

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

C.P No. D-670 of 2023

PRESENT: Mr. Justice Muhammad Saleem Jessar
Mr. Justice Khadim Hussain Soomro

Petitioner Muhammad Aslam : through Mr. Abdul Rehman
Kalhoro Bhutto, Advocate.

District & Sessions Judge, : Nemo
Larkana

Registrar, High Court of Sindh : Nemo
Karachi.

State : through Mr. Abdul Hamid
Bhurgri, Addl. Advocate
General, Sindh.

Dates of hearing : 05.12.2023 & 13.12.2023

Date of Judgment : 27.12.2023

Date of announcement : 10.01.2024

JUDGMENT

Muhammad Saleem Jessar, J.- Through instant constitution petition the petitioner has prayed for directing the respondents to appoint his son on any suitable post on the basis of Son-Quota and for declaring that the act of appointing their blue eyed persons as null and void ab-initio against the law of natural justice.

2. Brief facts giving rise to filing of instant constitutional petition are; that the petitioner was appointed as Naib Qasid and ultimately stood retired from service on 30.06.2023 vide Office Order dated 23.05.2023 issued by respondent No.1. After his retirement, the petitioner submitted application for appointment of his son Adeel Hussain on son quota basis, whereupon respondent No.1 assured him that as and when the posts would be published, his son will be considered and they will call his son for interview. The petitioner further stated that his son has passed Matriculation examination, but he is still jobless. Subsequently respondent No.1 published vacancies for the posts of Naib Qasid and Sweeper in judicial District Larkana, thus the son of petitioner Adeel Hussain applied

for the post of Naib Qasid and he was called for interview where petitioner and his son approached before Respondent No.1 and Selection Committee, where petitioner was assured that the case of his son will be considered on the basis of Son-Quota. Thereafter, the petitioner approached respondent No.1 and repeated his request by submitting that he had rendered his services in Judicial District Larkana for a very long time and also brought to the notice of respondent No.1 poor financial condition of his family and the fact that his son was still jobless, but all in vain. The petitioner further stated that to utter surprise of the petitioner, the respondents appointed other persons on account of influence, while his son was deprived of his right. The petitioner again approached respondent No.1 and submitted that his son has a legal right to be appointed on the basis of Son-Quota as per the policy of Honourable High Court of Sindh. According to the petitioner, he has devoted his life by rendering services for the Department to the entire satisfaction of his superiors, hence his request for appointment his son, Adeel Hussain, on some suitable post on the basis of son quota is just and proper and the respondents No.1 and 2 were under a legal obligation to consider the same. The grievance of the petitioner is that he went from pillar to post in order to secure his right, thus having no alternate, efficacious, adequate and prompt remedy available to him, he has invoked extraordinary constitutional jurisdiction of this Court.

3. Upon service of notices, respondents No.1 and 2 filed their respective Comments. Respondent No.1, learned District and Sessions Judge, Larkana, while submitting his Comments, raised a legal objection to the maintainability of the petition to the effect that the successful candidates have not been impleaded as party to the proceedings. He denied the facts stated in Para No.3 of the petition that after his retirement, the petitioner submitted application for appointment of his son Adeel Hussain before respondent No.1 on the basis of son quota and it was assured that his son will be considered. He also denied the fact stated in Para No.5 of the petition that in consequence to the advertisement, petitioner's son Adeel Hussain applied but was not considered. Respondent No.1 specifically stated that no such application **prior to the retirement** of the petitioner, as claimed by the petitioner in Para No.3, was submitted. According to Respondent No.1, 12 posts of Naib-Qasid

were lying vacant in Judicial District Larkana for which advertisement was got published in three widely circulated newspapers i.e. Daily Dawn, Daily Jang and Daily Kawish, consequent whereupon total 491 candidates including son of the petitioner namely, Adeel Hussain applied who were interviewed and out of 491, 307 candidates appeared before the Selection Committee, while 184 candidates chose to remain absent. It was further stated that after proper interview 12 candidates were declared to be successful and 295 candidates, including son of the petitioner, were declared to have failed in the interview. Then, after duly completing formalities appointment orders were issued. According to respondent No.1, the record reveals that the appointment process was completed on 17.05.2023 before retirement of the petitioner as Naib-Qasid on 30.06.2023; however, an opportunity was given to his son who after submission of application was interviewed by the selection committee like other candidates but he could not succeed.

