

**ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD
C.P.No.D-773 of 2015.**

DATE	ORDER WITH SIGNATURE OF JUDGE
-------------	--------------------------------------

1. For orders on office objection.
2. For katcha peshi.

23.11.2016.

Mr. Fakharuddin Dehraj, Advocate for petitioner.

Mr. Allah Bachayo Soomro, Additional A.G.

=

Respondent No.3 has filed comments, wherein service of petitioners' father and his death during service is not denied. On the contrary, it is contended that *“the contents of Para-5 of petition are correct”*. The application forwarded to Secretary Health, Government of Sindh is recommended and yet no approval has been received from him, waiting for approval under deceased quota. Whereas, learned A.A.G has contended that there is policy of Province of Sindh, whereby committee has been constituted which has to examine the cases of deceased quota. Such direction was issued in 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.”*

In above referred matter, it was never intended to constitute *Committee* but it was directed that Chief Minister has no concern with such matters which *otherwise* was found a *right* therefore, Chief Secretary was directed to ensure that the appointments are made by the concerned authorities as per rules. In the instant matter, the appointing authority is D.H.O and claim of the petitioner is not denied therefore, there is no need to forward the matter for such approval before the committee rather it is the *Authority* (appointing authority) which has mandate with regard to pending cases. Accordingly D.H.O shall issue appointment order within one month with compliance report. In case of failure, his conduct would be treated as pejorative act and would be liable for contempt of Court proceedings.

JUDGE

JUDGE

Ahmed/Pa