

THE HIGH COURT OF SINDH BENCH AT SUKKUR

Before:
Justice Arbab Ali Hakro
Justice Muhammad Osman Ali Hadi

- C. P. No. D – 203 of 2026
[Hyder Shaikh v. Province of Sindh and others]
- C. P. No. D – 490 of 2026
[Bilal Khan Gadani Balouch v. Province of Sindh and others]
- C. P. No. D – 492 of 2026
[Khalid Hussain Jogi v. Province of Sindh and others]
- C. P. No. D – 495 of 2026
[Muhammad Talha Mughal v. Province of Sindh and others]
- C. P. No. D – 670 of 2026
[Ali Gohar Mahtam v. Province of Sindh and others]
- C. P. No. D – 671 of 2026
[Zulqad Ali Mahtam v. Province of Sindh and others]
- C. P. No. D – 796 of 2026
[Ghulam Murtaza Mahar v. Province of Sindh and others]
- C. P. No. D – 1079 of 2026
[Sadam Hussain Lodhi v. Province of Sindh and others]

Petitioners by : M/s Abdul Naeem Pirzada, Abdul Sattar
Thaheem and Mansoor Hussain Maitlo,
Advocates

Respondents by : M/s Abdul Qadir Shaikh, Abdul Basit
Shaikh, Shama Rehman, Khuda Bux
Chohan and Mujeeb-ur-Rehman Mahar,
Advocates and M/s Ali Raza Baloch,
Additional A.G. Sindh, Ghulam Abbas
Kubar, Zulfiqar Ali Naich, Agha Athar
Hussain and Israr Ahmed Shah,
Assistant A.Gs. Sindh

Date of Hearing : 19.08.2026, 09.09.2026

Date of Announcement : 08.10.2026

ORDER

ARBAB ALI HAKRO, J. – Since a common question of law, namely the entitlement, if any, of the son of a deceased Local Council employee to appointment against the so-called “deceased quota”, arises in all the

captioned eight connected petitions, and the pattern of facts, though the dates differ from case to case, is substantially the same, we propose to dispose of all of them by this common order.

2. The common thread running through the record may first be noted. At the time of his death, the father of each petitioner was serving on a Local Council, a Municipal Committee, a Town Committee, a District Council, or a Municipal Corporation constituted under the Sindh Local Government Act, 2013 (**"the 2013 Act"**). Each father died in harness. Each petitioner thereafter approached the concerned Council and, in due course, the Local Government Department, Government of Sindh, for appointment in his late father's place against the deceased quota. In each case, the Department neither appointed him nor formally rejected his claim, leaving him with no option but to invoke the constitutional jurisdiction of this Court under Article 199 of the Constitution.

3. Here are the facts of each case, with unnecessary details omitted. In C.P. No. D-203 of 2026, the petitioner's father, a Sanitary Worker in the Municipal Committee, Taluka Rohri, died a natural death in service on 24.08.2017. In C.P. No. D-490 of 2026, the petitioner's father, an employee of the Sukkur Municipal Corporation, died on 22.01.2024. In C.P. No. D-492 of 2026, the petitioner's father, an Underground Coolie in the Sukkur Municipal Corporation, died on 02.10.2023. The petitioner applied on 18.11.2023 and again on 27.11.2025. In C.P. No. D-495 of 2026, the petitioner's father, a Junior Clerk (BPS-11) in the Sukkur Municipal Corporation, died on 22.06.2010, the petitioner then being a minor; the department itself continued to process and verify his papers as late as 22.12.2020. In C.P. No. D-670 of 2026, the petitioner's father, a Naib Qasid (BPS-02) in the District Council, Sukkur, died on 30.05.2023. In C.P. No. D-671 of 2026, the petitioner's father, a Beldar (BPS-02) in the District Council, Sukkur, died on 20.01.2016. In C.P. No. D-796 of 2026, the petitioner's father, a Dresser in the District Council, Sukkur (later District Council, Ghotki), died on 13.02.2005, the petitioner then being a minor, and the earliest document evidencing the department's engagement with his case is dated 18.02.2021. In C.P. No. D-1079 of 2026, the petitioner's father, a

Recovery Inspector (BPS-06) in the Town Committee, Mehrabpur, died a natural death in service on 31.03.2018, and the affidavit of the legal heirs nominating the petitioner is dated as late as 17.12.2025.

