

Order Sheet  
**IN THE HIGH COURT OF SINDH,**  
CIRCUIT COURT, HYDERABAD

**Present:-**  
**Mr. Justice Nadeem Akhtar**  
**Mr. Justice Adnan-ul-Karim Memon**

**CP No. D- 2671 of 2016**

Rizwan Ali v. Province of Sindh and others

**CP No. D- 3300 of 2017**

Jamshed Qayoom v. Province of Sindh and others

**CP No. D- 3274 of 2017**

Asif Ali Shah v. Province of Sindh and others

**CP No. D- 3275 of 2017**

Asif Ali v. Province of Sindh and others

**CP No. D- 2833 of 2018**

Ali Raza v. Province of Sindh and others

**CP No. D- 1724 of 2019**

Muhammad Idrees Adil and  
others v. Province of Sindh and others

**CP No. D- 1781 of 2019**

Muhammad Moazam v. Province of Sindh and others

**CP No. D- 1860 of 2019**

Muhammad Hayat v. Province of Sindh and others

**CP No. D- 2084 of 2019**

Khair Muhammad v. Province of Sindh and others

**CP No. D- 2063 of 2019**

Muhammad Achar v. Province of Sindh and others

**CP No. D- 2041 of 2019**

Muhammad Arsalan and  
others v. Province of Sindh and others

**CP No. D- 2065 of 2019**

Mashooq Ali v. Province of Sindh and others

Date of hearing:  
& decision: 31.10.2019

Mr. Khadim Hussain Soomro advocate for petitioners in CP No. D-2671 of 2016 and 3274, 3275 of 2017

Mr. Ali Ahmed Palh, advocate for petitioner in CP No. D- 3300 of 2017

Mr. Badar Rajpar advocate for petitioner in CP No. D- 2833 of 2018

Mr. Bakhtiar Ahmed Panhwar advocate for petitioner in CP No. D-1781 of 2019

Mr. Abdul Ghaffar Malik advocate for petitioner in CP No. D- 1724 of 2019

Mr. Bashir Ahmed Almani advocate for petitioner in CP No. D- 1860 of 2019

Mr. Muhammad Ahmed Khan Pathan advocate for petitioner in CP No. D- 2041 of 2019

Mr. K.B. Lutuf Ali Leghari advocate for petitioner in CP No. D- 2063 of 2019

Ms. Shaheen Fatima advocate for petitioner in CP No. D- 2065 of 2019

Mr. Abdul Hafeez Daudani advocate for petitioner in CP No. D- 2084 of 2019

## ORDER

**ADNAN-UL-KARIM MEMON, J:** - All the petitioners in above numbered petitions are seeking declaration to the effect that they are eligible to be appointed in Police Department on the basis of Son quota on the premise that their fathers were working and retired from Sindh Police Department as Sub-Inspector / Office Superintendent / Constable. Petitioners submit that they applied for ministerial posts in Police Department on Son quota but the Respondents without any justification declined their request, hence he has approached this Court. Petitioners further submit that another similar petition bearing C.P No.D-4045 of 2012 was disposed of by this Court; therefore, they seek similar treatment.

2. Learned Counsel for the Petitioners have argued that Respondents are discriminating the Petitioners in violation of Rule 11-A of Sindh Civil Servants (Appointment, Promotion and Transfer) Rules 1974, Standing Orders issued by Inspector General of Police, Sindh and Police Rules. They further added that Petitioners are entitled to be appointed on Son quota as well as on merits; that the Petitioners have been seriously prejudiced and are entitled to be treated equally in accordance with law, as provided under

Articles 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973; that grave injustice has been done with the Petitioners without any fault on their part by depriving him for his appointment to the aforesaid post, for which they are fit and qualified; that due to such acts and deeds of the Respondents, the Petitioners have suffered mental torture, agonies; that the denial on the part of respondents to appoint the petitioners amounts to invade upon and infringement of fundamental and legal rights of the Petitioners, as guaranteed under the Constitution of Islamic Republic of Pakistan 1973; that the Petitioners have been continuously approaching personally all the movers and shakers to appoint them on the basis of Son Quota; that the Petitioners are aggrieved by the illegal action of the Respondents. They lastly prayed for allowing the instant Petitions.

