

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

CP No. D- 1097 of 2023

[Imam Ali Rind and others v. Province of Sindh & Others]

BEFORE:

MR. JUSTICE ADNAN-UL-KARIM MEMON

MR. JUSTICE RIAZAT ALI SAHAR

Petitioners : Through Mr. Waqar Ahmed Memon, Advocate

Mr. Rafiq Ahmed Dahri, Asstt: A.G.

Date of hearing:

& Decision:

25.11.2025

ORDER

ADNAN-UL-KARIM MEMON, J. - Through instant Constitutional Petition, the Petitioner has sought direction to the official respondents to:-

- i. Resolve the issue regarding outsiders not performing their duties, and they may be sent to their respective areas.
 - ii. to initiate the recruitment process for the vacant position of petitioners No. 2, 3, and other vacant positions, and hire eligible candidates from the local area;
 - iii. To do away with grievances of the petitioners by considering the khatedars, their villagers, close relatives, and/or sons for the post of tube-well chowkidar if they are found eligible in the recruitment process.
2. The case of the petitioners is that they were appointed on a work-charged basis by the Federal Government in 1994 in WAPDA for the Left Bank Outfall Drainage (LBOD) project. Their services were later transferred to Respondent No.1, and since then, they have been serving as tube-well operators and chowkidars in District Shaheed Benazirabad. They submitted that they were originally posted at locations where they also held *khatas* of the relevant land for the purpose of protecting government tube-wells. Their services were regularized pursuant to an order passed in CP No. 388/2010 and under the Sindh Regularization of Contingent Paid or Work-Charged Employees of LBOD Act, 2018. The petitioners claim that, after the retirement or death of some of Petitioners, their sons or close relatives who were *khatedars* were required to be appointed to vacant posts of tube-well operators and chowkidars. However, respondents instead posted outsiders from other districts who, according to petitioners, have little interest in performing duties. Despite

several vacancies, their requests for the appointment of their sons and relatives were not considered, prompting the present petition. They prayed to allow the petition.

3. Respondent No.1 /Secretary Irrigation filed comments stating that the petitioners were regularized only through court orders, and that no policy exist requiring appointment of *khatedars* or their relatives to lower-grade posts. It was further stated that the Supreme Court, vide order dated 26-09-2024, passed in CP No. 3390 of 2021, declared the deceased-quota recruitment under Rule 11-A of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, discriminatory and unlawful, and directed that fresh recruitment for BPS-1 to 4 must be made through District Selection Committees following all legal formalities. Respondents therefore seek dismissal of the petition.

4. We have heard learned counsel for the parties and examined the material available on record.

5. The petitioners' claim is founded on the assertion that, being *khatedars* and long-serving employees, their sons or close relatives ought to be appointed against the vacant posts of tube-well operators and chowkidars in their area. However, no statutory provision, rule, or notified policy has been produced to show that *khatedars*, their villagers, or their family members are entitled to preferential appointment to government posts, nor that the respondents are legally bound to appoint them in such manner.

6. Conversely, the position placed before this Court by Respondent No.1 is supported by the recent direction of the Supreme Court of Pakistan in CP No. 3390 of 2021 vide order dated 26-09-2024, wherein recruitment under the deceased-quota Rule 11-A of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 was declared discriminatory and violative of constitutional guarantees. The Supreme Court further mandated that all fresh appointments in BPS-01 to BPS-04 must strictly be made through the District Selection Committees after completion of codal formalities and competitive process. This determination is binding on all authorities under Article 189 of the Constitution.

7. In view of the above, the relief sought by the petitioners to restrict outsiders, and prefer *khatedars* or their relatives for appointment, or to direct respondents to hire their nominees cannot be granted as it would directly contravene the binding directions of the Supreme Court and the governing Recruitment Rules. Public employment must be made strictly in accordance with law, through open competition, and not on the basis of local residence, until and unless law permits, land ownership, or familial association. However, the respondents are obliged to ensure that all sanctioned vacant posts are duly advertised and filled through a

transparent process in accordance with law. The petitioners, their family members, or any eligible local candidates may also apply and compete for such posts if they meet the prescribed criteria.

8. Resultantly, the petition being devoid of legal merit is dismissed, with direction that the respondents shall initiate and complete the recruitment to vacant posts strictly in accordance with law and the directions of Supreme Court, if not advertised earlier, ensuring transparency and fair opportunity to all eligible candidates.

9. Petition stands disposed of accordingly.

JUDGE

JUDGE

Karar_Hussain/PS*