4. Respondent No.1 further asserted that although the petitioner has claimed that he has been deprived of his right of son-quota but the office record shows that during his service tenure, his another son Aadil Hussain was appointed as watchman by his learned predecessor Mr.Iqbal Hussain Metlo, vide Appointment Order dated 10.12.2019, therefore the petitioner has already exhausted the right of son quota, as entire family of an employee cannot be accommodated on the basis of son-quota. He further stated that the appointments were made purely on merits through Departmental Promotion and Selection Committee after observing due formalities and the Rules were strictly followed. He added that Ali Mardan Khokhar was appointed as Naib Qasid on the basis of deceased-quota as his father Ghulam Shabir Khokhar being reader of the Court, took his last breath while performing duty in the Court of learned Senior Civil Judge-II Larkana during office hours, therefore the petition filed by the petitioner is absolutely devoid of merits, thus he prayed for its dismissal.

5. Respondent No.2, Registrar, High Court of Sindh, Karachi, in his parawise comments stated that the comments submitted by Respondent No.1, i.e. District and Sessions Judge, Larkana, may be treated as the comments of Respondent No. 2 being Proforma Respondent as it directly pertains to the acts and actions taken by Respondent No.1 and instant

Petition has been filed by the Petitioner in respect of appointment of his son on son-quota basis in Judicial District, Larkana for which Respondent No.1 is the appointing authority. It was further asserted that the relief is sought against Respondent No.1, whereas Respondent No. 2 has no role in the entire process. Respondent No.2 by reiterating the contents of the Comments submitted by Respondent No.1, has fully supported and corroborated the same. However, he has annexed with his Comments photocopies of approved policy letters relating to appointment on **son-quota basis**, in respect of deceased, retired and serving employees of District and Subordinate Courts in Sindh issued by this Court (High Court of Sindh) from time to time.

6. We have heard learned counsel for the petitioner as well as learned Additional Advocate General, Sindh and have perused the material made available before me on the record.

7. Learned counsel for the petitioner submitted that there are standing orders as well as circulars issued by this Court through respondent No.2, whereby a policy was framed to consider and accommodate the children of deceased, serving and retired employees of this Court as well as District and Subordinate Courts / Judiciary in Sindh. He also relied upon Order dated 11.10.2018 passed by a Division Bench of this Court in C.P. Nos.D-246 of 2017, D-1019 of 2017 and 162 and 351 of 2018. Learned counsel submitted that the petitioner had applied for appointment of his son, Adeel Hussain, as Naib Qasid on the basis of *son-quota*; which request was not acceded to by Respondent No.1, District and Sessions Judge, Larkana. His contention is that Respondent No.1, in view of the policy framed by this Court as well as the aforesaid esteemed order dated 11.10.2018 passed by a learned Division Bench of this Court at Sukkur, was obliged to provide such opportunity to the sons of aforesaid employees without any discrimination. He also placed reliance upon a circular issued by Registrar of this Court bearing No. HC/ADM/00565 dated 23.7.2012.

8. Conversely, learned AAG, submitted that respondent No.3 i.e. Province of Sindh has no direct relevancy with this matter; however, instant petition may be decided in the light of the comments submitted by Respondents No.1 and 2.

9. It seems that the grievance of the petitioner is that he has been deprived of his right of getting his son appointed on some suitable post on the basis of policy of **son-quota** as framed by this Court from time to time, in the Judicial District Larkana, where he had served for a long time and ultimately after attaining age of superannuation stood retired in June, 2023. His case is that he has devoted his life by rendering services for the Department to the entire satisfaction of his superiors, hence his request for appointment of his son, Adeel Hussain, on some suitable post on the basis of **son-quota** is just and proper and the respondents No.1 and 2 were under a legal obligation to consider the same.

