

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Const. Petition No. D-110 of 2022
(*Nadir Ali Khoso v. P.O. Sindh & others*)

Present:-

**Mr. Justice Muhammad Iqbal Kalhoro &
Mr. Justice Arbab Ali Hakro**

Mr. Sohail Ahmed Khoso, Advocate for the petitioner.
Mr. Ali Raza Baloch, Assistant A.G-Sindh a/w Dr. Anwar Ahmed,
Focal Person on behalf of DHO, Sukkur.

Date of Hearing & Order: **15-11-2023**

ORDER

MUHAMMAD IQBAL KALHORO, J:- Petitioner is a son of late Fazal Hussain, who was X-Ray Technician in the Health Department, Government of Sindh. He expired in service on 08.02.2008. Petitioner at the time of death of his father was 13 years old. He became major in the year 2013 and applied in the year 2021 for appointment as Clerk in the same department on the basis of deceased quota in terms of section 11-A of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974. His application was processed and was taken up by the Cabinet of Sindh Government in the same year, but for one or other reason was not finalized. When the petitioner did not receive any response, he filed this petition seeking directions to the respondents for his appointment as Clerk under deceased quota.

2. Respondent No.4/DHO, Sukkur has filed comments and in reply of para-4 has referred to a judgment dated 10.08.2016, passed by Supreme Court in Civil Petitions No.482-K to 502 of 2016 filed by Province of Sindh and others against Waheed Ali Amur and others. The Supreme Court has observed that (a) applicant whose father/mother (civil servant) had expired during service between 02.09.2002 to 15.09.2014 would be entitled to apply against deceased quota appointment; (b) applicant whose father/mother (civil servant) has expired during service on or after 16.09.2014 would be required to

apply against the deceased quota appointment within two years from the date of death of his father/mother (civil servant).

3. In the wake of these clear cut directions by the Supreme Court, a notification was issued in December, 2016 by the Government of Sindh incorporating the aforesaid directions. It is not disputed that father of the petitioner had died before restraining clause envisaging a cap of two years on legal heirs of deceased or incapacitated employee to apply for a job was introduced in section 11-A of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974. Therefore limitation of two years to apply for a job after death of his father is not applicable to the case of petitioner. This factual as well as legal position is not disputed by any party and even respondents No.2&4/Secretary, Health Department and DHO, Sukkur in their comments have admitted the same and the fact that the case of the petitioner was taken up by the cabinet of Government of Sindh but for some reason it was deferred, and not declined at all.

4. We, therefore, see no impediment, legal or otherwise, in accepting the petition. Petitioner appears to be entitled to the appointment on the basis of deceased quota as per his qualification in the light of section 11-A of The Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974. Therefore, this petition is **allowed**, as prayed and disposed of accordingly, however, with no order as to costs, but with a direction that needful be done within two months hereof.

JUDGE

JUDGE