

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Constt. Petition No: D- 577, and 1128 of 2009.

Constt. Petition No: D- 39, 1957, 2040, 2074, 2135, 2158,
2356, 2417, and 2426 of 2010.

Constt. Petition No: D- 10, 104, 143, 173, 188, 266, 397, 410,
850, 912, 1091, 1155, 1230, 2150, 2370, 2432, 2535, 2614, and
2872 of 2011.

Constt. Petition No: D- 03, 37, 294, 297, 454, 750, 788, 794,
895, 907, 974, and 1074 of 2012.

Present:

Mr. Justice Naimatullah Phulpoto.

Mr. Justice Farooq Ali Channa.

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Mr. Ali Nawaz Ghanghro, Advocate.  
Mr. Khalid Iqbal Memon, Advocate.  
Mr. Inayatullah Morio, Advocate.  
Mr. Faiz Muhammad M. Larik, Advocate.  
Mr. Habibullah G. Ghouri, Advocate.  
Mr. Muhammad Saleem GN Jessar, Advocate.  
Mr. Abdul Fiakeem Brohi, Advocate.  
Mr. Abdul Rehman Bhutto, Advocate.  
Mr. Nisar Ahmed G. Abro, Advocate.  
Mr. Athar Abbas Solangi, Advocate.  
Mr. Muhammad Hashim Soomro, Advocate.  
Mr. Irshad Ali R. Chandio, Advocate.  
Mr. Safdar Ali Ghouri, Advocate.  
Mr. Fida Hussain Shah, Advocate.  
Mr. Rashid Mustafa Solangi, Advocate.  
Mr. Ahmed Hussain Khoso, Advocate.  
Mr. Imdad Ali Tunio, Advocate.  
Mr. Ashfaq Hussain Abro, Advocate.  
Mr. Imtiaz Ahmed Shahani, Advocate.  
Mr. Rafique Ahmed Abro, Advocate.  
Mr. Ghayoor Abbas Shahani, Advocate.  
Mr. Muhammad Bakhsh Jatoi, Advocate.  
Mr. Asif Hussain Muhammad Nawaz Chandio, Advocate.  
Mr. Abdul Rasheed Abro, Advocate.  
Mr. Ali Gohar A. Odho, Advocate.  
Mrs. Leela alias Kalpana Devi, Advocate.

Mr. Muhammad Bachal Tonyo, Addl. A.G.

Date of hearing: 12.12.2012.

Date of Judgment: 12.12.2012.

ORDER

Farooq Ali Channa, J-. We propose to dispose of all these petitions through this common order, as the same question of law and facts is involved in the petitions.



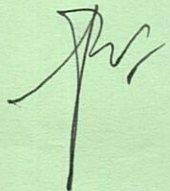
2. It is the case of petitioners that their fathers were government servants and they died while being in service. Petitioners seek employment in terms of Rule 11-A of the Sindh Civil Services (Appointment, Promotion & Transfer) Rules, 1974.

3. The fact of the death of father of petitioners during service has been admitted in the comments by concerned departments, however the petitioners could not be considered for appointment in the light of amendment brought about in Rule 11-A, of Sindh Civil Services (Appointment, Promotion & Transfer) Rules, 1974, vide notification dated 17.7.2009, as petitioners approached the respondents beyond the period of two years.

4. Question as to the effect of notification dated 17.7.2009, was decided by this Court, Bench at Sukkur in C.P. No. 498/2008, while observing as under:

*"It is by now well settled that notifications operate only prospectively. A vested right can be taken away retrospectively only through an enactment passed by an assembly or parliament but not through sub-ordinate legislation i.e. through issuance of notifications by executive. In the present case, as the change in rule 11-A of Sindh Civil Services (Appointment, Promotion & Transfer), Rules, 1974, has been brought about through a notification, it can only have prospective effect. Therefore, the notification issued on 17.7.2009 shall become applicable from 17.7.2009 onwards only. Prior to this date, if a right of employment has already accrued to any of the children of a deceased or invalid or incapacitated Civil servant then the former cannot be deprived of the benefit accrued to him under notification dated 11.3.2008 through a subsequent notification issued on 17.7.2009."*

5. The Hon'ble Supreme Court of Pakistan maintained above order of this Court in Civil Petition No. 706-K of 2010, dated 27.4.2011, and leave to appeal was refused.






6. Mr. Muhammad Bachal Tonyo, Addl. A.G., has agreed to the disposal of these petitions in the light of the above referred judgment of this Court, upheld by Hon'ble Supreme Court of Pakistan.

7. In these circumstances, by consent the above petitions are disposed of with directions to the respondents to examine the claim of each and every petitioner and dispose of the same in the light of above referred judgment passed in C.P. No. 498/2008. A copy of this order be sent to the concerned quarter for compliance within thirty days.



Judge



Judge

Ansari/\*