10. Before proceeding further, it would be appropriate to reproduce hereunder the contents of certain Letters / Circulars issued by Respondent No.2 i.e. Registrar, High Court of Sindh, Karachi, in connection with policy relating to *son-quota*:

LETTER NO. ADMIN/XII-Z-14-II DATED 03.03.2010 OF HIGH COURT OF SINDH

“In supersession of this Court’s letter NO.ADMIN/XII-Z-14 dated 26th April (Illegible) on the subject noted above and to say that the Hon’ble Administration Committee of this Court has been pleased to pass the following resolution in its meeting held on 14.11.2009 on the captioned issue:

“The Honorable Chief Justice proposed that vacancies in BPS-2 to BPS-7 in the High Court be filled up as follows:

- a. First preference be given to children of those employees of the High Court who expired during service.
- b. Second preference would be given to children of those employees who expired after retirement.
- c. Third preference to be given to children of retired employees.
- d. Last preference would be given to children of serving employees.

Pursuant to the above decision, the Hon’ble Chief Justice has been pleased to order that all the District and Sessions Judges in the province of Sindh would strictly follow the aforesaid decision of the Administration Committee of this Court in their respective Judicial Districts in future. However, in the case of appointment to the post of Junior Clerk (BPS-7) all the rules and regulations be followed.

Sd/-
(Abdul Malik Gaddi)
Incharge Registrar

CIRCULAR DATED 23.07.2012 OF HIGH COURT OF SINDH

“NO.9203151

P.O Box NO.433

Telegram “ADLIA”

THE HIGH COURT OF SINDH, KARACHI

All
Communication
Should be
Addressed to The
Registrar High
Court of Sindh
Karachi and no not
to any official by
name

No.HC/ADM/00565

Dated 23rd July, 2012

From:

The Registrar, High Court of Sindh, Karachi.

To:

All the District and Sessions Judges, in
Sindh

Subject:

**POLICY AS TO THE APPOINTMENT OF
SONS OF DECEASED, RETIRED AND
SERVING EMPLOYEES OF DISTRICT AND
SUB-ORDINATE COURTS IN SINDH**

In continuation to this Court letter dated 03.03.2010 on the subject noted above, I am directed to inform you that the Hon’ble Chief Justice has been pleased to pass the following order in respect of appointment on son quota basis;

"There should be a fixed quota for employing children of the deceased/retired employees. It should be applicable to employees of Grade-1 to 5 only. The employment in the higher grade, should be strictly on merits. The children of those employees should be given preference who expired while in service as sudden loss of earning member of a family creates hardships for the dependents. Those employees who have retired or have died after retirement are supposed to have already planned for their children while they were in service. Therefore, out of the total quota say about 20% the children of those employees, who have expired during service, should be given preference. On remaining 80% the Appointment Authority be free to appoint persons who are most capable for the post. In the quota the children of the deceased employees should

be given preference over children of retired employees".

You are therefore, directed to follow the above order while considering applications for appointment.

Sd/-
(Faheem Ahmed Siddiqui)
IC: REGISTRAR

LETTER NO.HC/ADMI/00565, DATED 04.03.2013 OF HIGH COURT SINDH

“I am directed to refer the subject noted above and to inform you that The Honorable Chief Justice has been pleased to pass the following order:

“All the learned District & Sessions Judges be requested to maintain record of application of retired employees whose none of the family member is in employment of judiciary, their one child may be considered when any vacancy occurs on merit”

You are therefore requested to comply on the above direction of Hon’ble Chief Justice.

Sd/-
(Zulfiqar Ali Shaikh)
Deputy Registrar (Admin)
For: REGISTRAR

11. From perusal of the Comments submitted by Respondent No.1, learned District & Sessions Judge, Larkana, there appear to be certain factors which are not in consonance with the factual aspects. For instance; in para 3 of the Comments, he has denied the fact that any application was submitted for appointment of petitioner’s son **prior to the retirement** of the petitioner, as claimed by him in Para No.3 of the memo of petition. However, from perusal of para 3 of the petition, it appears that the petitioner has not stated, at all, that he had moved such application **prior to his retirement**, as stated by Respondent No.1 in his Comments. In fact, the opening words of para 3 of the petition are, ***“That after the retirement, petitioner submitted application.....”***

12. Besides, Respondent No.1 in para 4 of the Comments, *interalia* stated, ***“It is pertinent to mention here that 12-posts of Naib-Qasid were lying vacant in Judicial District Larekana.....12-candidates were***

declared to be successful.....” He further asserted in the same para, *“..record reveals that the appointment process before retirement of petitioner was completed on 17.05.2023 while the petitioner retired from service as Naib-Qasid on 30.06.2023, however opportunity was given to son of petitioner who after submission of application was interviewed by the committee like other candidates but remained fail.”*

