

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
C.P No.D-74 of 2020
[Abdul Qadir v. Province of Sindh and others]
C.P No.D-479 of 2025
[Farhan Ali v. Province of Sindh and others]

Present:
Mr. Justice Arbab Ali Hakro,
Mr. Justice Abdul Hamid Bhurgri,

Petitioner in C.P. D-74/2020	:	Through Mr. Irfan Badar Abbasi, Advocate
Petitioner in C.P.D-479/2025	:	Through Mr. Nisar Ahmed G. Abro, Advocate
Respondents	:	Through Mr. Liaquat Ali Shar, Additional Advocate General, Sindh.
Date of hearing	:	<u>04.12.2025</u>
Date of decision	:	<u>04.12.2025</u>

ORDER

ARBAB ALI HAKRO, J:- The above two Constitutional Petitions are being taken up together for adjudication in view of the commonality of legal issues, factual substratum, and reliefs sought therein.

2. Petitioner Abdul Qadir, son of late Constable Ghulam Muhammad Jeho (Buckle No. 2286), resident of District Shikarpur, filed Constitutional Petition No. D-74 of 2020 under Article 199 of the Constitution. His father, while serving in the Police Department, Shikarpur, died in service on 17.01.2019 due to a motorcycle accident, which was formally acknowledged through an obituary dated 28.01.2019 issued by the Superintendent of Police, Shikarpur and supported by the death certificate

of the Union Council Gaheja. Being one of the surviving legal heirs, as evidenced by the Family Registration Certificate, the petitioner claimed entitlement to appointment under the "Deceased Quota" in terms of Rule 11-A of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, and departmental standing orders. He submitted applications to the Senior Superintendent of Police, Shikarpur, seeking appointment, but despite the existence of vacant posts and his eligibility, no appointment was offered. He therefore approached this Court seeking declaration of his eligibility and direction to the respondents to appoint him against the deceased quota.

3. Petitioner Farhan Ali, son of late Constable Anwar Ali (PC-1228), filed Constitutional Petition No. D-479 of 2025. His father expired on 21.07.2016 during service, and the death certificate was annexed. The petitioner initially applied to the Deputy Inspector General of Police, Larkana, on 21.09.2016 for appointment under the deceased quota, whereafter the Senior Superintendent of Police, Larkana, issued a letter of the same date acknowledging his claim. Subsequently, the petitioner's name appeared at serial No. 4 in the list dated 20.02.2017 prepared for verification of legal heirship, domicile, and PRC, and later at serial No. 129 in the list dated 03.12.2019 issued by the IGP Sindh for appointment under the deceased quota. In the year 2022, the SSP Larkana required verification of the criminal record and the CRO database dated 20.05.2025, which reflected the petitioner's name at serial No. 6. The petitioner also applied for the post of Police Constable (BPS-07) against the deceased quota, but no appointment order was issued. He has therefore invoked the constitutional jurisdiction of this Court, seeking direction to the respondents to issue an appointment order in his favour as a Police Constable based on the deceased quota.

4. The official respondents in both petitions have taken a uniform stance: in C.P. No. D-74 of 2020, the Senior Superintendent of Police, Shikarpur, reported that although Abdul Qadir applied for appointment as Junior Clerk (BPS-11) against the deceased quota in 2020. His case was forwarded to the IGP Sindh; only 7 out of 175 candidates were selected. His file was returned, while later advertisements under the Sindh Police (Shaheed, Deceased, Permanently Invalidated or Incapacitated Quota) Recruitment Rules, 2021 invited applications for other posts but not Junior Clerk and Abdul Qadir did not apply afresh, whereas his brother failed in the written test; similarly, the Inspector General of Police Sindh in para-wise comments reiterated that after the High Court's Judgment in *Imtiaz Hussain v. Province of Sindh* (2019) and the promulgation of the 2021 Rules, recruitment must be through competitive process and not by invoking Rule 11-A, and therefore petitioner's claim merits no consideration; likewise, in C.P. No. D-479 of 2025, the Inspector General of Police Sindh submitted that Farhan Ali son of late Constable Anwar Ali, did apply for Police Constable (BPS-07) under deceased quota in the year, 2022, but failed in the physical test, did not apply in the subsequent recruitment advertised in the year, 2024 and in any case the Honourable Supreme Court in Judgment dated 26.09.2024 (PLD 2024 SC 1276) declared Rule 11-A and analogous provisions unconstitutional, leading to discontinuation of all deceased quota appointments by official Notification dated 01.11.2024 and Government circular dated 26.12.2024, hence both petitions, being founded on a repealed and invalidated provision, merit dismissal.

