

**ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD
C.P.No.D-1478 of 2012**

DATE	ORDER WITH SIGNATURE OF JUDGE
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02.11.2016.

Mr. Rao Faisal Ali, Advocate for petitioner.
Mr. Ashfaque Nabi Kazi Asstt. A.G.

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Reply of paragraph-10 by the respondent No.1 (Director School Education, Mirpurkhas Division at Mirpurkhas) is that:-

“The respondent have not departed from the parameters of the recruitment rule framed for the appointment on deceased quota but they adhered themselves with the Government rules and policies issued from time to time and have not issued appointment order to the politically nominated candidates. Hence all the allegation are false/baseless.

Factual plea of petitioner is not denied, however it is contended that their case has been forwarded to higher authorities. It is also contended that petitioners No.3 and 6 failed to approach their department for appointment. Scope of Section 11(a) discussed in paragraph-8 of Mir Hassan case (CP.No.D-294/14) which reads that

*“8. The earlier portion of the said rule appears to be addressing the ‘Authority’ whereby bringing it under a mandatory obligation (by use of words shall) to provide a job to any of the unemployed children of such civil servant but by later portion such has been made subject to activation of such family itself but without any mechanism to first inform the **family** of such condition which may result in costing it (**family**) the benefit of such ‘rule’ even. Let it be clear that said ‘rule’ addressed the **family** of such a civil servant and even the later portion concludes to a result that it is not necessary for applying such right that there must have been publication of **jobs** which usually is not advertised on falling of a single vacancy. Thus, reading of the above ‘rule’ as a whole would result that if such move (applying under this rule) is not within a period of **two years** the family shall stand deprived of benefit of **rule** which in all senses shall mean a **penal one** which should not happen without an opportunity. Therefore, if the ‘Authority’ does not intimate to family of such civil servant before expiry of due date the object of such insertion/amendment cannot be said to have served its purpose and object but we regretfully note that we have not experienced a single case where department itself activated to serve the object of the said rule.”*

Whereby, it is the duty of the department to approach family of the deceased employee and rescue them while providing appointment by accommodating any person from that family by issuing appointment up to

Grade-11, hence question of cut of date is having no force under the eyes of law. Accordingly, respondent No.2 shall issue appointment order in favour of all these petitioner within one month. Non- compliance would be treated as punitive act of respondents. Disposed of.

JUDGE

JUDGE

Ahmed/Pa