13. It is not understandable that when, on the one hand, Respondent No.1 categorically stated that entire process for appointment stood completed on 17.5.2023 i.e. before retirement of the petitioner on 30.6.2023 and as a result of such process, against all the 12 posts, 12 candidates had already been declared successful, then what was the fun in providing opportunity to petitioner’s son and calling him in interview before the Selection Committee where, according to Respondent No.1, he could not succeed. From this, no iota of doubt is left to conclude that, even if the petitioner’s son was called before and interviewed by the Selection Committee, as claimed by Respondent No.1, such exercise, on the face of it, seems to be ridiculous and could not be termed except a ‘*mockery*’, because when there remained no vacancy and against all the 12 posts, 12 candidates had already been declared successful by the Selection Committee, then against which post petitioner’s son was called and interviewed.

14. Apart from above, from the perusal of Letter No. Admin/XII-1-14-II, dated 03.03.2010, it appears that the Honorable Chief Justice had proposed that vacancies in BPS-2 to BPS-7 in the High Court be filled up in the following manner:

- a. First preference be given to children of those employees of the High Court who expired during service.
- b. Second preference would be given to children of those employees who expired after retirement.
- c. Third preference to be given to children of retired employees.
- d. Last preference would be given to children of serving employees.

15. Thereafter, **in continuation** of aforementioned letter dated 03.3.2010, another letter No.HC/ADM/00565 dated 25.7.2012 was issued by the Registrar, High Court of Sindh, Karachi wherein Order passed by Honourable Chief Justice, was reproduced. From perusal of said order, it

is clear that 20% quota was fixed for **the children of those employees, who have expired during service**. Although, in said order it was specifically observed that preference would be given to the children of those employees who expired during service; however, said letter dated 23.07.2012 which contains above esteemed order of Honourable Chief Justice, was issued *in continuation* of the earlier Letter dated 03.3.2010 and not in *supersession* thereof, meaning thereby that the earlier order dated 03.3.2010 was still holding field. In this view of the matter, it could be safely concluded that, in all, 20% quota was reserved for appointment of the sons of employees of the Court, however, while undertaking such process, preference would be given to the sons of those employees who expired during service, as mentioned in the Order of the Honourable Chief Justice which was quoted in the letter dated 23.07.2012.

16. Examining instant case in the light of above said policy, it seems that admittedly there were 12 posts of Naib Qasid which were lying vacant in the Judicial District, Larkana. Now, applying the abovesaid policy to it, out of 12 posts of Naib Qasid, 20% of the total posts have to be filled in accordance with aforesaid policy / guidelines, meaning thereby that at least two (02) posts out of 12 posts were required to be filled on the basis of *son-quota*. In such a situation, it was incumbent upon Respondent No.1, District & Sessions Judge, Larkana, to have separated at least two (2) posts out of the total 12 posts for filling the same on the basis of *son-quota*, and for filling said two posts opportunity would have been afforded to the sons of the employees of four categories as mentioned in letter dated 03.3.2010 and then, after interviewing all such candidates, said two posts would have been filled in amongst them. Of course while undertaking such exercise, preference should have been given to the sons of those employees who expired during service, as mentioned in aforesaid order of the Honourable Chief Justice.

17. In his comments Respondent No.1 has himself stated that one Ali Mardan Khokhar was appointed as Naib Qasid on the basis of **son-quota**. It would be advantageous to reproduce hereunder the relevant portion from the comments:

“.....Ali Mardan Khokhar was appointed as Naib Qasid on **the basis of deceased-quota** as his father Ghulam Shabir Khokhar being reader of the Court, took his last breath while

performing duty in the Court of learned Senior Civil Judge-II Larkana during office hours,..."

