

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
Constitutional Petition No. D-1593 of 2020  
(Tariq Khan & another versus Province of Sindh & others)

Date	Order with signature of Judge
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Mr. Justice Adnan-ul-Karim Memon  
Mr. Justice Zulfiqar Ali Sangi

**Date of hearing and order: 13.2.2026**

Petitioners Tariq Khan and Zia Mughal are present in person  
Mr. Ali Safdar Depar, Assistant AG  
Mr. Raza Mian, DSP (Legal-II) CPO

**ORDER**

**Adnan-ul-Karim Memon, J.** – Petitioners have filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer: -

- a) *That this Court may be pleased to declare the act of respondents for not considering the case at par with other nominees of the Shaheed Quota is discriminatory, illegal, unlawful, and malafide.*
- b) *That this Court may be pleased to direct the respondents to consider the case of the petitioners at par with the other appointed employees on the SHAHEED QUOTA, and further the respondents may be directed to consider/appoint the petitioners for the post of Inspector in the Police Department on a Shaheed Quota basis forthwith;*

2. The brief facts leading to the filing of the instant Constitutional Petition are that the fathers of the Petitioners were serving in the Police Department and embraced Shahadat during the course of performance of their official duties in Karachi in encounters with anti-state elements and criminals. The father of Petitioner No.1, namely DSP Ali Asghar, embraced martyrdom on 29.01.2008; the father of Petitioner No.2, namely SI Muhammad Ishtiaque, embraced martyrdom on 02.08.2007; and the father of Petitioner No.3 embraced martyrdom on 17.05.2005. The Police Department duly confirmed their martyrdom and issued obituary certificates accordingly.

3. Petitioners are present in Court and submitted that after the martyrdom of their fathers, they, being the eldest family members and dependents, became entitled to employment under the Shaheed Quota in accordance with law and applicable policy. Consequently, they submitted applications through the proper channel seeking appointment to posts equivalent to those held by their martyred fathers, i.e., the post of Inspector in the Police Department. It is added that the concerned police authorities, including the office of Respondent No.3/ Inspector

General of Police, Sindh, verbally and through official correspondence assured them that they would be appointed to posts equivalent to those held by their martyred fathers. Petitioners averred that, despite the aforesaid assurances and fulfillment of all codal formalities, they were appointed merely as Assistant Sub-Inspectors (ASIs) in 2016 under the Shaheed Quota, instead of being appointed to the post of Inspector for which they were eligible. It is emphasized that they have been discharging their duties with honesty, dedication, and without any complaint whatsoever, and their service record remains unblemished. Petitioners pointed out that several similarly placed nominees under the Shaheed Quota were directly appointed as Inspectors and even Deputy Superintendents of Police by the Government of Sindh/Respondents with the approval of the Competent Authority/Chief Minister, Sindh, including, Naseem Ahmed Bhutto, appointed as Inspector on 08.06.2012 against the Shahadat of SIP Muhammad Eidan Bhutto; Fahad Hussain, appointed as Inspector on 02.11.2012 against the Shahadat of Inspector Nasir-ul-Hassan; Muhammad Ali, appointed as DSP on 19.02.2013 as compensation instead of Shahadat. They submitted that so many candidates have been appointed in disciplined forces, without codal formalities which is a prerequisite for such appointment cannot be bypassed; however, the aforesaid appointments clearly demonstrate that nominees of martyred police officials have previously been granted appointment on posts equivalent or higher than those held by the Shaheed, through the discretionary powers of the Competent Authority. Further submitted that the denial of similar treatment to the Petitioners amounts to hostile discrimination and violation of the principle of equality before law, as enshrined under Articles 4 and 25 of the Constitution. It is added that the Respondents have maliciously failed to consider the case of the Petitioners at par with other similarly placed nominees appointed under the Shaheed Quota, thereby depriving them of their lawful entitlement without any justifiable reason. They finally prayed to allow the petition.

4. Learned AAG assisted by Raza Mian, DSP (Legal-II) CPO, and submitted that although the fathers of the Petitioners embraced Shahadat during service and their martyrdom has duly been acknowledged by the Police Department, the Petitioners were not extended the benefit of employment under the Shaheed Quota strictly in accordance with the policy and rules then prevailing. He added that in pursuance thereof, the Petitioners were appointed as Assistant Sub-Inspectors (ASIs) in the year 2016 against the Shaheed Quota and, thus, have already availed their lawful entitlement arising out of the martyrdom of their fathers. It is further submitted that the claim of the Petitioners for appointment to the post of Inspector is legally untenable, as no vested right accrues to the dependents of a Shaheed employee to claim appointment on a post equivalent to or higher than that held by the deceased employee. He argued that the

