

*Order Sheet*  
**IN THE HIGH COURT OF SINDH KARACHI**  
**Constitutional Petition No. D –483 of 2017**

Before:

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

Mst. Bakhmina

*Versus*

The Government of Sindh and 05 others

Date of hearing & order : 11.12.2020

Mr. Badar Hussain Mughal, advocate for the petitioner.

Mr. Ali Safdar Depar, Assistant A.G Sindh along with Raza Mian DSP (Legal),  
SI Saleem Faridi, Headquarter Garden, Karachi and Inspector Ali Haider, CTD.

**ORDER**

**ADNAN-UL-KARIM MEMON, J.** Through the captioned constitutional petition, petitioner is seeking the declaration to the effect that her late husband Constable Amjad Ali embraced *Shahadat* during service on 26.12.2012 and he may be declared as Shaheed (martyr) and all the benefits as admissible under the law may be granted to her being a widow.

2. Mr. Badar Hussain Mughal, learned counsel for the petitioner, has argued that petitioner's husband who was constable died while performing duties and was thus fully entitled to the status of Shaheed, however, a committee in terms of The Sindh Shaheed Recognition and Compensation Act-2014 not competent to do so decided against granting her such status vide decision dated 05.05.2020. Learned counsel refers to section 2(a) of The Sindh Shaheed Recognition and Compensation Act-2014 wherein the competent authority for this Act is Chief Minister and not the committee which decided the fate of petitioner's husband and his family; that committee even otherwise was factually incorrect in holding that the deceased was absent from duty and later on his dead body was found in the area of Police Station Pak Colony District West Karachi without assigning cogent reasons in the findings; that committee erred in holding above; that petitioner is fully entitled to the benefits of Shaheed. He lastly prayed for allowing the instant petition.

3. Learned AAG has supported the stance of the Committee on the premise that death in the line of duty or an encounter is different from death on duty. He emphasized that the death of PC Amjad Ali is not shown to be attributable to the discharge of any official function or duty. Thus his case does not fall in this

category, as he was not killed in an encounter in the line of duty. This stance of respondents has been refuted by the learned counsel for the petitioner on the premise that the Medico-legal certificate explicitly shows that on the fateful day PC Amjad Ali was in uniform and received firearm injury during the encounter with terrorists/dacoits and the case under Section 302 /392/ 34 read with Section 7-ATA was registered at Police Station Pak Colony.

4. We have heard the parties and perused the material available on record.

5. The Investigating Officer present in Court states that investigation of the Crime No.400/2012 dated 26.12.2012 was investigated and A-Class report under Section 173 Cr.PC was submitted before the learned Magistrate who was pleased to accept the report vide order dated 15.03.2013. We have gone through the 173 Cr.PC report and medico-legal certificate attached with such report of PC Amjad Ali son of Suleman aged about 31 years. Medico-legal certificate explicitly shows that deceased received firearm injury and the case under Section 302 /392/ 34 read with Section 7-ATA was registered at Police Station Pak Colony which needs to be reopened and investigated till its logical conclusion so that it may be ascertained as to whether Police Constable Amjad Ali was killed under terrorism or otherwise, such investigation report shall be submitted to the concerned Magistrate for approval and thereafter the same be furnished to the competent authority under The Sindh Shaheed Recognition and Compensation Act-2014 for just decision of the case. For ready reference Section 2 (f) is reproduced as under:-

*“Shaheed” means a person who offered the sacrifice of his life in the line of duty in counter-terrorism or becomes the victim of an act of terrorism operation or targeted and killed by the terrorist group and declared Shaheed in the manner prescribed by Government.”*

6. We have noted that the impugned order dated 05.05.2020 passed by the committee does not disclose any valid reason for not considering the case of Police Constable Amjad Ali son of Suleman under the criteria for Shaheed, especially when he was admittedly in uniform. Merely saying that at the relevant point in time he was absent from duty does not absolve them to look into claim of his widow that he embraced *Shahadat* during service on 26.12.2012, therefore the order dated 05.05.2020 is without reasoning, which is a nullity in the eyes of law is liable to be set aside.

7. In view of the above, this petition is allowed with the direction to the competent authority of the respondent-police department to take the decision afresh as to whether Constable Amjad Ali embraced *Shahadat* on 26.12.2012 or his case does not fall under the criteria for Shaheed as per The Sindh Shaheed

Recognition and Compensation Act-2014.The aforesaid exercise shall be completed by a speaking order within two (2) months from the date of receipt of this order after hearing the petitioner.

Let notice be issued to the Chief Secretary and IGP Sindh for compliance.

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Shahzad\*