4. Learned counsel for the petitioners have, in substance, argued the matter on a common basis: that the right of a deceased employee's son to be appointed against the deceased quota accrues on the date of death and is not defeated by the subsequent withdrawal of the enabling rule; that this principle has been applied by the Federal Constitutional Court in its order dated 27.02.2026; that the Circuit Bench of this Court at Larkana, as well as the Lahore High Court, Multan Bench, have, in recent times, directed the appointment of similarly placed persons even after the apex Court's judgment in Muhammad Jalal's case; and that a refusal to appoint the petitioners, in the face of this trend, would itself be discriminatory.

5. Learned Additional/Assistant Advocate-General, Sindh, appearing for the official Respondents assisted by learned advocates appearing on behalf of Respondents has met this submission with an objection that has, by now, become almost the standard response of the department in this class of litigation: that the father of each petitioner, being an employee of a Local Council, was a public servant and not a civil servant; that his service was and is governed by the Sindh Local Councils Employees (Service) Rules, 2017 (**"the 2017 Rules"**) and not by the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974 (**"the 1974 Rules"**); and that Rule 11-A of the 1974 Rules, on which the entire edifice of the petitioners' claim rests, therefore has no application to them. Learned AAG has relied on the orders of this Bench dated 29.11.2023 in C.P. No. D-937 of 2021 (Hasnain Raza v. Province of Sindh) and C.P. No. D-385 of 2022, and dated 15.05.2025 in C.P. No. D-537 of 2025, in each of which an identical objection was accepted and the petitioner concerned was left to seek consideration of his case, if at all, on humanitarian grounds. He has additionally referred to the compliance report dated 12.10.2023 of the Secretary, Law, Parliamentary Affairs & Criminal Prosecution Department, filed in C.P. No. D-937 of 2021, which records that "the employees of Municipal Corporations are not civil servants;

their services are regulated under their own set of laws/rules other than APT Rules, 1974, which are meant for regulating the services of civil servants.”

6. We have heard learned counsel for the parties at length and have been taken through the record, including the 2013 Act, the 1974 Rules, the 2017 Rules, the judgment of the Supreme Court in **General Post Office, Islamabad and others v. Muhammad Jalal**¹ and the order dated 27.02.2026 of the Federal Constitutional Court². We place on record our appreciation for the able and candid assistance rendered by Mr. Ali Raza Baloch, learned Additional Advocate-General, Sindh, in the hearing of these petitions. Three questions fall for determination: first, whether an employee of a Local Council is a civil servant and whether Rule 11-A of the 1974 Rules applies to him; second, assuming it does not apply of its own force, whether it is nonetheless attracted through Rule 26 of the 2017 Rules; and third, what effect, on either footing, the Jalal judgment and the order of the Federal Constitutional Court dated 27.02.2026 have on the petitioners’ claims.

7. On the first question, we are not persuaded that the stand taken by the learned AAG calls for any departure. Section 151 of the 2013 Act declares every member and servant of a Council to be a public servant; it does not, and was never meant to, make him a civil servant. A civil servant, under Section 2(1)(b) of the Sindh Civil Servants Act, 1973, is a person in a civil service of the Province or holding a civil post in connection with the affairs of the Province. A Local Council, on the other hand, is a body corporate in its own right, with its own fund, its own Schedule of Establishment, and its own appointing authority under the 2013 Act; its employees hold their posts in connection with the affairs of the Council, not of the Province. That distinction is not merely verbal; it is the very reason the 2013 Act and the 2017 Rules stand as a code separate from the civil-service law, and it is why this Bench, on three earlier occasions, namely Hasnain Raza (C.P No.D-937 of 2021), C.P No.D-385 of 2022, and C.P No.D-537 of 2025, as well as in the twelve-petition batch disposed of as **Muhammad Ali**

¹ PLD 2024 SC 1276.

