

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constitutional Petition No.D-622 of 2021.

[Yasir Ali Phulpoto vs. Province of Sindh and others]

Constitutional Petition No.D-1099 of 2024.

[Mukhtiar Hussain Mirjat vs. Province of Sindh and others]

Constitutional Petition No.D-151 of 2026.

[Touseef Ahmed Qureshi vs. Province of Sindh and others]

Constitutional Petition No.D-154 of 2026.

[Nisar Ali Memon vs. Province of Sindh and others]

Constitutional Petition No.D-394 of 2026.

[Muhammad Bachal Samejo vs. Province of Sindh and others]

Constitutional Petition No.D-563 of 2026.

[Mohsin Ali Mirbahar vs. Province of Sindh and others]

Constitutional Petition No.D-616 of 2026.

[Taimoor Ali Mangi vs. Province of Sindh and others]

Constitutional Petition No.D-624 of 2026.

[Muhammad Mohsin Bullo vs. Province of Sindh and others]

Constitutional Petition No.D-645 of 2026.

[Ahsanullah Junejo vs. Province of Sindh and others]

Constitutional Petition No.D-646 of 2026.

[Abdul Sami Simair vs. Province of Sindh and others]

Constitutional Petition No.D-693 of 2026.

[Sabit Ali Baloch vs. Province of Sindh and others]

Before:-

Mr. Justice Amjad Ali Bohio,

Mr. Justice Ali Haider 'Ada'.

30.04.2026.

M/s. Manzoor Hussain N. Larik, Muhammad Raza Soomro, Muhammad Nasir Malik, J.K Jarwar, Gul Feroze Kalwar, Nisar Ahmed Mallah, Amjad Ali Gabol, Rukhsar Ahmed Junejo, Tanveer Abass Shah, Advocates for petitioners.

Mr. Miran Bux Shar, Advocate for respondent No.4 in C.P No.D-622 of 2021.

M/s. Shahryar I Awan and Zulfiqar Ali Naich, Assistant Advocates General along with Qadir Tunio, Chief Municipal Officer, Municipal Committee, Khairpur, Abdul Sami, Assistant Education officer on behalf of District Education Officer (Primary) Khairpur, Ghulam Murtaza Shah, District Education Officer (ES&HS), Sukkur, Riaz Ahmed Ujjan, Director (ES&HS), Shaheed Benazirabad, Ghulam Hussain Tunio, District Education Officer, Naushahro Feroze, Dr. Anwar Ali, on behalf of DHO Sukkur and Dr. Salahuddin Shaikh, Medical Superintendent, Taluka Hospital Pano Aqil, Ghulam Hussain Hulio, DEO(ES&HS), Naushahro Feroze.

Ali Haider 'Ada' J.- In all the above-captioned petitions, the petitioners seek issuance of appointment orders under the deceased quota, on the ground that their respective fathers died during service, and, therefore, they claim entitlement to appointment on compassionate grounds. It has been contended that such right accrued in view of the judgment rendered by the Honourable Federal Constitutional Court in F.C.P.L.A. No.508, 591, 346, 347, 348, 589, 267, 593, 130 and 353 of 2025.

In **C.P. No. D-563 of 2026**, it is the case of the petitioner that his father died during service at a time when the petitioner was a minor. In response, respondent No.3, namely the District Education Officer (Elementary, Secondary and Higher Secondary), Naushahro Feroze, has filed a written statement stating that, pursuant to the decision of the Federal Constitutional Court, the Provincial Cabinet, Government of Sindh, has taken up the matter regarding recruitment under the deceased quota for consideration.

Similarly, in **C.P. Nos. D-616, D-624, D-645, D-646, D-693 and D-151 of 2026**, the respective dates of death of the petitioners' fathers during service have been disclosed, and the concerned District Education Officer (Elementary, Secondary and Higher Secondary), Sukkur, has submitted that, following deliberations of the Provincial Cabinet, Government of Sindh, the matter of appointments under the deceased quota is under consideration.

In **C.P. No. D-622 of 2021**, the petitioner claims that his father died during service on 17.04.2006, at which time he was underage. However, the Chief Municipal Officer, Municipal Committee Khairpur, in para-wise comments, has taken the stance that the petitioner failed to approach the department within the prescribed period of sixty (60) days and instead approached after a delay of approximately twelve (12) years.

