

**ORDER SHEET**

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

**C. P. No. D – 2345 of 2017**

Date of hearing	Order with signature of Judge
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**Hearing of case**

For hearing of main case

**23-11-2021**

Petitioner Wajid Ali, present in person.  
Mr. Zulfiqar Ali Naich, Assistant Advocate General Sindh along with  
Inspector Javed Iqbal on behalf of DIGP Sukkur and SSP Sukkur.

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Through this Petition, the Petitioner seeks appointment against *Shaheed* Quota / Son Quota. He is appearing in person and has not been able to assist the Court in any manner, therefore, we have gone through the record on ours. Comments have been filed and learned AAG submits that insofar as the Petitioner's father is concerned, he was martyred on 10-06-2011, and one of his brother has already been appointed against the claim of *shaheed* father in 2011/2012. It has been further stated that the policy for appointing or entertaining two claims for recruitment in Police Department in lieu of *shahadat* was introduced through Sindh Shaheed Recognition and Compensation Act-2014; whereas, the Petitioner's father had expired prior to promulgation of this Act, and therefore, is not entitled.

On perusal of the record, the contention of Respondents appears to be correct as firstly one of the brothers of the Petitioner had already been appointed in lieu of *shahadat*, whereas, at the relevant time, there was no such policy in field whereby two claims could be entertained in lieu of *shahadat*. The same was introduced in 2014 and as per the principle laid down by the Hon'ble Supreme Court in the case reported as *Government of Pakistan v. Muhammad Ismail* (2021 SCMR 1246), which relates to somewhat similar facts regarding appointment against Deceased Quota, no case is made out. The relevant portion reads as under:

“6. It is an admitted fact that respondent's father died in the year 1995 while he was in regular service of Accountant General KPK being Senior Auditor. At that time, there was no scheme/policy in field for induction of family member of deceased civil servant in service. It was on 13.06.2006 when the Government of Pakistan issued 'Assistance Package for Families of Government Employees who die in service', to be made

*effective from 01.07.2005, wherein employment for posts in BS-01 to BS-15 on two years contract without advertisement for the families of deceased servant was surfaced. Thereafter, this package was amended thrice i.e. on 20.10.2014, 04.12.2015 and lastly on 09.09.2016 whereby the two years contract period was enhanced to 5 years and the same was also made extendable till the age of superannuation or regularization. We have perused the Assistance Package and the subsequent amendments but could not find any provision therein which gives it retrospective effect especially when the grievance of respondent was agitated with a lapse of almost 17 years. It is an established principle of interpretation of statutes / notifications / executive / administrative orders that they would operate prospectively unless they expressly provide for retrospective operation. This Court in the case of Hashwani Hotels Ltd. Vs Federation of Pakistan (PLD 1997 SC 315) has acknowledged this fact by observing that “it is a well settled principle of interpretation of a notification and/or an executive order that the same can operate prospectively and not retrospectively. This principle is equally applicable to a statute in the absence of any express or implied intendment contrary to it.” In this view of the matter, when it is clear that afore-referred Assistance Package for legal heirs of deceased government employee was not available at the time when deceased employee died and the same was issued later on with prospective effect, the respondent was not deprived of any right accrued to him at the relevant time by not appointing him. The learned High Court has erroneously presumed that a statute or rule, which gives right to the citizens, always operates retrospectively. If this is accepted, it would tantamount to opening a floodgate for all other similarly placed persons.”*

Accordingly, the Petition being misconceived is hereby **dismissed**.

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Abdul Basit