

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Const. Petition No.D-29 of 2023
(*Faheem Abbas Bozdar v. P.O. Sindh & others*)

Present:-

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

Petitioner present in person.

Mr. Zulfiqar Ali Naich, Assistant A.G-Sindh a/w Riaz Ahmed Wagan, Chief Conservator Forests, Riverine & Inland Forests, Sindh at Hyderabad, Hosh Muhammad Shar, DFO (A) Division Sukkur and Gul Hassan, DFO (A) Kandhkot.

Date of Hearing & Order: **28-03-2024**

ORDER

MUHAMMAD IQBAL KALHORO, J:- Petitioner's father was a Junior Clerk in Forest Department, posted at Kandhkot. He died on 02.11.2014 in service. Petitioner was a minor, aged about 14 years, at that time. Within two years of death of petitioner's father, his widow, mother of petitioner, moved an application on 17.03.2015 apprising the department of minority of the petitioner and the fact that as soon as he attained the age of majority, he would file application for appointment in terms of Rule 11-A of Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974. Her application was kept on record.

2. Petitioner attained majority on 31.12.2017 and moved an application for his appointment on the deceased quota in terms of Rule 11-A of ibid Rules, somewhere in the year 2018, within two years. The letter dated 07.12.2018, acknowledging receipt of his application, forwarded the same to the Chief Conservator of Forests for a necessary action. His case was processed in the course of which a legal opinion was obtained from the Law Department, that, however, came against the petitioner stating since he was minor at the time of death of his father, he was ineligible for appointment on deceased quota and that his mother had not applied for appointment on deceased quota within two years.

3. We have heard parties including Chief Conservator of Forests (respondent No.2) present in person, he submits that due to legal

opinion from the Law Department, Government of Sindh, the petitioner could not be appointed.

4. Learned AAG after perusing the letter dated 02.02.2023 encoding such opinion does not seem to be supporting the legal opinion of the Law Department rendered on the issue and submits that it is in conflict with the various judgments pronounced by this Court on the issue while interpreting Rule 11-A (supra). Dealing with the various petitions seeking appointment of legal heir of deceased civil servant on deceased quota, we have observed that Rule 11-A is a beneficiary provision and has to be interpreted liberally in favour of the petitioner. Strict and narrow interpretation of such provision of law abridging the right of legal heir contained therein is neither desired nor sustainable. The Law Department while rendering legal opinion has not considered such observation of the Court, and has given opinion merely by looking at the figures qua age of the petitioner at the time of death of his father without realizing that a minor legal heir being ineligible on account of age cannot apply for appointment on deceased quota. And that the period of two years limitation after death of father would run for him on attaining the age of 18 years.

5. In a number of the case law, we have decided the above issue in such terms. Therefore, keeping in view the ratio of those judgments, we **allow** this petition and direct the respondent No.2, present in Court, to consider the case of the petitioner on deceased quota and decide it within a period of two months and submit such compliance report to this Court through its Additional Registrar.

JUDGE

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