

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 1179 of 2020

Date of hearing	Order with signature of Judge
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Hearing of case

For hearing of main case

18-11-2021

Mr. Ayaz Ahmed Bhayo, Advocate for the Petitioner.
Mr. Zulfiqar Ali Naich, Assistant Advocate General Sindh along with
Fida Hussain Solangi, DSP/Legal on behalf of DIGP Sukkur.

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Through this Petition, the Petitioner has sought the following relief(s):

- (a) *To declare the act of the respondent No.3 & 5 by not issuing the appointment order in favour of the petitioner on the basis of deceased Son-Quota.*
- (b) *To issue directions to respondents to consider the application of petitioner on suitable post on permanent basis as the father of petitioner has served his major part of his life in the institution of respondents No.1 to 5.*
- (c) *To grant any other relief, which has not been specifically prayed for, under the circumstances of the present matter.*
- (d) *To award cost of the petition.*

Notice was ordered and comments have been filed on behalf of Respondent No.5 and today on behalf of Respondent No.3 as well; both Respondents' response to Para-4 is similar. In the comments filed by Respondent No.5, it has been stated as follows:

“That the petitioner applied for the post of Constable against Deceased Quota and his case for appointment as Constable against Deceased Quota was forwarded to the DIGP Sukkur Range for considering vide this office letter No.SSC/-5282 dated 09.12.2019. The DIGP Sukkur Range vide his letter No.E-II/-2207-8 dated 10.02.2020 has returned his case to follow the directions of order passed by the Honourable High Court of Sindh in CP No.D-271 of 2019. The operative part of the order dated 03.09.2019 passed by the Honorable High Court Sindh Karachi in CP No.D-271 of 2019, received through high ups is reproduced as under.

“We may observe that Sindh Civil Servants Act 1973 in an act of general application while police act 1861 is of special application to the officers of subordinate rank of Police Force. The same goes with the rules. Therefore,

petitioner cannot take resort of either Standing Orders of Sindh Civil Servants Act, 1973 and Rules framed thereunder to claim appointment to the post of police constable. Reliance is safely placed upon the case of Inspector General of Police, Punjab, Lahore another vs. Mushtaque Ahmed Waraich others (PLD 1985 SC 159).

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/Shahed quota by issuing Standing Orders or by invoking Rule 11-A of Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 and Sindh Shahed Recognition and Compensation Act, 2014. The Appointment of Police Constable can only be made through competitive process on merit as provided under the recruitment rules and not otherwise.

In view of what has been discussed above, the instant Constitutional Petition is dismissed along with pending application(s).

These are the reasons of our short order dated 03.09.2019, whereby we have dismissed the instant petition. Let a copy of this order be transmitted to the IGP, Sindh office for information and compliance.”

Copy of judgment dated 03.09.2019, passed by Hon’able High Court of Sindh Karachi along with letter of IGP Sindh and DIGP Sukkur are annexed for perusal.”

In view of judgment dated 03-09-2019 passed by a Division Bench of this Court in the case of *Imtiaz Hussain v. Province of Sindh & 03 others* (**C. P. No. D-271 of 2019**), any person, even a person under the deceased quota, cannot be appointed directly as Police Constable; hence, this Petition is **disposed of** by directing the Respondents to treat the pending application of the Petitioner for appointment under the deceased quota for any ministerial job, if so entitled, and decide the same in accordance with law.

J U D G E

J U D G E

Abdul Basit