

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Constitution Petition No. D-749 of 2023
(Nirmal John Vs. Province of Sindh & others)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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Before;

Adnan-ul-Karim Memon, J;
Muhammad Abdur Rahman, J;

Date of hearing and order: 14-05-2024.

Mr. Riaz Ali Shaikh, advocate for the petitioner.
Mr. Shaharyar Imdad Awan, Assistant A.G, Sindh.

ORDER.

Adnan-ul-Karim Memon J:- The petitioner Nirmal John seeks direction to the respondent-Board of Intermediate and Secondary Education Sukkur to appoint her against deceased quota in terms of Rule 11-A of Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 and dicta laid down by the Supreme Court in the case of *Province of Sindh Vs. Muhammad Taqi Shah (2018 SCMR 1607)*. She is also asking for setting aside of the letter dated 24-06-2013 whereby direction was issued to determine medical fitness/checkup of her father Narsi Maseh, Junior Clerk BISE Sukkur on the premise that her father was declared unfit/incapacitated for further service, however due to intervention by the Secretary BISE Sukkur, a fresh medical board was constituted and he was declared unfit for the current job of Junior Clerk vide letter dated 16-07-2013.

The grievance of the petitioner is that her father Narsi Maseh was serving as Junior Clerk in respondent-BISE Sukkur, who during his service fallen ill and retired from the service on medical ground vide letter dated 31-07-2013; thereafter Mst. Rajwanti the mother of the petitioner filed CPD No. 438/2019 which was disposed of as the Board of Intermediate Sukkur had considered her son to be appointed on invalidation quota; thereafter the petitioner approached the respondent-BISE Sukkur by filing application dated 17-02-2023 along with copy of order passed by this Court on the above petition, later-on the respondent No. 5 regretted his application vide letter dated 24-02-2023, hence the petitioner filed the instant petition almost on the same cause of action as her brother namely Narain Maseh had already been appointed on invalidation quota.

Learned AAG has opposed this petition on the analogy that there is no concept of two appointments based on invalidation quota as the brother of the Narain Maseh had already been appointed/accommodated as senator worker. He prayed for dismissal of the petition.

We have heard the parties and perused the material available on record.

The question before this Court is that as to whether the petitioner can be considered for her appointment on invalidation quota.

It appears from the record that BISE Sukkur had already considered the brother of the petitioner namely Narain Maseh on invalidation quota, however, petitioner insists that she also be appointed on the subject quo as her father retired in the year 2013 and later-on passed away on 25-07-2014 as such her case false within the ambit of Rule 11-A of Sindh Civil Servant (Appointment, Promotion & Transfer) Rules as her mother filed petition before this Court on invalidation quota only and the same was disposed of vide order dated 16-02-2023 on the analogy that BISE Sukkur had considered the brother of the petitioner on invalidation quota, whereas her case is based on deceased quota, which is separate cause of action.

Be that as it may, without touching the merits of the case, it is for the competent authority of BISE Sukkur to re-consider her request, if her case falls within the ambit of deceased quota in terms of Rule 11-A of Sindh Civil Servant (Appointment, Promotion & Transfer) Rules.

This petition stands disposed of in the above terms. The aforesaid exercise shall be completed within two weeks.

Judge

Judge

