

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No. D-559 of 2014

[Abdul Shakoor Khan V. Province of Sindh and Others]

Date	Order with signature of Judge(s)
------	----------------------------------

Before:
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Hasan Akbar

Date of hearing and Order: 19.05.2026

Mr. Munawar Alam advocate for the Petitioner.
Mr. Ali Ahmed Zaidi, Additional Advocate General, Sindh.

ORDER

Adnan-ul-Karim Memon, J. – Petitioner Abdul Shakoor Khan has filed this Constitution Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan 1973, seeking the following relief:-

- a.** *That this Hon'ble Court may be pleased to direct the respondent Nos. 1 to 4 to appoint the petitioner for the post of police constable on deceased son quota in accordance with law, under rule 11-A of Sindh Civil Servants (appointment Promotion and Transfer) Rules 1974 on deceased quota under section 26 of the Sindh Civil Servants Act 1974, because no any male member in the family of the petitioner to support them financially;*
- b.** *To restrain the respondent Nos. 2 to 4 from sending the newly appointed private persons for training or appointing anyone till final disposal of this petition or without getting prior permission from this Hon'ble Court;*
- c.** *That this Hon'ble Court may be pleased to direct the respondent No.1 to relax the upper age or height (if any) of the petitioner by exercising the powers so vested in him under the law;*
- d.** *That awards the costs;*
- e.** *To grant any other equitable relief, which this Hon'ble Court deems, if and proper under the circumstances of the case, in favor of the petitioners.*

2. The petitioner submits he is the legal heir of late Police Constable Muhammad Ismail Kakepoto, who died while in service on 28.12.2009 at Police Line Shikarpur. It is their case that after the death of the sole breadwinner of the family, they were left in financial distress with no source of income. They assert that, being the son of a deceased government servant, the petitioner is entitled to appointment under the deceased/son quota in Sindh Police in terms of the relevant provisions of the Sindh Civil Servants Act, 1974, and the applicable rules. The petitioners further submit that they were processed for recruitment as constables and were included in the list of candidates; however, they were allegedly not selected. Initially, it is stated that rejection was on the grounds of a deficiency in height (one inch), which was later claimed to have been condoned by the competent authority. Despite this, the petitioners allege that they were ultimately ignored and private persons were appointed in violation of the applicable quota rules. They allege that the respondents' actions are illegal, arbitrary, malafide, and discriminatory, and pray for directions to appoint the petitioner against a suitable

post in Sindh Police, with relaxation of age/height criteria if required. Learned counsel submits that he will not agitate his claim on the post of police Constable if, in the alternative, the petitioner may be accommodated against the civilian post.

3. On the other hand, the learned AAG submits that the petitioner did apply under the son/deceased quota but failed to appear in the written test, and therefore, his case was not considered for appointment. It is further stated that recruitment is conducted through a transparent, competitive process under the Sindh Police Recruitment Rules, 2021, and relevant standing orders, wherein all candidates are required to pass written, physical, and other prescribed tests. The AAG also clarifies that recruitment for the deceased/son quota is not automatic but subject to scrutiny and selection through constituted committees. They further submit that the petitioner's case has, in fact, been forwarded for consideration through the proper recruitment mechanism and will be processed along with other candidates. It is their position that since the petitioner did not qualify/participate in the required written test at the relevant time, no vested right of appointment accrued to him, and therefore, the petition is liable to be dismissed.

4. We have heard the learned counsel for the parties and perused the record with their assistance.

5. In essence, while the petitioners claim a vested right of appointment on the compassionate/deceased quota and allege illegal denial of the same, the respondents maintain that the petitioner's case was processed according to law, but he failed to meet the mandatory selection requirements, and that the entire recruitment process is being conducted transparently under the applicable rules.

6. We have been informed that the Sindh Police (Shaheed, Deceased, Permanently Invalidated or Incapacitated Quota) Recruitment Rules, 2021, have been framed by the Inspector General of Police, Sindh, in consultation with the Home Department and with the approval of the Government, under the relevant statutory authority. These Rules provide a special recruitment framework for the appointment of legal heirs of police and other departmental employees who are either Shaheed, deceased during service, or permanently invalidated/incapacitated. The Rules define key terms. "Shaheed" includes police or staff members killed in the line of duty, including encounters with terrorists or criminals, terrorist attacks, bomb blasts, law and order situations, or targeted killings due to official actions. "Deceased" refers to employees who die during service (excluding Shaheed cases). "Permanently invalidated or incapacitated" refers to employees declared medically unfit due to injuries sustained in specified duty-related circumstances. "Legal heir" includes spouse, son, daughter, father, mother, brother, or sister. Under the scheme of appointments, up to two legal

