

ORDER SHEET
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT
HYDERABAD**

Constitutional Petition No. D-2701 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
	For orders on office objections For hearing of main case

19.01.2023

Mr. Bhooro Bheel, advocate for the petitioner.
Mr. Rafique Ahmed Dahri, Assistant Advocate General Sindh.

-.-.-.-.-

KHADIM HUSSAIN TUNIO, J:- One Muhammad Hanif was a Telephone Operator in Irrigation Department who died during service on 23.10.2010 and left two children behind; a daughter namely Baby Savera and son Humayoon. The petitioner Muhammad Ismail approached the respondent No. 2 Executive Engineer, Thar Division with an application for his appointment on deceased quota and such application of his was considered and the respondent No. 2 appointed him as a Beldar through appointment letter No. EC/G-148/TD/230 dated 25.02.2015. On 17.10.2018, the petitioner was not allowed to continue his duties and his salary was not being released to him for which he has filed the instant petition.

2. Learned counsel for the petitioner has contended that the petitioner was appointed on deceased quota after legal and codal formalities; that the petitioner is the sole supporter of his family and the children of the deceased; that the petitioner was regularized against his service; that the respondents illegally refused to release the salaries of the petitioner; that the petitioner has been discriminated, as such he prays that the official respondents may be ordered to release the salary of the petitioner.

3. Learned Assistant Advocate General on the other hand submitted that the appointment of the petitioner against deceased quota was not legal, as such he is not entitled to regularization or any benefits enjoyed by an employee.

4. We have heard the learned counsel for the petitioner, learned Assistant Advocate General and have perused the record available before us.

5. Prima facie, the issue at hand pertains to the appointment of the petitioner on deceased quota following the death of his brother who had two

children of his own. The question remains whether the petitioner could have been appointed on deceased quota or not.

6. The Deputy Accountant General, Monitoring and Evaluation Cell submitted his comments while stating that as per provisions of Rule 11-A for appointment under Decease Quota, the petitioner was not eligible for his appointment on deceased quota.

7. Rule 11-A of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 provides as follows:-

11-A.- Where a civil servant dies while in service or is declared invalidated or incapacitated for further service, one of his/her children or, as the case may be, ⁷[spouse] (when all the children of the deceased employee are minor) shall be provided job...

8. This rule makes it abundantly clear that appointments on deceased quota only facilitates the children whose parent(s), to a spouse whose significant other died while in service, or were declared invalidated or incapacitated for further service. Admittedly, a brother or sister of a deceased is not qualified for appointment under the deceased quota where the deceased left behind issues or a spouse. Even his appointment as the guardian of the legal heirs of deceased does not entitle him to the post on deceased quota as a guardian is only concerned with the well-being and property of the children, therefore the appointment of the petitioner is not backed up by law and as such his petition is liable to be dismissed.

9. For what has been discussed above, captioned petition is dismissed being meritless as the petitioner has failed to prove that he was appointed and regularized after due recourse and process. However, the deceased Muhammad Hanif's legal heirs, if they have attained the age of 18, may approach the relevant forum with an application for consideration against their appointment on deceased quota.

J U D G E

J U D G E