² F.C.P.L.A. Nos.508, 591, 346, 347, 348, 589, 267, 593, 130 and 353 of 2025, order dated 27.02.2026.

Maitlo and others v. Province of Sindh through Secretary Local Government Sindh and others³, proceeded on the footing that a Local Council employee is a public servant but not a civil servant, and that Rule 11-A does not, *proprio vigore*, extend to him. We see no reason to unsettle that consistent view.

8. That, however, is not the end of the matter, for a provision of the 2017 Rules that does not appear to have been placed before or considered by this Bench in any of the four orders just referred to has now been brought on the record. The 2017 Rules, running from Rule 3 to Rule 25, comprehensively regulate initial appointment, promotion, contract and temporary engagement, probation, confirmation, seniority, retirement and the general conditions of service of a Council employee, but make no provision, one way or the other, for appointment against a deceased employee's quota. Rule 26 of the 2017 Rules, however, provides as follows:

“26. Applicability of Government rules.— In all matters not provided for in these rules or any other rules, the rules or terms and conditions of service applicable to the civil servants of Government shall mutatis mutandis apply to the employees of the Council.”

9. Rule 26 is a standard residuary incorporation clause: where the 2017 Rules are silent on a given subject, the rule that governs civil servants of the Government on that subject applies, *mutatis mutandis*, to a Council employee, with such adaptation as the different institutional setting requires, but without altering the substance. Deceased-quota appointment, until 18.10.2024, was precisely such a subject: unprovided for in the 2017 Rules, yet governed for civil servants by Rule 11-A of the 1974 Rules. We find no textual or other warrant to read down the scope of Rule 26 so as to carve this particular subject out of it. It follows that, for the period preceding 18.10.2024, a Local Council employee's dependant stood, by force of Rule 26, in the same position, *mutatis mutandis*, as a civil servant's dependant for the purpose of appointment against the deceased quota. This is an independent route to the benefit, resting on the plain text of a validly made statutory rule; it is distinct from and does not depend upon the argument of administrative

³ 2024 PLC (CS) 1318 (Sukkur Bench, decided 14.05.2024).

“adoption” of Rules 10-A/11-A that was raised, but left unresolved, in **Muhammad Ali Maitlo**. This construction of a *mutatis-mutandis* incorporation clause finds recent and direct reinforcement in the Federal Constitutional Court’s decision in **Bashir Hussain (deceased) through Mst. Abida Parveen**⁴, where, upon finding that a Local Council Board had, by notification dated 31.05.1980, adopted the Government’s Pension Rules to apply *mutatis mutandis* to its own employees, the Court held that the benefit so imported “constitute a vested, enforceable, legal and fundamental right” of the Local Council employee, not defeasible for want of a separate provision in the Council’s own rules.

10. Rule 27 of the 2017 Rules, which permits relaxation of any requirement of the Rules but forbids any relaxation “in any manner less favourable” to the employee, reinforces rather than detracts from this reading: the 2017 Rules proceed on the footing that, where they are silent, a Council employee is not to be worse off than the general rules would otherwise make him.

11. That brings us to the third and decisive question. Whatever Rule 26 imports, after 18.10.2024, must be measured against the judgment of the Supreme Court in **Muhammad Jalal’s** case. Examining the deceased-quota schemes of the Federation and of all four Provinces, including Rule 11-A of the Sindh Rules, the Supreme Court held as follows:

“... Rule 11-A of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 ... or any other rule, policy, memorandum, etc. whereunder appointments without open advertisement, competition and merit, of the widow/widower, wife/husband or child of civil servants in different grades, who die during service ... are declared to be discriminatory and ultra vires Articles 3, 4, 5(2), 18, 25(1) and 27 of the Constitution. The prescribed Federal and Provincial authorities are directed to withdraw the same. However, it is clarified that the instant judgment shall not affect the appointments already made ... It is further clarified that this judgment shall not affect the policies, rules or compensation packages ... for the benefit of the legal heirs of martyred