heirs of a Shaheed may be appointed in Sindh Police against specified posts such as Assistant Sub Inspector, Constable, Driver Constable, Wireless Operator, Junior Clerk, and Class-IV staff, subject to eligibility and availability of vacancy. In case the legal heir does not meet the criteria for higher posts, appointment may be considered in lower ranks, including ministerial or Class-IV posts, with applicable relaxation in age and qualification as per policy. For deceased and permanently incapacitated employees, only one legal heir is eligible for appointment against similar categories of posts, again subject to eligibility, consent of family members, and availability of vacancy. If the eligible heir does not meet the criteria for higher posts, appointment may be adjusted in lower cadre posts with relaxation as per rules. In case of disputes regarding parentage, the matter is to be referred to a competent court for decision. Applicants are required to submit the prescribed documents verified by a gazetted officer. The recruitment process is conducted through a competitive mechanism, including physical tests, written tests, and interviews. For certain posts, third-party testing services may be engaged. The entire process is supervised by the Special Provincial Recruitment Committee constituted by the Home Department. The quota distribution provides 3% for Assistant Sub Inspectors, 5% for Constables/Wireless/Driver Constables, and 20% for Ministerial and Class-IV staff, with priority given first to Shaheed cases, followed by deceased and incapacitated categories, and any remaining quota reverting to general recruitment. Finally, after completion of the recruitment process, recommendations are forwarded by the Special Provincial Recruitment Committee to the Inspector General of Police for Shaheed cases, and to the Home Department for deceased and incapacitated cases for final approval by the competent authority.

7. The petitioner's claim is founded on the deceased quota, being the son of a police constable who died in service. There is no dispute regarding the factum of the death of the petitioner's father during service, and thus, the petitioner falls within the class of eligible candidates contemplated under the relevant quota regime. However, entitlement under this scheme is not absolute or automatic; rather, it is conditional upon fulfillment of prescribed eligibility criteria and successful participation in the mandatory recruitment process, including written, physical, and interview stages.

8. The record reflects that the petitioner's case was considered in the recruitment process, but he failed to appear in or qualify for the written test at the relevant stage. The applicable Rules of 2021 clearly provide that recruitment under the deceased quota is to be made through a competitive process supervised by the Special Provincial Recruitment Committee, and only those candidates who qualify the prescribed tests can be recommended for appointment. Therefore,

mere eligibility on compassionate grounds does not create a vested right to appointment in the absence of successful completion of the selection process.

9. It is also settled law that compassionate or deceased quota appointments are an exception to the general rule of merit-based recruitment and must be strictly construed. Courts have consistently held that such quotas are meant to provide financial relief to dependents of deceased employees, but cannot override mandatory recruitment requirements or be converted into an automatic right of appointment. In the present case, the petitioner's failure to participate/qualify in the required written test constitutes a valid and lawful ground for non-selection, and no illegality or mala fide can be attributed to the respondents when the process is governed by a structured and competitive statutory mechanism.

10. As regards the contention of arbitrary exclusion and appointment of private persons, the respondents have demonstrated that recruitment was carried out under a transparent framework, through duly constituted committees and in accordance with the 2021 Rules. No material has been brought on record to establish favoritism, deviation from rules, or discriminatory treatment against the petitioner.

11. On the question of alternative accommodation in a civilian post, the legal position is that courts may, in appropriate cases of hardship, direct consideration of a candidate for a lower post within the available framework, but such direction is always subject to the availability of a vacancy, fulfillment of minimum qualification, and compliance with applicable recruitment rules. In the present case, since the petitioner already falls within the deceased quota category, his remedy, if any, lies not in a direction for automatic appointment, but in consideration strictly in accordance with the ongoing or future recruitment processes under the recruitment Rules of 2021. If he remains otherwise eligible within age, qualification, and physical fitness, he may be considered by the respondents for Class-IV or other suitable civilian posts under the same quota, but only through due process and not as a matter of right.

12. In view of the above, the petitioner's claim for a direct writ of appointment against the post of Police Constable cannot be sustained in law. The deceased quota provides a preferential opportunity, not an enforceable right of automatic employment. Since the petitioner failed to satisfy the mandatory requirements of the recruitment process, no legal or constitutional infirmity is found in the respondents' actions. However, in the interest of fairness and the benevolent object of the quota policy, if it exists, it is appropriate that the respondents ensure that the petitioner is not excluded from consideration in future recruitment processes under the deceased quota, and his case be assessed strictly

in accordance with law, along with other eligible candidates, if he fulfills the requisite criteria against the civilian post.

13. Accordingly, the petition, along with pending application(s), appears to be without merit and is dismissed, subject to the above observation for future consideration in accordance with the law.

JUDGE

JUDGE

Shafi