

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Constitution Petition No. D-1674 of 2023

(Ali Raza Laghari 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: 21-05-2024.

Mr. Shafique Ahmed Leghair, advocate for the petitioner.
 Mr. Sheharyar Imdad Awan, Assistant Advocate General,
 Sindh along with Inspector Akhtar Pathan on behalf of DIG
 Sukkur and Inspector Ghulam Shabbir on behalf of SSP
 Ghotki.

ORDER.

Adnan-ul-Karim Memon J:- The petitioner Ali Raza seeks direction to the respondent-Secretary Home Department Government of Sindh to appoint him against quota reserved for deceased Civil Servants 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)*.

The grievance of the petitioner is that his father Meer Ahmed was serving as Police Constable respondent-Department, who during his service passed away on 03-10-2022. After the demise his father, the mother of the petitioner approached the respondent No.3 and moved application dated 28-12-2022 for appointment of her son/ petitioner against the deceased quota and respondent No.4 called the petitioner and asked about his educational documents; thereafter the respondents repeatedly kept him on hollow hopes and ultimately refused to appoint him against the deceased quota, hence the petitioner has filed the instant petition.

Learned AAG has opposed this petition on the analogy that petitioner needs to apply through public notice. He prayed for dismissal of the petition.

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

Prima facie this is apathy on the part of the respondent-department as this lis has been pending since 2023 and there is no progress in the matter; as such we are compelled to hear the learned counsel for the petitioner and learned AAG on the subject issue without further delay.

At this stage, we put the question to the learned AAG as to why the petitioner has not been considered for the post of ministerial nature against the quota reserved for deceased Civil Servants, he simply said that this is a policy matter and the Government has not considered his case for such appointment on any ministerial post and the same could only be filled as per recruitment Rules and not otherwise. In principle, Rule 11-A as discussed *Supra* is clear in its terms and needs no further deliberation on our part. Additionally in the eventuality of the death of a Civil Servant during service, it empowers the appointing authority to appoint one of the children of such deceased Civil Servant in any of the basic pay scales and the only requirement provided by the law was that the child must possess minimum prescribed qualifications. There was not condition of any examination, test or interview, and such appointment should be made in any department of the Government of Sindh only in case of death of a Civil Servant during service. Additionally Rule 11-A as discussed *Supra* is clear in its terms and needs no further deliberation on our part.

Prima facie the action of the respondent department does not align with the law laid down by the Supreme Court of Pakistan on the subject issue and the petitioner has been subjected to the irony of

the department which is a hardship as his father passed away in the year 2022 during service and the petitioner applied within the policy terms, which request was declined on erroneous premises, compelling the petitioner to file this petition on 15-11-2023.

The respondents have failed and neglected to look into the matter in its true perspective and violated the command of the Constitution and law; therefore, this petition is liable to be allowed with direction to the Chief Secretary Government of Sindh and respondents to take into consideration the verdict of the Supreme Court on the subject issues as well as keeping in view the Rule 11-A of Sindh Civil Servants (Appointment, Promotion, and Transfer) Rules, 1974, where after if the petitioner is found eligible in all respect for appointment against the quota reserved for deceased Civil Servant, he shall be accommodated in any suitable ministerial post by allowing him to complete all legal and codal formalities as required under the law and the relevant rule, procedure, and policy.

Let notice be issued to the Chief Secretary Sindh, Government of Sindh and Secretary Home Department, Government of Sindh, Karachi, along with a copy of this order for its compliance in letter and spirit within 30 days.

Judge

Judge

Nasim/P.A