5. Learned counsel representing petitioner Abdul Qadir contends that the petitioner, being the son of a police constable who died in harness, is squarely entitled to appointment under the deceased quota envisaged by Rule 11-A of the Sindh Civil Servants (Appointment, Promotion and

Transfer) Rules, 1974. It is urged that the Rule is couched in mandatory terms, "shall be provided job" and creates a vested right which cannot be defeated by administrative inaction. Counsel submits that the petitioner's application was duly filed, supported by an obituary and a death certificate. Yet, the respondents failed to discharge their statutory duty despite the availability of posts. It is argued that the doctrine of legitimate expectation binds the department to honour its own rules and standing orders, and that arbitrary refusal to appoint violates Articles 4, 18 and 25 of the Constitution.

6. Learned counsel representing Petitioner Farhan Ali submits that the petitioner's claim stands fortified by repeated departmental acknowledgements, his name appeared in verification lists of 2017 and 2019, and he was called for scrutiny and CRO verification, thereby establishing recognition of his entitlement. It is contended that the subsequent failure in the physical test cannot extinguish a statutory right, particularly when the process was marred by delay and irregularity attributable to the respondents. Counsel argues that the petitioner cannot be penalised for administrative lapses spanning several years, and that equity demands either an appointment or, at a minimum, reconsideration under a fair and transparent process. It is urged that denial of appointment despite long-standing recognition of his claim amounts to arbitrary discrimination and infringes his constitutional rights, warranting issuance of a writ directing respondents to appoint him as Police Constable (BPS-07) under the deceased quota.

7. Conversely, the learned Additional Advocate General submits that both petitions are misconceived and not maintainable. It is argued that the foundation of the claim, Rule 11-A of the 1974 Rules, has been struck down by the Honourable Supreme Court in General Post Office, Islamabad

v. Muhammad Jalal (PLD 2024 SC 1276), wherein all forms of compassionate appointments were declared discriminatory and ultra vires the Constitution. Pursuant thereto, Rule 11-A has been omitted, and the Government has directed that all pending deceased quota cases stand null and void. It is further submitted that under the Sindh Police Recruitment Rules, 2021, recruitment is permissible only through a competitive process involving physical, written tests, and interviews. In fact, Petitioner Abdul Qadir did not apply afresh under the 2021 Rules, while Farhan Ali did apply but failed in the physical test and thereafter abstained from subsequent recruitment. In these circumstances, the learned Law Officer argues that no vested right survives, the petitions are devoid of merit, and both may be dismissed.

8. We have heard learned counsel representing the petitioners as well as the learned Additional Advocate General Sindh, and having meticulously examined the pleadings, departmental reports and the statutory instruments governing recruitment under the Sindh Police (Shaheed, Deceased, Permanently Invalidated or Incapacitated Quota) Recruitment Rules, 2021 (the "**2021 Rules**")

9. It is axiomatic that recruitment in the Sindh Police against the categories of *shaheed*, *deceased*, and *permanently invalidated or incapacitated* employees is no longer regulated by ad hoc standing orders or administrative memoranda, but by a codified regime promulgated vide Notification dated 23.08.2021. These 2021 Rules, read conjointly with the notifications constituting the Special Provincial Recruitment Committee and its sub-committees, constitute the operative legal substratum. They prescribe not only the reservation of quotas: 3% for ASIs, 5% for Constables, Wireless Operators, and Driver Constables, and 20% for Ministerial and Class IV staff, but also the competitive modalities of

recruitment, namely physical examination, written test, and interview. The 2021 Rules are thus the *lex specialis*, and any claim must be tested against their provisions.