3. Learned A.A.G Sindh, representing the Respondents, submits that the Petitioners are not entitled to be appointed in Police Department on the basis of Son quota as well as on the basis of Standing Orders issued from time to time by Inspector General of Police, Sindh as the same had not been approved by the Provincial Government. He further added that Honorable Supreme Court has nullified all the Standing Orders issued by Inspector General of Police, Sindh, which are not approved by the Provincial Government; therefore, no right has accrued in favour of the Petitioner. He further pointed out that petitioner in CP No. D- 2063 of 2019 seeks appointment of his son on the premise that he stood retired from police department in the year 2014; therefore, his case does not fall within the ambit of law, thus not entitled for the relief. He lastly prayed for dismissal of the instant Petitions.

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

5. In our view, important question of law involved in the subject Petitions is whether Petitioners can claim appointment in Sindh Police on the basis Standing Orders issued by Inspector General of Police, Sindh under Section 12 of the Police Act 1861?

6. We inquired from learned counsel for the petitioners, whether there exist any provision for Son quota in Police Department or not? They failed to reply, however they reiterated their submissions as discussed supra.

7. Adverting to the main contention of the petitioners that under Standing Orders Police Department is empowered to appoint the petitioners against son quota. In order to clarify the legal position, we first take up the issue of appointment in Sindh Police through Standing Orders issued by Inspector

General of Police, Sindh. It has been agitated by learned counsel for the Petitioners that under the Standing Orders issued by Inspector General of Police appointment on ministerial posts on Son Quota can be made. To rebut their contention, learned A.A.G. has stated that all the Standing Orders issued by Inspector General of Police were without approval of Provincial Government and have been declared nullity by Hon'ble Supreme Court of Pakistan in the case of **Gul Hassan Jatoi & others Vs. Fageer Muhammad Jatoi & others (2016 SCMR 1254)**. Therefore, no sanctity can be attached to such Standing Orders. As per A.A.G. the Office of Inspector General of Police, Sindh vide order dated 09.06.2014 issued Standing Order No.279/2014 notifying the recruitment in Sindh Police against Shaheed Quota / Son Quota (children of deceased, invalidated on medical grounds, retired and in-service police officers/men); apparently, the said Standing Order has not been approved by the Provincial Government as required under Section 12 of Police Act, 1861.

8. Section 12 of Police Act, 1861 leaves no room or ambiguity as to the fact that police force is commanded by Inspector General of Police, who has powers to frame Orders and Rules with regard to recruitment, organization, classification and distribution of Police Force subject to approval of the Provincial Government. In other words, the aforesaid Provision enables Inspector General of Police to cater to a situation where it is expedient for him to issue such orders and make such rules as required to meet the contingencies with approval of Provincial Government. We are fortified by the judgment rendered in the case of Gul Hassan Jatoi (supra) and Mohammad Nadeem Arif & others vs. IGP Punjab, Lahore & others (2011 SCMR 408) in which Hon'ble Supreme Court has held that Standing Orders issued by Inspector General of Police have to be approved by Provincial Government.

9. Reverting to the moot point raised by learned Counsel for the Petitioners that candidature of the Petitioners were assessed by the respondents for their appointment against Son Quota. It is an admitted position that Standing Orders have not been approved by the Provincial Government; therefore, no sanctity can be attached with such Standing Orders to claim benefit arising out of it.

10. Learned counsel for the Petitioners while laying emphasis on Rule 10-A & 11-A of Sindh Civil Servant (Appointment, Promotion and Transfer Rules, 1974) argued that the Petitioners are entitled to be appointed on son quota. We are not impressed by the contention of learned counsel for the Petitioners for the reason that aforesaid legal position explicitly show that there is concept of deceased quota subject to all just exception and not son

quota, since petitioners have applied admittedly against son quota in police department which under the aforesaid provision cannot be done so.

11. In the light of above discussion, it is crystal clear that Police Department cannot circumvent the law to make appointments by issuing Standing Orders. The appointments can only be made through competitive process on merits as provided under the Recruitment Rules and not otherwise. In view of what has been discussed above, the instant Constitutional Petitions are dismissed along with pending application(s).

Let a copy of this order be transmitted to the IGP, Sindh office for information and compliance.

JUDGE

JUDGE