18. From above, it is clear that the aforesaid Ali Mardan was appointed as Naib Qasid on the basis of *son-quota* and not on merits. Now, as stated above, out of total 12 posts of Naib Qasid, 20% i.e. at least two posts were to be filled in by Respondent No.1 on the basis of *son-quota* out of which on one post aforesaid Ali Mardan was appointed, then what was the hindrance in appointing petitioner's son on another post. It may be reiterated that in aforesaid order passed by Honourable Chief Justice, quoted in the letter dated 23.07.2012 although it was specifically observed that preference would be given to the sons of those employees who expired during service; however, in said order appointment of the sons of other three categories of the employees of the Court as mentioned in earlier Letter dated 03.3.2010 was not barred and said letter dated 03.3.2010 was / is still holding field. Therefore out of the two posts which should have been filled in on the basis of *son-quota*, if one post was filled in by appointing aforesaid Ali Mardan, then a vested right had accrued in favour of the petitioner for appointment of his son on another post.

19. Superior Courts have taken serious notice in the event when Government Employees of the sub-ordinate judiciary were deprived of their legitimate right. In this connection, learned counsel for the petitioner has relied upon an unreported cum esteemed order dated 11.10.2018 passed by learned Division Bench of this Court while holding sitting over Bench at Sukkur vide C.P Nos.D-246 of 2017, D-1019 of 2018 as well as C.P Nos. D-162 and 351 of 2018. It will be appropriate to reproduce the contents of said esteemed order which reads as under;_

“These are petitions filed by the sons of the deceased employees in District Judiciary. They seek their appointment in terms of the policy in vogue. It has been observed that only from Grade-1 to 5, such posts could be filled on the basis of the policy, as framed as 20% quota is fixed for children of the employee having been further categorized in four (04) categories which are as under:

- a) **First preference be given to children of those employees of the High Court who expired during service.**
- b) **Second preference would be given to children of those employees who expired after retirement.**
- c) **Third preference to be given to children of retired employees.**

- d) Last preference would be given to children of serving employees.

All these petitioners, however, claim that father of each of them was the employee of the District Judiciary, died during service. Without ascertaining as to whether they died during service or otherwise, we dispose of these petitions that their applications be considered in the light of the recommendations and policy of Hon'ble Chief Justice in relation to Grade-1 to 5 on the basis of the prescribed quota for the employee of District Judiciary. Accordingly, the District and Sessions Judges may consider their applications in the next recruitment. All these petitions are disposed of in the above terms along with pending applications, if any. The compliance report be filed within three (03) months.”

20. In this context, reference may be made to the case of *MUHAMMAD TAQI SHAH Vs. The SECRETARY EDUCATION DEPARTMENT GOVERNMENT OF SINDH and 2 others*, reported in 2018 PLC (C.S.) Note 92, decided by a Division Bench [Larkana Bench].

In the said case it was, *interalia*, held as under:

“7. We have already observed that in our humble view the right of appointment of a child of deceased Civil Servant in Government was a kind of pensionary benefit, the family of the deceased must have been adversely affected in terms of financial loss ever since the death of bread earner. The facts of this case remind us of the case of Prof. Ghazi Khan Jakhrani in which the Hon'ble Supreme Court has examined the effect of non-payment of pension for several years to Prof. Jakharani after his retirement and he has died without receiving pension owing to the lethargic behaviour of the government functionaries. In terms of the notification quoted above, the government functionaries have practically denied service benefit to the family of the deceased civil servant namely deceased Raham Ali Shah who served in education department for 36 years. The education department in the case in hand seems to be guilty of similar bad governance as have been discussed in para.7 of the judgment by the Hon'ble Supreme Court in the case of Prof. Jakhrani reported in PLD 2007 SC 35. Relevant observations of Hon'ble Supreme Court at page 43 of the judgment are reproduced below:-

“7. It is pathetic condition that Government servants, after having served for a considerable long period during which they give their blood and sweat to the department had to die in a miserable condition on account of non-payment of pension/pensionary benefits etc. The responsibility, of course, can be fixed upon the persons who were directly responsible for the same but at the same time we are of the opinion that it is an overall problem mostly in every

department, where public functionaries failed to play their due role even in accordance with law. Resultantly, good governance is suffering badly. Thus, everyone who is responsible in any manner in delaying the case of such retired officers/official or widows or orphan children for the recovery of pension/gratuity and G.P. Fund has to be penalized. As their such lethargic action is in violation of Articles 9 and 14 of the Constitution of Islamic Republic of Pakistan, 1973. Admittedly, it is against the dignity of a human being that he has to die in miserable condition and for about three years no action has been taken by the concerned quarters in finalizing the pension case and now when the matter came up before the Court, for the first time, they are moving in different directions just to show their efficiency and to clear their position before the Court. Such conduct on their behalf is highly condemnable and cannot be encouraged in any manner.”

