Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

CP No.D-1640 of 2026

(Muhammad Nawaz v. the Province of Sindh and 2 others)

Date	Order with signature of Judge

Before:

Mr. Justice Riazat Ali Sahar

Mr. Justice Ali Haider 'Ada'

1. For orders on office objection
2. For hearing of main case

Date of hearing & order: 20.10.2026

Mr. Sajjad Ali, advocate for the petitioner
Mr. Abdul Jalil Zubedi, Additional Advocate General Sindh

ORDER

Riazat Ali Sahar, J. Through this Constitutional Petition under Article 199 of the Constitution, the petitioner seeks a declaration that the respondents' failure to appoint him on the deceased quota is illegal, and a direction to appoint him on that quota.

2. The petitioner's mother, a Lady Health Worker (BPS-05) appointed on contract on 15.04.2010 and regularized from 01.09.2014, died in service on 24.08.2024. The petitioner applied for appointment on the deceased quota within two years of her death, and the application was forwarded by respondent No.3 (District Health Officer), who sought guidance from the competent authority. No offer letter was issued to him before the Supreme Court's order. He claims that his case is protected by the saving clause in the Supreme Court's judgment and that the respondents have wrongly refused to process it.

3. We have heard learned counsel for the petitioner and the learned A.A.G. and perused the record.

4. Rule 11-A of the APT Rules (deceased quota) was declared unconstitutional in ***General Post Office, Islamabad v. Muhammad Jalal*** **(PLD 2024 SC 1276)**, decided on **26.09.2024 in Civil Petition No.3390 of 2021**, and was thereafter omitted. The Government of Sindh, Law Department, has also issued a corrigendum dated 02.05.2025 on the effectiveness date of that judgment, in light of the order of the Supreme Court dated 17.03.2025 in CPLA No.566-P of 2024. Thus, the legal position has seen several developments, and the petitioner's claim depends on whether a right to employment had accrued to him before the judgment took effect. **The learned A.A.G. has now drawn our attention to the Government of Sindh's notification dated 30.04.2026 issued by the Government of Sindh to insert a proviso to the omission of Rule 11-A, which reads**:

> "Provided that if a right of employment had already accrued to any of the children or, as the case may be, spouse of the civil servant, he or she shall not be deprived of the benefit accrued to him or her prior to the judgment of the Hon'ble Supreme Court of Pakistan dated 26.09.2024, passed in Civil Petition No. 3390 of 2021. notwithstanding the omission of Rule 11-A thereunder, as observed by the Hon'ble Federal Constitutional Court of Pakistan vide order dated 27.02.2026 in F.C.P.LA Nos. 508, 591, 346, 347, 348, 589, 267, 593, 130 and 353 of 2025, and 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".

Learned A.A.G. Sindh submits that reading said notification with the Sindh Government Rules of Business, all applications for appointment on the deceased quota will now be decided by the Administrative head of the concerned department.

5. The petitioner seeks a direct order of appointment. However, whether a right had accrued to him before the judgment, whether his application was in time, whether he is qualified and eligible, and whether his mother's service as a Lady Health Worker brings him within the notification, are questions of fact requiring verification of record. They cannot properly be decided in writ jurisdiction, especially when the Government has now provided a specific forum for them. A writ of mandamus requires a clearly established legal right and a refusal to perform a duty, and neither can be assumed while the competent authority has yet to decide his application under the notification.

6. Still, the petitioner is entitled under Articles 4 and 25 of the Constitution to have his application decided in accordance with law, fairly and through a reasoned order. In view of the foregoing development, we refer the petitioner to the Secretary to Government of Sindh, Health Department, Karachi, for assessing his eligibility under the Notification dated 30.04.2026. The Secretary shall treat the petitioner's application as pending, hear him, and decide it on merit by a speaking order within **sixty (60)** days of receipt of this order along with a copy of the petition. If found otherwise eligible, the appointment order shall be issued in his favour. Any adverse order shall be communicated with reasons, and the petitioner shall be free to seek his remedy under the law.

7. We have expressed no opinion on the merits of the petitioner's claim. The petition stands ***disposed of*** in the above terms along with pending application(s), if any.

JUDGE

JUDGE

Nadir*