10. The petitioner, Abdul Qadir, sought appointment as Junior Clerk against the deceased quota following the death in service of his father, a police constable. His application was duly processed and forwarded, but the record demonstrates that 175 candidates applied against only 07 reserved posts, and only those who qualified the typing test were selected. The petitioner's case was returned un-accommodated. Subsequently, under the 2021 Rules, advertisements were issued for Constables, Driver Constables, Wireless Operators, and Class IV staff, but the quota for Junior Clerk had already been exhausted. The petitioner did not apply afresh under the new regime.

11. The gravamen of his grievance is that, despite being eligible, he was denied appointment. Yet, when tested against the 2021 Rules, it becomes manifest that his claim falters on two counts: first, the exhaustion of quota for Junior Clerk and second, his non-participation in the competitive process mandated by the Rules. The entitlement under the Rules is contingent, not absolute; it crystallises only upon successful completion of the prescribed tests. The petitioner's reliance on prior departmental practice cannot override the statutory scheme.

12. The petitioner, Farhan Ali, son of a deceased constable, applied for appointment as a Police Constable under the deceased quota. His claim was acknowledged in departmental lists and forwarded for recruitment tests under the 2021 Rules. However, he failed the physical test conducted by Sub-Committee IV, headed by DIGP Training Sindh, and did not apply in the subsequent recruitment cycle advertised in 2024.

13. The petitioner's contention is that departmental delay and repeated verification created a legitimate expectation of appointment. Yet, expectation cannot metamorphose into entitlement absent compliance with the competitive process. The failure in the physical test is a substantive disqualification under the Rules. The Court cannot, in exercise of constitutional jurisdiction, supplant the statutory requirement of fitness and suitability with equitable sympathy.

14. Both petitions are united by the circumstance that the petitioners are sons of deceased police constables who died in service. Both initially applied under departmental practice, but their claims were either un-accommodated due to limited quota or failed under the competitive process. Petitioner Abdul Qadir never appeared in recruitment process, neither presently holds an appointment order.

15. The legal question is whether, in light of the 2021 Rules, this Court can direct appointment merely on the basis of heirship. The answer must be in the negative. The Rules prescribe a structured, merit-based process. Inclusion in verification lists or forwarding of files is interlocutory; it does not confer a vested right. Appointment is the culmination of the process, not its inception.

16. The presumption of regularity attaches to administrative acts performed under statutory rules. A petitioner who challenges the outcome of a test bears the onus of establishing irregularity or mala fides. Neither petitioner has presented cogent evidence of procedural breach. Petitioner Abdul Qadir did not participate in the new process, and Petitioner Farhan Ali failed the physical test. In both cases, the respondents acted within the ambit of the Rules. Judicial review is supervisory, not substitutive; it ensures legality, not indulgence.

17. The doctrine of legitimate expectation cannot be invoked to perpetuate a practice that has been superseded by statutory rules. Equity follows the law; it does not supplant it. Where the Rules require competitive selection, the Court cannot direct appointment dehors the process. Sympathy for bereaved families, though humanly compelling, cannot translate into a judicial fiat that contravenes statutory prescriptions.

18. The recruitment to public service must be governed by transparency, merit and non-discrimination. Any relief that creates an exception must be justified by compelling circumstances. Directing an appointment outside the competitive process would erode public confidence, prejudice other candidates, and subvert the integrity of the recruitment framework.

19. In view of the foregoing and considering the facts and circumstances of both petitions, we find that neither petitioner has established a right to appointment under the operative recruitment regime. Petitioner Abdul Qadir's claim is extinguished by non-participation and exhaustion of quota, and Petitioner Farhan Ali's claim is foreclosed by failure in the physical test and non-participation in subsequent recruitment. Both petitions, therefore, are devoid of merit. However, it is clarified that Petitioner Abdul Qadir, who had not participated in recruitment process, may apply when the vacancies are announced and his case shall be considered under the Recruitment Policy in accordance with law.

20. For reasons recorded above, both Constitutional Petitions stand **dismissed**. No order as to costs.

JUDGE

JUDGE