⁴ *Bashir Hussain (deceased) through Mst. Abida Parveen v. Government of Khyber Pakhtunkhwa through Secretary, Local Government and Rural Department, Peshawar and others (C.P.L.A. No.4153 of 2022, decided on 06.08.2026)*

personnel of the law enforcement agencies and of civil servants who die on account of terrorist activities.”⁵

12. The vice identified by the Supreme Court is not peculiar to the civil service; it is the hereditary, non-competitive character of the scheme itself, which is irreconcilable with Articles 3, 4, 5(2), 18, 25(1) and 27 of the Constitution, irrespective of which arm of the State employs the deceased. A *mutatis mutandis* clause such as Rule 26 can import only what validly subsists for import; it cannot be pressed into service to resurrect, for Local Council employees, a rule already declared void for civil servants. We therefore hold that no fresh entitlement, whether founded directly on Rule 11-A or derivatively through Rule 26, can arise in respect of any death occurring on or after 18.10.2024.

13. The position is otherwise that death occurred before that date. This very question, whether Muhammad Jalal’s case takes away a right that had already accrued, arose squarely before the Federal Constitutional Court in a batch of appeals filed by the Province of Sindh against orders of the Circuit Court at Larkana directing the appointment of dependants of civil servants to the deceased quota. Repelling the Province’s contention that no appointment could follow once Rule 11-A stood struck down, the Federal Constitutional Court held as follows:

“... 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 retrospectively⁶. Even-otherwise, the Supreme Court in a subsequent decision⁷, 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.”

⁵ General Post Office, Islamabad and others v. Muhammad Jalal, PLD 2024 SC 1276, para. 25.

⁶ Pir Bakhsh v. Chairman, Allotment Committee, PLD 1987 SC 145.

⁷ Zahida Parveen v. Government of Khyber Pakhtunkhwa, C.P.L.A. No.566-P/2024.

14. We find no principled basis for confining this reasoning to civil servants alone, once it is accepted, for the reasons already given, that the identical rule was extended to Local Council employees by Rule 26 before it was struck down. Both classes of employee are declared public servants by the law under which they serve; both derived, until 18.10.2024, an identical entitlement from an identically worded rule, and the object of that entitlement, compassionate provision for the family of a public employee who dies in harness, draws no distinction between the two. To hold that a civil servant's dependant retains an accrued right while a Local Council employee's dependant, similarly placed in point of time, does not, would be to countenance precisely the kind of arbitrary classification that Article 25(1) of the Constitution forbids and that the Jalal judgment was itself at pains to eliminate. We hold, accordingly, that a right to appointment against the deceased quota, accrued before 18.10.2024 by reason of the death of a Local Council employee, stands preserved on the same footing and subject to the same limitations as would apply to a civil servant's dependant.

15. Learned counsel for the petitioners also referred us to an order dated 14.10.2024 of the Lahore High Court, Multan Bench, and an order dated 07.08.2025 of this Court's Circuit Bench at Larkana, said to have directed the appointment against the deceased quota after the Jalal judgment. They also referred us to an order of the Supreme Court dated 10.08.2016 in C.Ps. Nos.482-503-K of 2016 and a judgment dated 17.07.2025 in Civil Petition No.1242-K of 2024. None of these orders concerns an employee of a Local Council, and it is not shown that the interplay of Rule 26 of the 2017 Rules with Rule 11-A, the question that in fact governs the present petitions, arose or was considered in any of them. For that reason, we have preferred to rest our conclusion on the reasoning of the Federal Constitutional Court reproduced above, being both the most recent and the most directly applicable pronouncement on the accrued rights question, rather than on single Bench orders whose facts are not shown to be on all fours with the controversy before us.

16. Where the dependant was a minor when his father died, the two years allowed for applying against the deceased quota do not run from the date of death but from the date he attains majority; that is the view this Bench itself took in **Aqib Ali Mirani v. Province of Sindh**⁸ and we respectfully adopt it here. It bears directly on the petitioners in C.P. Nos. D-796 and D-495 of 2026 and to the extent his minority at the relevant time is made out, on the petitioner in C.P. No. D-1079 of 2026.

