

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 3970 of 2014

Mst. Sahjan Pitafi v. **P.O. Sindh and others**

Before:

Mr. Justice Muhammad Junaid Ghaffar
Mr. Justice Zulfiqar Ali Sangi

Date of Hearing: **30-11-2021**

Date of Decision: **30-11-2021**

Mr. Shabbir Ali Bozdar, Advocate for the Petitioner.
Mr. Ali Raza Baloch, Assistant A.G-Sindh.

ORDER

Muhammad Junaid Ghaffar, J. – Through this Petition, the Petitioner has sought the following relief:

“To direct the Respondentss to release/make Financial Assistance/ Compensation forthwith to the Petitioner as per Policy of the Government in respect of her deceased son namely PC Ali Muhammad, as the Respondentss have already released/made Financial Assistance/ Compensation to other persons in respect of their deceased Police Personnel”.

2. Learned Counsel for the Petitioner has argued that the son of the Petitioner while serving in Police Department as Constable met an accident and ultimately expired; hence the Petitioner has come before this Court seeking the above relief.

3. As to the objection raised by the Respondents that brother of the deceased (son of the Petitioner), namely, Gada Hussain had already been given appointment under the category of ‘Shaheed Quota’ vide Order dated 21.05.2013, passed in C.P.No.D-3330 of 2011 (Re: Gada Hussain v. Province of Sindh and others) by a learned Division Bench of this Court, he submits that was for appointment under Shaheed quota; whereas in the present Petition, relief being sought is regarding Financial Assistance under the Shaheed quota.

4. Learned AAG has opposed the Petition on the very maintainability of the same inasmuch as similar relief has already been granted despite the fact that deceased never qualified to be declared as ‘Shaheed’.

5. We have heard learned Counsel for the Petitioner as well as learned Assistant Advocate General and perused the record.

6. Insofar as facts of the case are concerned, it is not in dispute that earlier Gada Hussain (brother of deceased and son of the present Petitioner) had come before this Court seeking appointment as Constable pursuant to some declaration by the then District Police Officer Ghotki dated 09.02.2010, whereby deceased was declared as 'Shaheed' and the said Petition was allowed; however, was purely on humanitarian grounds as there was no other bread earner in the family; whereas even the Hon'ble Supreme Court of Pakistan vide Order dted 23.12.2013, passed in C.P.No.343-K of 2013 (Re: Province of Sindh and others v. Gada Hussain) filed by the Province of Sindh, while declining leave to appeal clearly observed that this shall not be treated as a precedent. It is a matter of record, that though in that petition relief was granted on the basis of some order of the then D.P.O; however, finally the competent authority had been pleased to hold that no declaration regarding the deceased being Shaheed can be issued.

7. As to the present claim, it may be relevant to observe that admittedly son of the Petitioner died in a road accident and does not fall in the definition of term 'Shaheed' as provided in clause 2(f) of Sindh Shaheed Recognition and Compensation Act, 2014 and in identical facts, a learned Division Bench of this Court in case reported as *Mst.Shamshad Khatoonv. P.O.Sindh and others* (**2019 PLC (C.S) 1459**) has dealt with the said issue, wherein a police officer died in a road accident and relief was sought by his legal heirs and a declaration that he was Shaheed. The same was declined and the relevant findings of the learned Division Bench of this Court are as under:

"7. There is no denial to the fact that DPC Khuda Bux died of road accident when he was on his duty. Since, the Petitioner has come for compensation, provided under specific legislation, while claiming DPC Khuda Bux as '**Shaheed**', therefore, it would be conducive to see definition of term '**Shaheed**', which is provided by Sindh Shaheed Recognition and Compensation Act, 2014 (Sindh Act No.XVI of 2014) itself vide Clause-2(f) as;

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

8. From reading of above, it is quite obvious and clear that three different situation (s) have been provided which are enumerated as below if:

i) he sacrifices his life in line of duty in **counter terrorism**;

ii) he becomes victim of an act of **terrorism operation**; or

iii) he is targeted and killed by **terrorists group**;

9. Since, there can be no denial to the fact that an official may meet its natural death even while performing his duties or even may be killed in result of personal enmity etc. which, rightly would not be sufficient to declare him as '**Shaheed**' which (*Shaheed*) has its own concept. This appears to be the reason that declaration of one as '**Shaheed**' is subject to certain conditions / situations, therefore, the use of specific words like '**counter terrorism**'; '**terrorism operation**' and '**target killing by terrorists group**' shall always be required to be given their due meaning.

10. There is no denial to the fact that late DPC Khuda Bux did not loose his life in counter terrorism nor became victim of an act of terrorism operation nor targeted and killed by terrorist group, therefore, Committee was quite justified in not approving his case for his declaration as "Shaheed".

11. It is well settled principle of law of interpretation that where the plain language of a statue admits no other interpretation then the intention of the legislature, conveyed through such language is to be given its full effect. In that context, reference could be made to the case of **Ghulam Hyder and others vs. Murad through legal heirs and others (PLD 2012 SC 501)**, wherein it has been held by Honourable Apex Court that;

"---Where the plain language of Statute admits of no other interpretation then the intention of the legislature conveyed through such language is to be given its full effect."

12. Therefore, late DPC Khuda Bux could not be declared as "Shaheed" by this Court by making interpretation other than one which is prescribed by law, as is detailed above, only to benefit the Petitioner at the cost of public exchequer under the pretext that in similar like cases some other police constables in past under Standing Orders of the police have been declared to be "Shaheed" by the police department.

13. Based upon above discussion, it could be concluded safely that the Petitioner has failed to make out a case of infringement of her rights, which is sufficient for dismissal of her Constitutional Petition; it is dismissed accordingly with no order as to costs".

8. In view of hereinabove facts and circumstances of the case it is clear that insofar the deceased is concerned, he cannot be declared as a Shaheed under the Act in question, which has also been settled in the aforesaid case; hence, no case for indulgence is made out and instant Petition being misconceived is hereby dismissed.

JUDGE

JUDGE

Ahmad