In **C.P. No. D-1099 of 2024**, the petitioner's father died on 09.04.2013, and it is the stance of the department that the petitioner did not approach the authorities within a reasonable time, thereby disentiing himself to relief under the deceased quota.

In **C.P. No. D-154 of 2026**, the petitioner's father died on 26.08.2021, and the department has stated that, in light of the Provincial Cabinet's deliberations, the matter shall be considered under the deceased quota policy.

In **C.P. No. D-394 of 2026**, the petitioner's father died on 29.01.2023, and the department has acknowledged that the post of *Bishti* is lying vacant and has also admitted the petitioner's claim under the deceased quota.

Both the Learned Assistant Advocate General have also placed on record a notification reflecting amendments made by the competent legislative authority. For ready reference, the said amendment is reproduced hereunder:-

-AMENDMENT

In the omitted rule 11-A, for the existing proviso, the following shall be

"Provided that if a right of employment had already accrued to any of the children or, as the case may be, spouse of the civil servant, he or she shall not be deprived of the benefit accrued to him or her prior to the judgment of the Hon'ble Supreme Court of Pakistan dated 26.09.2024, passed in Civil Petition No. 3390 of 2021, notwithstanding the omission of Rule 11-A

thereunder, as observed by the Hon'ble Federal Constitutional Court of Pakistan vide order dated 27.02.2026 in F.C.P.L.A. Nos. 508, 591, 346, 347, 348, 589, 267, 593, 130 and 353 of 2025, and shall be considered and decided at the level of the Administrative Department, on merit and in accordance with all provisions of omitted rule 11-A of the Rules *ibid*".

Furthermore, the Honourable Federal Constitutional Court of Pakistan, in F.C.P.L.A. as mentioned *supra*, has authoritatively clarified the scope and accrual of the right relating to appointment under the deceased quota. For ready reference, the relevant paragraph of the said judgment is reproduced hereunder:-

"4. As noted above, petitioner is aggrieved of acceptance of writ petitions of the respondents by learned Sindh High Court. The controversy pertains to the fact that respondents are spouse/children of the deceased Sindh civil servants and sought appointments on the basis of Rule 11-A of Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974 (the Rules). The Supreme Court of Pakistan vide judgment passed in case reported as General Post Office, Islamabad and others Vs. Muhammad Jalal (PLD 2024 SC 1276) struck down Rule 11-A *ibid* and petitioner now seeks benefit thereof on the basis that since the Rule is no longer in the field, no appointment can be made. The nub of the controversy is that at the time when the judgment of the Supreme Court of Pakistan *supra* was handed down, had the right accrued in favour of the respondents? In this regard, the relevant event, which resulted in the accrual of the right, was the death of the civil servant. As and when the death of a civil servant takes place, one of the children and/or spouse acquires the right to be appointed in the civil service. The process of application and/or a formal appointment letter are administrative acts. Since right had accrued in favour of private respondents, hence judgment of the Supreme Court does not come in their way for appointment on deceased employee children/spouse quota. It is trite law that judgments of the Supreme Court operate prospectively and not retrospectively¹. Even-otherwise, the Supreme Court in a subsequent decision, clarified that the judgment reported as PLD 2024 SC 1276 *supra* does not take away the accrued rights and/or set aside the past and closed transactions. In view of above position of law, we do not find any legal infirmity in the reasoning handed down by the learned Sindh High Court, in the impugned judgment, warranting interference."

Once a right has accrued, the beneficiary thereof is entitled to its enforcement, and it is a settled principle that the Courts are

vested with the authority to ensure enforcement of such rights where they have not been duly recognized or implemented.

In view of the foregoing discussion and reasons recorded hereinabove, all the above-captioned constitutional petitions are disposed of with the direction to the concerned and competent authorities to consider the cases of the petitioners strictly in accordance with law, keeping in view the principles laid down by the Honourable Federal Constitutional Court of Pakistan in F.C.P.L.A. Nos. 508, 591, 346, 347, 348, 589, 267, 593, 130, and 353 of 2025, as well as the amendments introduced through the relevant notification. Such exercise shall be undertaken and completed within a period of three (03) months from the date of receipt of this order, positively and without fail. Order accordingly.

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