

THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 2177 of 2024

[Zeeshan Hyder Abro v. Province of Sindh and others]

Before:
Justice Arbab Ali Hakro
Justice Nisar Ahmed Bhanbhro

Petitioner by : Mr. Mushtaque Ahmed Shah, Advocate,
holding brief for Mr. Achar Khan Gabol,
Advocate

Respondents by : Mr. Israr Ahmed Shah, Assistant Advocate
General Sindh

Date of Hearing : **24.09.2026**

Date of Decision : **24.09.2026**

ORDER

ARBAB ALI HAKRO, J. – Through this constitutional petition, the petitioner seeks appointment against the deceased quota under the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974, following the death of his father while in service.

2. Brief facts of the case are that the petitioner’s father, the late Mazhar Ali Abro, was appointed as a Junior Clerk (BPS-05) in 1995. He was lastly posted as an Assistant (BPS-16) in the office of the Additional Advocate General Sindh, Larkana, and was discharging his duties on a work-assigned basis in the office of the Additional Advocate General Sindh, Sukkur, when he expired during service on 22.05.2021. At the time of his father’s death, the petitioner (born on 13.11.2005) was a minor aged about 15 years. Upon attaining majority on 13.11.2023, the petitioner submitted an application for appointment as Junior Clerk (BPS-11) against the deceased quota. The application was duly received by the Dispatch Office of the Advocate General Sindh, Karachi, on 12.12.2023 (bearing an application date of November 2023). Subsequent to the receipt of the application, the requisite documents, including the heirship certificate, domicile and PRC, were verified. Respondent No.4 (Additional Advocate General Sindh, Sukkur) forwarded the petitioner’s case to Respondent No.3 (Advocate General Sindh, Karachi) vide letter dated 29.02.2024. Thereafter, Respondent No.3

forwarded the case along with all verified documents to Respondent No.2 (Secretary, Law Department, Government of Sindh, Karachi) vide letter dated 03.10.2024 for appointment against the deceased quota. However, despite repeated approaches by the petitioner, the matter remained pending without a final determination.

3. Learned Counsel holding brief for the petitioner submits that the petitioner submitted his application promptly after attaining majority and that all requisite formalities were completed prior to the cut-off date of 26.09.2024. He contends that any delay in processing the case rests entirely with the respondent department.

4. On the other hand, learned AAG Sindh points to the para-wise comments filed on behalf of Respondent No.5 (Additional Advocate General Sindh, Larkana). In those comments, reliance was placed on the judgment of the Hon'ble Supreme Court of Pakistan dated 26.09.2024 passed in Civil Petition No.3390 of 2021 (*General Post Office, Islamabad and others v. Muhammad Jalal*, reported as **PLD 2024 SC 1276**), which declared the appointments without open advertisement as discriminatory under Articles 25 and 27 of the Constitution, leading to the Government of Sindh's Notification No. SORI(SGA&CD)2-25/2024 dated 19.12.2024 omitting Rule 11-A.

5. During today's hearing, learned AAG Sindh placed on record Notification No. SO(DQ):1(13)/2026 dated 14.07.2026 issued by the Law, Parliamentary Affairs & Criminal Prosecution Department, Government of Sindh. This notification shows that, in pursuance of the SGA&CD guidelines dated 24.06.2026 and in continuation of Notification No. SORI(SGA&CD)2-25/2024 dated 30.04.2026, a Departmental Scrutiny Committee has been constituted to ascertain and examine cases pertaining to appointment against the deceased quota within the Law Department and its attached offices, with directions to transmit recommended cases to the concerned Departmental Recruitment Committee (DRC).

6. We have heard the learned counsel holding brief as well as the learned AAG Sindh and perused the material available on record.

7. To resolve the controversy, it is imperative to examine the legal developments surrounding Rule 11-A of the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974. Although the initial omission of Rule 11-A

stemmed from the declaration in **PLD 2024 SC 1276**, the subsequent judicial jurisprudence has explicitly clarified that such invalidations operate prospectively and do not extinguish accrued or vested rights.

- a) In *Zahida Parveen v. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar and others* (**C.P.L.A. No. 556-P/2024**), the Hon'ble Supreme Apex Court explicitly held:

“11. For completeness of record, it is clarified that the judgment of this Court reported as General Post Office, Islamabad and others v. Muhammad Jalal (PLD 2024 SC 1276) has struck down Rule 10(4) of the Rules as being ultra vires the Constitution but has no application on appointments that have been already made. It is well settled that the judgments of this Court operate prospectively, unless declared otherwise. Therefore, the present case remains unaffected by the said judgment.”

- b) Reaffirming this legal position, in *The Province of Sindh v. Muhammad Rizwan Khan & others* (**F.C.P.L.A. No. 508 of 2025**), it was reiterated:

“4. It is trite law that judgments of the Supreme Court operate prospectively and not retrospectively. 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.”

- c) In alignment with this binding judicial principles, the Government of Sindh, Services, General Administration & Coordination Department (SGA&CD), issued Notification No. SORI(SGA&CD)2-25/2024 dated 30.04.2026.

8. The progression of the legal framework governing Rule 11-A thus stands structured across four distinct phases:

- a) **Initial Omission:** The omission of Rule 11-A vide Notification dated 19.12.2024 pursuant to **PLD 2024 SC 1276**.

- b) Judicial Protection of Accrued Rights:** The prospective application affirmed in *Zahida Parveen and Muhammad Rizwan Khan*, safeguarding claims accrued prior to 26.09.2024.
- c) Executive Safe Guard:** Executive Notification dated 30.04.2026 mandating administrative consideration of pre-26.09.2024 accrued claims under saved Rule 11-A.
- d) Institutional Execution Mechanism:** Notification dated 14.07.2026 establishing the Departmental Scrutiny Committee to process saved claims for DRC consideration.

9. Turning to the facts of the present case, the petitioner's father passed away in service on 22.05.2021. The petitioner, being a minor at that time, attained majority on 13.11.2023 and submitted his application in November 2023 (received on 12.12.2023). His claim was fully documented, verified and forwarded by Respondent No.4 to Respondent No.3 on 29.02.2024, well prior to the cut-off date of 26.09.2024. Therefore, under the settled principles in *Zahida Parveen and Muhammad Rizwan Khan*, as well as the protective umbrella of Notifications dated 30.04.2026 and 14.07.2026, the petitioner's claim constitutes an accrued right that cannot be defeated by the subsequent omission of Rule 11-A.

10. In view of the above statutory framework, judicial precedents and departmental notifications, this petition is **disposed of** with the following directions:

- a) The case of the petitioner is referred to the newly constituted Departmental Scrutiny Committee (formed vide Notification dated 14.07.2026).
- b) The Departmental Scrutiny Committee shall examine and verify the petitioner's claim under the saved Rule 11-A and transmit its recommendations to the relevant Departmental Recruitment Committee (DRC) without delay.
- c) The competent authority / Administrative Department shall pass a reasoned and speaking order regarding the petitioner's appointment on merit within ninety (90) days from the date of receipt of a copy of this order.

11. Office is directed to transmit a copy of this order to Respondent No.2 (Secretary, Law Department, Government of Sindh) and all concerned authorities through all available modes, including electronic transmission, for immediate compliance.

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Abdul Basit