

IN THE HIGH COURT OF SINDH AT KARACHI

Before:-

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

C.P No.D-5682 of 2014

Zaheer Ahmed V/S Province of Sindh & 04 others.

Date of hearing
& decision: 10.02.2020

Nemo for the petitioner.

Mr. Hakim Ali Shaikh, Additional Advocate General Sindh a/w Mr. Raza Mian, DSP (Legal) & Mr. Muhammad Akbar, DSP (Legal).

ORDER

ADNAN-UL-KARIM MEMON, J: Petitioner is seeking declaration to the effect that he is eligible and fit candidate for appointment as Police Constable in Police Department, on the basis of son quota.

2. Record reflects that the matter was fixed on 28.10.2016, thereafter nobody has bothered to get the matter fixed for hearing. Today, the matter is called but nobody has put appearance to argue the matter.

3. *Prima facie*, the issue is related to appointment on the basis of son quota in police department, therefore, the same is decided in the light of the policy for recruitment of constables in Sindh Police-2016. Per learned Additional Advocate General, the same has been framed and approved under the directives of the Hon'ble Supreme Court of Pakistan in Civil Petition for leave to appeal No. 634-K of 2016, 6345-K of 2016 and 644-K of 2016 to 646-K of 2016 vide order dated 26.12.2016. He next submitted that the Recruitment Rules clearly depict that the post of police Constable in BS-05 in all units of Sindh Police can be filled in the manner as provided in the rules.

4. We have heard learned Additional Advocate General and perused the material available on record. In our view, only those candidates can be appointed against the post of police constable, who meet the requisite criteria as provided in the Recruitment Rules-2016. In this regard, our view is supported by Rules 12.6 and 12.15 of Police Rules, 1934.

5. In order to clarify the legal position that has emerged in the present case we first take up legal issue of appointment in Sindh Police through Standing Order No. 279/2014 issued by the Inspector General of Police, Sindh. As per AAG, the Office of Inspector General of Police, Sindh, Karachi 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. 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 the Standing Orders issued by Inspector General of Police have to be approved by the Provincial Government.

6. The aforesaid legal position of the case explicitly shows that there is concept of only deceased quota subject to all just exceptions and not that of son quota. Since petitioner has applied against son quota in the police department, he is not entitled to such relief under the aforesaid provision.

7. In the light of above discussion, it is crystal clear that Police Department cannot circumvent the law to make recruitment to the post of police constable on the basis of son quota by issuing Standing Orders or by invoking Rule 11-A of Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974. The appointment of police constable can only be made through competitive process on merit as provided under the recruitment rules and not otherwise.

8. In view of what has been discussed above, the instant Constitutional Petition is dismissed along with pending application(s) with no order as to costs.

JUDGE

JUDGE