

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
HYDERABAD.

C.P. No.D — 3310 of 2016.

Present.  
Mr. Justice Muhammad Shafi Siddiqui.  
Mr. Justice Irshad Ali Shah.

**Date of Hearing:** 21.10.2020.

**Date of Judgment:** 27.10.2020.

Petitioner: Through Mr. Ahmed Ali Jarwar Advocate.

Respondents: Through Mr. Ashfaque Nabi Kazi Assistant Attorney General for Pakistan.

**J U D G M E N T**

**MUHAMMAD SHAFI SIDDIQUI, J.-** This petition was filed by the petitioner for appointment, on account of the sad demise of his father who was appointed and working as Steno typist in the Federal Investigation Agency (FIA).

2. Petitioner's father died on 01.12.1996 as Steno typist. At the time of his death he was survived by five legal heirs whereas petitioner was at serial No.4 in the Heirship Certificate attached and was of two years when this Heirship Certificate was issued. The birth certificate attached with the memo of petition disclosed that his date of birth. A copy of the CNIC issued to the petitioner disclosed his date of birth as 18.12.1995. Earlier his elder brother Parvaiz Ali son of late Abdullah Jarwar filed a petition for his appointment on the same ground as being one of the legal heirs but on a statement filed by him his petition was dismissed as not pressed along with pending application.

3. It is a case of the petitioner that in pursuance of Office Memorandum dated 16.02.1996, the petitioner is entitled to be appointed as a Lower Division Clerk or any other equivalent post in Federal Investigation Agency (FIA) in terms of deceased quota policy followed by another Office Memorandum dated 24.06.2010. Learned counsel for the petitioner has relied upon an unreported case of KASHIF HUSSAIN passed in C.P. No.D-601 of 2017, wherein on same

facts and circumstances petition was allowed directing the respondent to place the case of the petitioner before Departmental Selection Committee of Pakistan Railways Police in line with Rule 11 of Civil Servant (Appointment, Promotion & Transfer) Rules of 1973, for considering employment.

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

5. The father of the petitioner expired on 01.12.1996 whereas the date of birth of the petitioner is 18.12.1995. He was of one year when his father expired. He reached the age of majority in the year December 2013. He did not move any application when he reached the age of majority. At-least nothing is available on record to show that he ever approached FIA to be treated in accordance with law for his appointment as Lower Division Clerk. The statement filed at the time of withdrawing the earlier petition filed by his brother Parvaiz Ali is available on record that the permission be granted to file fresh one on behalf of his brother (present petitioner). The earlier petition of his brother was dismissed as not pressed and no permission was granted as on the date when the petition was withdrawn there was nothing to conclude that petitioner ever applied to be dealt with in accordance with the Office Memorandum either of 16.02.1996 or 24.06.2010. The earlier Office Memorandum of the Establishment Division provided that a widow of a deceased government employee or one of his eligible children should be provided employment in the Government at the appropriate level. It further provides that if the widow or children of the deceased are unable to take a job, the widow should be authorized to nominate any one person for employment. In case of the widow opt to take-up the job, her age limit should be relaxed if required. In pursuance of this Memorandum the son of the deceased father Parvaiz Ali applied as stated in petition but the same was withdrawn referred above. By the time petitioner reached 18 years of age the policy of deceased son quota of the year 2002 was already in the field followed by Office Memorandum dated 24.06.2010 wherein it was clarified that the widower or a child of a civil servant who died during service she/he has to apply for contract appointment within one

year after the death of the civil servant. In case of a minor child of a civil servant, one year period shall start from him/her attaining the age of 18 years. He attained the age of 18 years in December 2013, and he did not apply. After the withdrawal of the petition No.90 of 2013 on 5.10.2016 he then directly filed a petition on 1.12.2016. Even if the date of filing of the petition is taken as a date of moving an application, it was already barred by time as only one year time was provided to the children of a civil servant who would want to apply for contract appointment under deceased son quota. The benefits which were available to the petitioner were not availed within the time required and hence he has lost his right on account of lapse of time.

These are the reasons of the short order announced earlier on 21.10.2020.

JUDGE

JUDGE

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