posts in favour of any less privileged class of citizen which in the opinion of the government is not adequately represented in the services under the state. That's why Rule 11-A of Sindh Civil Servants (Appointment, Promotion, and Transfer) Rules, 1974 as amended up-to-date is introduced to cater to that situation to accommodate the aforesaid categories of civil servants, who died during service and the benefit of the beneficial legislation shall go to the legal heirs of deceased civil servant.

5. So far as the role of Registrar of this Court is concerned, the petitioner has not sought any relief against him, therefore, no direction is required to be given to him; even otherwise it is well-settled law that writ under Article 199 of the Constitution does not lie against such administrative decision of the Administrative Committee of the High Court of Sindh, if any, in the light of latest verdict pronounced by the Supreme Court of Pakistan on 16.3.2020 in the case of Gul Taiz Khan Marwat v. The Registrar, Peshawar High Court, Peshawar & others (PLD 2021 SC 396).

6. In the light of the above rule position, the petitioner is at liberty to apply for the post on merit as and when the vacancy occurs in the office of Provincial Anti-Corruption Court Sukkur Division under the aforesaid Policy and law and just after his applying his case may be considered by the competent authority according to policy and law without discrimination.

7. Resultantly, this petition is disposed of along with the pending application(s), with the above observations.

**J U D G E**

**J U D G E**

Nasim/P.A