17. We may also note that the Government of Sindh, by a notification dated 30.04.2026, disclosed to us, through the statement filed by the learned AAG in C.P. No. D-670 of 2026, that an order dated 10.06.2026 of the Circuit Court at Larkana in C.P. No. D-395 of 2025 (Irfan Ali v. Province of Sindh and others) directed that a case of this description “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.*” Nothing in that notification excludes an employee of a Local Council, and consistently with the view we have taken, we see no reason why it should not govern him as well.

18. Applying the foregoing to the facts already noticed, the father of each petitioner died before 18.10.2024, so that each of these eight petitions falls, in point of time, within the class in which a right may have accrued. Whether it did in fact accrue, that is, whether the application was made within two years of death or of majority if the dependant was then a minor; whether the petitioner is qualified for an available post; and whether no other member of the family has already been accommodated against the same vacancy are questions of fact that this Court, sitting in its constitutional jurisdiction, is neither equipped nor inclined to resolve on affidavits. We would only observe, without prejudging the matter, that the position in C.P. Nos. D-796 and D-1079 of 2026, where several years intervened between the death or the attainment of majority and the earliest documented approach to the department, calls for closer scrutiny than the position in the remaining petitions, and that in C.P. No. D-495 of 2026, where the department’s own

⁸ C.P. No. D-1676 of 2023 (Sukkur Bench, decided 07.05.2024).

record shows the case remained under active verification as late as December 2020 without ever being finally rejected, the ensuing delay cannot be visited upon the petitioner.

19. For these reasons, we are not inclined to issue a mandamus directing the outright appointment of any petitioner; that course is open only once the factual controversy noted above is resolved and the Government of Sindh, by the notification dated 30.04.2026, has itself undertaken to resolve it administratively. The just and proportionate course, and the one most consistent with the law as declared by the Supreme Court and the Federal Constitutional Court, is to require the competent authority to decide each claim on its own merits within a fixed period.

20. For the foregoing reasons, all the captioned connected petitions are disposed of as follows:

- i. It is declared that an employee of a Local Council constituted under the Sindh Local Government Act, 2013 is a public servant under Section 151 thereof, but is not a civil servant within the meaning of Section 2(1)(b) of the Sindh Civil Servants Act, 1973, and that Rule 11-A of the 1974 Rules does not, of its own force, apply to him.
- ii. It is further declared that, by operation of Rule 26 of the 2017 Rules, the benefit engrafted in Rule 11-A stood extended, *mutatis mutandis*, to employees of Local Councils for the period preceding 18.10.2024.
- iii. In consequence of the judgment of the Supreme Court in Muhammad Jalal's case (PLD 2024 SC 1276), no entitlement, whether founded directly on Rule 11-A or derivatively under Rule 26, survives in respect of any death occurring on or after 18.10.2024.
- iv. A right accrued before that date, that is, where the Local Council employee died before 18.10.2024, remains preserved on the same footing and subject to the same conditions as would govern a civil servant's dependant, in terms of the order of the Federal

Constitutional Court dated 27.02.2026 read with Article 25(1) of the Constitution.

- v. Respondent No. 2 in each petition (the Secretary, Local Government Department, Government of Sindh, or the officer discharging his functions) shall, within sixty days of receipt of a copy of this order, examine the claim of each petitioner on the touchstone of (a) death of the Local Council employee before 18.10.2024; (b) application within two years of death, or of attaining majority if the dependant was a minor at the relevant time; (c) possession of the qualification prescribed for an available post; (d) that no other member of the deceased's family has already been accommodated against the same vacancy; and (e) availability of a vacant post, applying *mutatis mutandis* the provisions of the omitted Rule 11-A read with the notification dated 30.04.2026. The Respondent shall pass a reasoned order after hearing the petitioner concerned, giving particular scrutiny to the delay noticed in C.P. Nos. D-796 and D-1079 of 2026 and due expedition to C.P. No. D-495 of 2026.
- vi. The petitioner in each case shall be at liberty to challenge the order of the Administrative Department in accordance with law if he feels aggrieved thereby.

21. All the captioned petitions, together with any pending applications, stand **disposed of** on the above terms. There shall be no order as to costs. Office is directed to place a signed copy of this order in the captioned connected matters.

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Abdul Basit