

IN THE HIGH COURT OF SINDH AT KARACHI

Constitution Petition No. D-03 of 2026

PRESENT: Mr. Justice Muhammad Saleem Jessar
Mr. Justice Nisar Ahmed Bhanbhro

Petitioner, Zain Ahmed : through Mr. Fazul - ur - Rehman, Advocate

Respondent Nos.1 to 3: through M/s Hakim Ali Shaikh Addl. AG
and Sagheer Ahmed Abbasi, Assistant AG.

Date of hearing : 31.03.2026

Date of Judgment : 31.03.2026

ORDER

Muhammad Saleem Jessar, J.- Through this petition, petitioner claims following relief(s):-

"I. Issue a Direction, Order, or Writ in the nature of Mandamus, directing the Respondents, particularly Respondent No. 1, to immediately issue the formal appointment letter to Petitioner for the post of Junior Clerk (BS-11) on compassionate/deceased quota, with effect from the date his case was duly recommended by the department, along with all consequential benefits

II. Pass an interim order directing the Respondents to consider and place the case of Petitioner before the competent authority for immediate issuance of the appointment order, pending final disposal of this petition;

II. Award the costs of this petition to the Petitioners; and

IV. Grant any other relief that this Honourable Court deems fit and proper in the interest of justice."

2. Counsel for the petitioner contended that father of the petitioner was serving as Assistant (BS-11) in respondent's department and died during service on 20.01.2020. He further contended that the case of the petitioner for appointment under deceased quota was referred to the appointment authority but they had not taken any decision. He prayed for issuance of appropriate directions for appointment of the petitioner under deceased employee quota.

3. Learned Addl. Advocate General Sindh contended that the petitioner claims the job of Junior Clerk and no such vacant post was available in the department, therefore, the case of the petitioner had been forwarded to the

higher authorities for consideration in accordance with law and has yet to be decided.

4. Heard arguments and perused the material made available before us on record.

5. It is an admitted position that father of the petitioner served in local government department as Assistant and passed away on 20.01.2020, and such obituary was notified by the department. Rule 11-A of Sindh Civil Servants (Appointment, Promotion & Transfer) Rules 1974 (APT Rules) (As stood before omission in compliance to the judgment of Hon'ble Supreme Court of Pakistan passed in the case of *General Post Office, Islamabad and others Vs. Muhammad Jalal* (PLD 2024 SC 1276), (GPO Case) provided that the concerned administrative department was under obligation to accommodate one of the family members of the deceased employees who died while in service or incapacitated to perform the job any more. For ease of reference Rule 11-A of APT Rules is reproduced herein below:-

"11-A Where a civil servant dies while in service or is declared invalidated or incapacitated for further service, one of his/her children or, as the case may be [spouse] (when all the children of the deceased employee are minor) shall be provided job who applies within a period of two years of death or declaration of invalidity or incapacity of civil servant on any of the [Basic Pay Scale 1 to 11] in the Department where such civil servant was working;

Provided that such appointment shall be made after fulfillment of formalities as required in the recruitment rules and holding interview, for the post applied for:

Provided further that the cut of date shall be within two years of the death of the officer or official.

[Provided further that if a right of employment has already accrued to any of the children of deceased or invalidated or incapacitated civil servant then the former shall not be deprived of the benefit accrued to him under Notifications, dated 11.03.2008 and 17.07.2009 of these rules."

6. On the demise of father, petitioner moved an application to the department for appointment as Junior Clerk. The application of Petitioner was forwarded to the Special Secretary, Local Government, Government of Sindh to consider the petitioner for appointment against the deceased quota vide letter dated 13.03.2020. It is shocking to notice that the competent authority has failed to decide the application after the lapse of 06 years. It was obligatory upon department to consider the case of the petitioner for appointment and issue an appointment letter against any suitable post in grade 1 to 11 by following the due process of law. The inaction and defiance on the part of the department compelled the petitioner to invoke the

jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973.

7. Since the Rule 11-A (surpa) has been omitted pursuant to the directions contained in the judgment dated 27.02.2026 rendered by the Hon'ble Supreme Court of Pakistan in the GPO case (supra). A large number of petitions were allowed by a Division Bench of this Court comprising both of us holding that the GPO case would not apply retrospectively and accrued rights will not vanish. The Government of Sindh assailed upon the orders passed by this Court before Honorable Federal Constitutional Court of Pakistan through F.C.P.LA No 508 of 2025 and others (Re - The Province of Sindh vs. Muhammad Rizwan Khan & others). The interpretation rendered by this Court was approved and petitions for leave to appeals were dismissed vide order dated 27.02.2026, the operative part of the esteemed order reads as under:

4. As noted above, petitioner is aggrieved of acceptance of writ petitions of the respondents by learned Sindh High Court. The controversy pertains to the fact that respondents are spouse/children of the deceased Sindh civil servants and sought appointments on the basis of Rule 11-A of Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974 (the Rules). The Supreme Court of Pakistan vide judgment passed in case reported as General Post Office, Islamabad and others Vs. Muhammad Jalal (PLD 2024 SC 1276) struck down Rule 11-A ibid and petitioner now seeks benefit thereof on the basis that since the Rule is no longer in the field, no appointment can be made. The nub of the controversy is that at the time when the judgment of the Supreme Court of Pakistan supra was handed down, had the right accrued in favour of the respondents? In this regard, 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 retrospectively. Even-otherwise, the supreme Court in a subsequent decision?, 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. In view of above position of law, we do not find any legal infirmity in the reasoning handed down by the learned Sindh High Court, in the impugned judgment, warranting interference.

8. Under Article 189 of the Constitution of Islamic Republic of Pakistan, 1973 judgment of the Federal Constitutional Court is binding upon the

Supreme Court of Pakistan as well as to this Court, therefore, in view of the judgment rendered in the case of Province of Sindh vs. Muhammad Rizwan Khan & others, the petitioner is entitled for a job on the deceased quota in the respondent department.

9. The stance of the department that petitioner could not be appointed as he claimed the post of Junior Clerk, which was not available within the sanctioned posts, needless to say that Rule 11 - A lays down for appointment against any post in grade 1 to 11, it does not mandate the deceased spouse/children to claim a particular post. It is for the department to decide for the appointment against any suitable post for which the vacancy is available.

10. For the foregoing reasons, case for indulgence by this Court is made out; consequently, this petition is hereby allowed. The competent authority of respondent's department is directed to issue appointment letter to the petitioner against any suitable post within a period of one month from the date of this order.

11. Office is directed to send copy of this order through facsimile to the respondents for compliance. MIT-II to ensure compliance.

J U D G E
HEAD OF CONST. BENCHES

J U D G E

Approved for Reporting.