

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Constitutional Petition No. D-360 of 2021.

(Mst. Waziran Khatoon v. P.O Sindh and others)

DATE OF HEARING ORDER WITH SIGNATURE OF HON'BLE JUDGE

Before:

*Mr. Justice Muhammad Saleem Jessar.*

*Mr. Justice Adnan-ul-Karim Memon.*

Date of hearing and order: 28.02.2025.

Mr. Javed Ahmed Soomro, advocate for the petitioner.

Mr. Liaquat Ali Shar, Addl.A.G.

=.=.=.=

ORDER

ADNAN-UL-KARIM MEMON, J:- Petitioner Mst. Waziran Khatoon requests this Court to declare the denial of "Shaheed" compensation to the family of Constable Wazir Ali Magsi as unlawful and invalid and order the relevant authorities to grant the "Shaheed" compensation to the family of Constable Wazir Ali Magsi, who died in the line of duty.

2. The petitioner's husband, Police Constable Wazir Ali, was killed in an armed encounter. Despite a police report (FIR No. 01/2020) indicating his death occurred during an official operation, authorities denied the petitioner "Shaheed" (martyr) compensation, claiming the killing was due to personal or tribal reasons, not duty. While a subsequent order granted to his family for full pay (payment) until his expected retirement, the petitioner seeks the court's intervention to receive the "Shaheed" compensation as believes she is entitled to.

3. Petitioner's counsel asserts that the denial is baseless, contradicting evidence and reinvestigations. Learned counsel requests the court to declare the denial illegal and order the full "Shaheed" compensation. The petitioner's counsel emphasizes the financial hardship faced by the petitioner and her seven children due to the denial. In support of his contentions, he relied upon the case of Asad Imran v. Inspector General of Police, Punjab (2023 PLC(CS)-1013).

4. The Additional Advocate General (AAG) informed the court that while Constable Wazeer Ali was initially recognized as a "Shaheed" upon his death, a subsequent review by the Shaheed Declaration Committee determined his death was due to personal/tribal reasons, not duty, thus disqualifying him from "Shaheed" status. Despite a later reinvestigation contradicting this finding, the Inspector General of Police (IGP) rejected reconsideration, citing a policy against revisiting rejected cases. The AAG argued that the committee's decision was based on a thorough review and requested the court to dismiss the petitioner's case.

5. We have heard learned counsel for the parties and perused the record with their assistance.

6. The case of the petitioner is that her husband, Police Constable Wazir Ali Magsi, was killed in an armed encounter with criminals while on patrol duty. Despite the initial police report (FIR) and an obituary order acknowledging his "Shaheed" (martyr) status, and even a partial compensation payment, authorities later denied full "Shaheed" compensation, claiming his death was due to personal/tribal enmity, not on duty. The petitioner argues this denial is baseless, contradicting earlier acknowledgments and subsequent reinvestigation reports confirming his death in the line of duty. She contends the denial is illegal, without proper reasoning or evidence, and seeks the court's intervention to overturn the decision and grant the full "Shaheed" compensation due to her and her seven children. Police reports and initial actions recognized his death as "Shaheed." Authorities later denied full compensation, citing personal/tribal enmity.

7. The Superintendent of Police, Kamber-Shahdadkot, confirms the martyrdom of Constable Wazeer Ali, who died in the line of duty during an encounter with dacoits on January 3, 2020. FIR No. 01/2020 was registered at PS Behram, citing relevant sections of the Pakistan Penal Code and the Anti-Terrorism Act. However, after reviewing the case, including the FIR, charge sheet, and witness accounts, the relevant committee concluded that the constable's death was due to personal/tribal enmity, not on duty. Therefore, he did not meet the "Shaheed" criteria as defined by the Sindh Shaheed Recognition & Compensation Act 2014 and related government orders. Prima facie this is hardly a ground not to compensate the family of Constable Wazeer

Ali, who died in the line of duty during an encounter with dacoits for the simple reason that Section 2 (f) of The Sindh Shaheed Recognition and Compensation Act 2014 provides that a "Shaheed" is someone who dies in the line of duty fighting terrorism, is a victim of terrorism, or is targeted and killed by terrorists, and is officially declared a "Shaheed" by the government.

8. We consider that legal principles dictate that if rules allow for a reasonable interpretation that benefits an employee, that interpretation should be favored; and when a law specifies a method for doing something, that method must be strictly followed.

9. Because of the above, the committee's order (12.03.2020) lacks valid reasons for denying "Shaheed" status to Constable Wazir Ali, especially since he was in uniform and killed during a police encounter with dacoits. Simply citing his killing as personal tribal enmity and not in the line of duty is insufficient and the order is therefore invalid and is hereby overturned.

10. In view of the above, this petition is allowed with the direction to the competent authority of the respondent-police department to award compensation to the family of Constable Wazir Ali Magsi as in terms of Section 2 (f) of The Sindh Shaheed Recognition and Compensation Act-2014.