appointments under the Shaheed Quota are subject to recruitment rules, eligibility criteria, and prescribed procedure, and cannot be equated with promotion or substitution against the rank held by the Shaheed. He argued that the Petitioners have erroneously relied upon certain instances wherein nominees of other Shaheed police officials were appointed as Inspectors or DSPs. It is submitted that the said appointments were made prior to the promulgation of the Sindh Shaheed Recognition and Compensation Act, 2014, and the subsequent framing of the Sindh Police Shaheed, Deceased, Invalidated or Incapacitated Quota, Recruitment Rules, 2021, and therefore do not constitute a binding precedent in the present case. Moreover, any such appointments, if made under the rules, cannot be relied upon to perpetuate an illegality or to claim parity in violation of the settled principle that equality cannot be claimed in illegality. Learned AAG pointed out that in view of the judgments passed by this in CP No. D-2533 of 2019 and CP No. D-271 of 2019, recruitment to uniformed posts in the Police Department, including the posts of ASI and Inspector, is required to be made strictly through a competitive process in accordance with the applicable recruitment rules. Consequently, the Respondents are legally precluded from making direct appointments to such posts under the Shaheed Quota without adherence to the prescribed procedure. Furthermore, he emphasized that as per Rule 3(4) of the Sindh Police (Shaheed, Deceased, Invalidated or Incapacitated Quota) Recruitment Rules, 2021, a second claim for employment under the Shaheed Quota is not permissible in cases where one dependent has already been accommodated against the said quota, particularly where the Shahadat occurred before 11.06.2014, as is admittedly the case of the Petitioners' fathers. Therefore, having once been appointed as ASIs under the Shaheed Quota, the Petitioners are not entitled to seek re-appointment or upgradation to the post of Inspector on the same basis. In view of the above legal and factual position, learned AAG submitted that the allegation of discrimination levelled by the Petitioners is without substance and does not attract the application of Articles 4 or 25 of the Constitution, as the Petitioners have been treated strictly in accordance with the law and applicable rules. He prayed that the instant Constitutional Petition, being devoid of merit and not maintainable under Article 199 of the Constitution, may be dismissed in the interest of justice.

5. We have heard the Petitioners, who are present in person, as well as learned AAG, and have perused the available record with their able assistance.

6. It is an admitted position that the fathers of the Petitioners embraced Shahadat in the line of duty while serving in the Police Department and their martyrdom stands duly acknowledged by the competent authorities. The controversy, however, does not pertain to the recognition of such martyrdom, but

rather to the nature and extent of appointment claimed by the Petitioners under the Shaheed Quota.

7. It is settled by now through a catena of judgments of the Supreme Court of Pakistan that public employment is to be made strictly in accordance with the mandate of Articles 4, 18 and 25 of the Constitution, through a transparent and competitive process, and any appointment made deviate the prescribed recruitment rules or by invoking discretionary quotas, without open competition, amounts to violation of the fundamental rights of other eligible candidates. The Supreme Court has repeatedly held that appointments made under various quota regimes, including compassionate or discretionary appointments, which bypass the due process envisaged under the relevant service rules, cannot be sustained in the eyes of law and are liable to be revisited in order to uphold the constitutional principle of equality of opportunity in public service.

8. In the present case, recruitment to uniformed posts in the Police Department, including that of Assistant Sub-Inspector and Inspector, is governed by statutory recruitment rules which mandate a competitive selection process. Any direct induction to such posts under the Shaheed Quota or by resort to Rule 11-A of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, without adherence to the prescribed procedure, would be inconsistent with the law laid down by the Supreme Court and the applicable recruitment framework, particularly in the Police Force. It is equally well-settled that parity cannot be claimed based on past irregular or unlawful appointments, if any, nor can equality be invoked to perpetuate an illegality.

9. Nonetheless, to ensure that all appointments made under the Shaheed Quota or otherwise under Rule 11-A *ibid* align with the binding dicta of the Supreme Court as well as the relevant recruitment rules, and that no person is either unlawfully deprived or unlawfully accommodated, we deem it appropriate to direct the Inspector General of Police, Sindh shall constitute a committee comprising Additional Inspector General of Police, Sindh, Mr. Azad Khan, and two Deputy Inspectors General of Police of unblemished integrity and good repute, who shall examine all appointments made in the Police Department either under the Shaheed Quota or by invoking Rule 11-A of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974. The said committee shall provide an opportunity of hearing to all affected persons and shall scrutinize such appointments strictly in the light of the law declared by the Supreme Court and the applicable recruitment rules. It is, however, clarified that the Committee shall summon all candidates who have availed appointments under the said quota, obtain their replies, and after affording them an opportunity of meaningful hearing, decide the matter and make appropriate recommendations to the

competent authority in accordance with law and the law laid down by the Supreme Court of Pakistan. The aforesaid exercise shall be completed within a period of three (03) months positively, and a compliance report shall thereafter be submitted before this Court through MIT-II for its perusal.

10. In view of the above facts and circumstances of the case, this petition stands disposed of accordingly. The office is directed to communicate this order to the Inspector General of Police, Sindh, and Mr. Azad Khan, Additional Inspector General of Police, Karachi, via email and WhatsApp for immediate compliance.

JUDGE

JUDGE

Shahzad Soomro