

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Const. Petition No. D-62 of 2023
(Ghulam Sarwar Bhattar v. P.O.Sindh & others)

Present:-

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

Mr. Muhammad Ali Napar, Advocate for petitioner.
Syed Zaffar Ali Shah, Advocate for respondent No.7.
Mr. Zulfiqar Ali Naich, Assistant A.G-Sindh.

Date of Hearing & Order: **25-01-2024**

ORDER

MUHAMMAD IQBAL KALHORO, J:- Petitioner is a son of Sher Muhammad Bhattar who was serving as Peon in Labour Court-VII, Sukkur. He expired during service on 05.02.2020. On 04.08.2020, mother of petitioner sent a request for appointment of petitioner on deceased quota with an affidavit of other legal heirs giving no objection in this regard.

2. After due formalities, petitioner was issued offer order as Naib Qasid (BS-1) in Labour Court-VII, Sukkur vide letter dated 12.03.2021. Petitioner accepted the same and submitted acceptance in black and white through an application with a physical fitness certificate issued by the relevant authority, duly attached. Thereafter, respondent No.3/Section Officer (COORD), Government of Sindh Labour and Human Resources Department, Karachi issued a letter to respondent No.2/Presiding Officer, Sindh Labour Court-VII, Sukkur to issue appointment order in favour of petitioner, but he did not oblige. Thereafter, respondent No.3 and other relevant officers requested respondent No.2 for issuance of appointment order to petitioner, yet he did not respond. Hence, this petition.

3. Learned AAG has not opposed this petition and has submitted that Presiding Officer of Labour Court who in fact is a judicial officer has refused to oblige the order of Secretary, Labour and Human Resources Department Karachi without any statutory reason. Respondent No.7, who is posted as Sweeper in Labour Court-VII Sukkur

and has been made as respondent in this case has filed objections to this petition and has been heard.

4. We may observe that in the same context arising out of similar facts a Division Bench of this Court comprising one of us (Muhammad Iqbal Kalhoro J.) as its member has already decided this issue vide order dated 08.12.2022 in C.P.No.D-1401 of 2018 at Circuit Court Hyderabad in the case of Qurban Ali Sangi v. P.O. Sindh and others. It is observed therein that appointment of a child of civil servant who dies while in government job is a kind of pensionary benefit to family of deceased as it is adversely affected in terms of financial loss on death of bread earner. Further, noting the refusal of Presiding Officer to allow the petitioner to join the duty (the issue in that case), we have stated that not a single explanation has been forwarded by the Presiding Officer of the Court to refuse him the right of joining the duty after he had already been recommended by the recruitment committee constituted by the Government of Sindh and subsequently appointed by the competent authority.

5. It is next noted that the Presiding Officer of the Labour Court is not competent to sit on the decision of the Government of Sindh for the simple reason that statutory duty has been performed by the Government of Sindh by providing a job to one of the children of deceased civil servant. If the Presiding Officer had any reservation or objection, he should have communicated the same to the competent authority and get the appointment order in favour of petitioner cancelled. The P.O of Labour Court is not competent to deny joining to the petitioner after he has been competently appointed by the relevant authority. Refusal to allow petitioner to join the duty after appointment order issued to him is not based on a sound reasoning and is a result of arbitrary exercise of official authority. On the basis of such reasoning, a writ in the nature of mandamus was issued directing the Presiding Officer of Sindh Labour Court to let the petitioner join the duty in compliance of the appointment order.

6. Such reasoning and findings are mutatus mutandi applicable in this petition as well. There is no reason to deny appointment order to the petitioner after he has been duly recommended by the competent authority in terms of Rule 11-A of the Sindh Civil Servants

(Appointment, Promotion & Transfer), Rules, 1974. Accordingly, this petition is **allowed** in the same terms and respondent No.2 is directed to act upon the order, after seeking its verification from competent authority viz. the Secretary, Labour & Human Resources Department, Government of Sindh, who after due formalities has already issued offer order in favour of petitioner, and issue him appointment order or do the needful and allow him to join the duty against such post.

The petition is accordingly **disposed of** in the above terms.

JUDGE

JUDGE

Ahmad