In the case in hand, too, not a single plausible explanation has been offered by the respondents for their failure during the last 10 years to discharge their statutory duty following the death of a Government Servant during service by not providing a job to one of the children of deceased civil servant. In the given facts of the case in hand, since we are of the view that this is also a case of denial of benefit of service to the family of civil servant the respondents are also required to be reminded of the following observations of the Supreme Court from the said judgment.”

It was further held:

“8. The filing of petition by itself was notice to the Secretary, Education, Government of Sindh. The Respondents have not challenged entitlement of the petitioner for his appointment against deceased quota. Had the policy been honestly and properly applied by the Government, the petitioner should have been inducted in the service in 2010. He is still working for the enforcement of his right in terms of the policy after 10 years of the death of his father during service.

9. In view of above facts and the observations of the Honourable Supreme Court, this petition is allowed and the respondents are directed to appoint the petitioner in BPS-17 on the basis of his minimum qualification with seven annual increments from the date on which Respondent No.3 has forwarded his application within a period of 30 days.”

21. In the case reported as *MUHAMMAD KHALID NAZIR Vs. D.C.O. and others (2008 PLC (C.S.) 1200 [Lahore]*) the relevant facts were that one Nazir Ahmad, who was father of the petitioner in that case, after serving as Chowkidar in the office of the Deputy Commissioner

Bahawalpur retired from service on 15-6-2001. After his retirement, his son viz. the petitioner submitted an application for his appointment in the same department, but the same was not considered. Subsequently the Executive District Officer (Revenue) Bahawalpur advertised various posts of Naib Qasid, Chowkidars, Baildars and Malies etc. and invited applications from the eligible candidates. The petitioner also submitted an application for the post of Naib Qasid/Chowkidar against the **20% quota reserved for the children of in-service or retired employees** of the Government but was not appointed, thus he filed writ petition praying therein that the respondent may be directed to appoint him as Naib Qasid / Chowkidar in BS-1 under the 20% reserved quota for the children of the working or retired civil servants. Learned Division Bench while deciding the matter, held as under:

“3. It is an admitted fact that the petitioner is the son of a retired employee of the Revenue Department. That being so his right to be considered for appointment against 20% quota cannot be denied. The foul respondent played was that instead of calculating the 20% quota against the total No. of the posts in the cadre, determined the same only against the posts, which were advertised for recruitment. This mode of calculation of posts was undoubtedly against the mandate of Punjab Civil Service (Ratio of Recruitment) Rules, 1973.”

It was further held:

“9. The Departmental Authorities who have to make appointment to any post in the government office have to exercise their authority honestly and objectively in public interest and strictly in accordance with law without being influenced by any extraneous consideration or the subordination of any superior authority. In the instant case it has become abundantly clear that the Departmental Selection Committee and then the Appointing Authority both erred in law while allocating the seats to the candidates against the posts for reserved quota.

10. The writ petition is allowed with costs. The petitioner shall be considered for appointment against the reserved quota of the number of vacancies to be calculated in accordance with rule 3 of the Punjab Civil Service (Ratio of Recruitment) Rules, 1973 by applying the same to the total number of posts of Naib Qasids in the Cadre so as to maintain the prescribed percentage of the over all strength of the cadre and not to the actual vacancies existing or announced at a given time.

11. In order that effective relief is provided to the petitioner, it is further ordered that it shall be the personal responsibility of the present incumbent of the Appointing Authority to undertake all necessary and effective

measures, including the following, to implement this judgment within a period of thirty days:

(i) *The number of the posts against reserved quota is calculated in accordance with rule 3 of the Punjab Civil Service (Ratio of Recruitment) Rules, 1973 by applying the 20% quota to the total number of posts in the Cadre;*

(ii) *The case of the petitioner for appointment against such calculated reserved seats shall be considered on the basis of the merit determined by the Departmental Selection Committee.....*

(iv) *The petitioner, in case of appointment shall be entitled to all back benefits as well because he was not only deprived of his valuable rights but was also unnecessarily dragged into litigation by contesting a cause to which the respondents had no justification for defence.*

22. In another decision given by a Division Bench of Peshawar High Court in the case of **ANWAR ALI Vs. GOVERNMENT OF KHYBER PAKHTUNKHWA through Chief Secretary, Peshawar and 3 others**, reported in **2018 PLC (C.S.) 381 [Peshawar]**, it was held as under:

“3. In the comments furnished by the respondents, though they have not denied the status of the petitioner to be son of the deceased Said Wali, but it has been asserted that the policy regarding the appointment of the children against the quota meant for the deceased class-IV employees is applicable to those individuals whose parents had died on or after 01.01.1988 while father of the petitioner passed away in the year 1985, therefore, the said policy is not attracted in his case. We are amused with such interpretation of the policy by the government functionaries. If at all a person has put in years long service, given his sweat for the department and died with his boots on, then the argument advanced by the respondent to deprive his children from the benefits of such policy is ridiculous and smacks of apartheid being practiced at the government level. We understand that such beneficial policy shall for all intents and purposes have retrospective effect.”

(Emphasis is applied for sake of convenience)

23. In view of above legal position and dictum laid down by the Superior Courts, it was incumbent upon Respondent No.1 to have followed the policy framed by this Court in relation to *son-quota* as depicted in the aforesaid letters/circulars dated 03.3.2010, 23.07.2012 and 04.03.2013. Simultaneously, he was also duty-bound to have kept in mind the directions as given in the Order dated 11.10.2018 passed by Division Bench of this Court while sitting at Sukkur Bench.

24. In the comments, learned District and Sessions Judge, Larkana has also stated that as per office record, during the service tenure of the petitioner his another son Aadil Hussain was appointed as watchman by the then District & Sessions Judge, Larkana, vide Appointment Order dated 10.12.2019, therefore the petitioner has already exhausted the right of *son-quota*, as entire family of an employee cannot be accommodated on the basis of *son-quota*. From perusal of the copy of Appointment Order dated 10.12.2019 annexed with the comments of Respondent No.1, it appears that there is no slightest indication that said Adil Hussain was appointed on the basis of *son-quota* policy. It has been mentioned in said appointment order, ***“On being acceptance of the offer letter by the applicant MR. ADIL SON OF MUHAMMAD ASLAM, BY CASTE KALHORO, R/O RAILWAY FATAK, NAZAR MOHALLA, DISTRICT LARKANA, is appointed as CHOWKIDAR BPS-03 (9610-390-21310) on temporary basis plus usual allowances as admissible under the rules.”*** Respondent No.1 has not placed on record any material in support of his assertion that said Adil Hussain was appointed on the basis of *son-quota* policy. In this view of the matter, such plea raised by Respondent No.1 is devoid of force.

25. Needless to emphasize that a Government servant gives his blood and sweat to the concerned department by spending long and precious portion of his life in the shape of rendering his services, as such he deserves to be bestowed and provided promptly all his legal and legitimate rights including accommodating his family by providing an opportunity of appointment to any of his sons/children etc. against any suitable post on the basis of *son-quota*, particularly after his retirement and more particularly after his death, as there have been cases that after retirement / death of a particular government servant, his family has to face very painful, grave and critical situation due to retirement / death of the head of family, because undoubtedly the monthly pension received by a retired employee or his widow, as the case may be, particularly by one who pertains to lower staff (Class-IV), is on very lower side vis-à-vis the monthly emoluments being earned by him during his service tenure. In such a situation, it would be utmost necessary and mandatory for the concerned competent authority to appoint anyone amongst the sons of such employee immediately after his retirement / death against any suitable post.

26. The upshot of above discussion is that instant petition is hereby **allowed**. Respondent No.1 is directed to reconsider case of the petitioner and appoint his son Adeel Hussain as Naib Qasid, or on any suitable post equivalent to the status of **Naib Qasid**, on the basis of *son-quota* policy. The needful be done within a period of fifteen days positively under intimation to this Court.

27. Copy of this judgment be sent to learned Registrar, High Court of Sindh at Karachi, who is directed to circulate the same amongst all the District and Sessions Judges in the province of Sindh, with the direction not to cause unnecessary hurdle or delay in implementing the policy framed and directions given through all such Letters and Circulars issued from time to time in respect of *son-quota*.

JUDGE

JUDGE

Larkana
Dated: 10-01-2024.