

# IN THE HIGH COURT OF SINDH AT KARACHI

## Constitution Petition No. D-621 of 2026

(Muhammad Ibtehaj Kamal v. Province of Sindh & others)

### Present:

Mr. Justice Muhammad Saleem Jessar  
Mr. Justice Nisar Ahmed Bhanbhro

- Petitioner : Through M/s. Malik Altaf Hussain, Rafiullah, Moin Khan Sandilo, Abdul Shakoor and Ameer Hyder Panhwar, Advocates
- Respondents : Through Mr. Hakim Ali Shaikh, Additional Advocate General, Sindh and Mr. Kamran Baloch, AAG alongwith M/s. Muhammad Tahir, Deputy DEO, Central Karachi, on behalf of RespondentNo.3 and Athar Sohail, Law Officer of Director Schools Education, on behalf of RespondentNo.4

Date of hearing and order : 16.04.2026

## ORDER

**Muhammad Saleem Jessar, J.-** Through this petition, petitioner claims following relief(s):-

- a) To declare that impugned letter dated 23-10-2024 ordering enbloc withdrawal of appointments made pursuant to the powers available under Rule 11-A of the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1973, is illegal, unlawful, unconstitutional, contrary to the orders passed by Hon'ble Supreme Court of Pakistan.
- b) To issue writ in the nature of mandamus directing the Respondent No.3 to issue appointment letter to the petitioner w.e.f. the date when other similarly placed persons have been offered appointment.
- c) To suspend the operation of impugned order till final adjudication of the captioned petition.
- d) Any other relief be granted or relief moulded in the circumstances of the case and/or as may be required considering the facts of the case in consideration of the dictates of law and equity."

2. Learned counsel for the petitioner contended that father of the petitioner was serving as Lab Assistant in respondent's department and died while in service on 29.02.2020. He further contended that petitioner being son of the deceased employee applied for a job under deceased quota, which was forwarded to the DRC for consideration, which unanimously recommended

the petitioner for appointment to the post of Junior Clerk (BPS-11). His name was mentioned at Sr.25 of the minutes of the Recommendations of the DRC dated 27.09.2024, however, his offer letter was not issued. Learned counsel added that the appointments on the deceased quota were withdrawn pursuant to the judgment of the Hon'ble Supreme Court of Pakistan dated **18.10.2024** passed in Civil Petition No.3390/2021, which withdrawal per learned counsel, is illegal, unlawful and *void ab initio* and liable to be *set aside*. He, therefore, prayed to allow this petition.

3. Learned Additional Advocate General, Sindh contended that the petitioner claims the job of Junior Clerk, which cannot be allowed in view of the dicta laid down by the Hon'ble Supreme Court of Pakistan in the aforesaid case. He therefore prays for dismissal of the petition.

4. Heard the arguments and perused the material made available before us on record.

5. It is an admitted position that father of the petitioner served in the Education Department and passed away on 29.02.2020, and such obituary was notified by the department on 17.08.2020. Rule 11-A of Sindh Civil Servants (Appointment, Promotion & Transfer) Rules 1974 ("**APT Rules**") (As stood before omission in compliance to the judgment of Hon'ble Supreme Court of Pakistan passed in the case of *General Post Office, Islamabad and others Vs. Muhammad Jalal (PLD 2024 SC 1276)*, ("**GPO Case**") provided that the concerned administrative department was under obligation to accommodate one of the family members of the deceased employees, who died while in service or incapacitated to perform the job anymore. For ease of reference Rule 11-A of APT Rules is reproduced herein below:-

"11-A Where a civil servant dies while in service is declared invalidated or incapacitated for further service, one of his/her children or, as the case may be [spouse] (when all the children of the deceased employee are minor) shall be provided job who applies within a period of two years of death or declaration of invalidity or incapacity of civil servant on any of the [Basic Pay Scale 1 to 11] in the Department where such civil servant was working:

Provided that such appointment shall be made after fulfillment of formalities as required in the recruitment rules and holding interview, for the post applied for:

Provided further that the cut of date shall be within two years of the death of the officer or official.

Provided further that if a right of employment has already accrued to any of the children of deceased or invalidated or

incapacitated civil servant then the former shall not be deprived of the benefit accrued to him under Notifications, dated 11.03.2008 and 17.07.2009 of these rules.”

6. On the demise of father, petitioner moved an application to the department for appointment on deceased quota, which was considered by the DRC, which recommended the petitioner in its meeting dated 27.09.2024 and codal formalities in this regard have been complied with, but the Competent Authority has been failed to comply with recommendations of the DRC. The inaction and defiance on the part of the department compelled the petitioner to invoke the jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973.

7. Since the Rule 11-A (*surpa*) has been omitted pursuant to the directions contained in the judgment dated 27.02.2026 rendered by the Hon'ble Supreme Court of Pakistan in the GPO case (*supra*). A large number of petitions were allowed by a Division Bench of this Court comprising both of us holding that the GPO case would not apply retrospectively and accrued rights will not be vanished. The Government of Sindh assailed upon the orders passed by this Court before Honorable Federal Constitutional Court of Pakistan through F.C.P.LA No 508 of 2025 and others (*Re - The Province of Sindh vs. Muhammad Rizwan Khan & others*). The interpretation rendered by this Court was approved and petitions for leave to appeals were dismissed vide order dated 27.02.2026, the operative part of the esteemed order reads as under:

4. As noted above, petitioner is aggrieved of acceptance of writ petitions of the respondents by learned Sindh High Court. The controversy pertains to the fact that respondents are spouse/children of the deceased Sindh civil servants and sought appointments on the basis of Rule 11-A of Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974 (the Rules). The Supreme Court of Pakistan vide judgment passed in case reported as General Post Office, Islamabad and others vs. Muhammad Jalal (PLD 2024 SC 1276) struck down Rule 11-A *ibid* and petitioner now seeks benefit thereof on the basis that since the Rule is no longer in the field, no appointment can be made. The nub of the controversy is that at the time when the judgment of the Supreme Court of Pakistan *supra* was handed down, had the right accrued in favour of the respondents? In this regard, the relevant event, which resulted in the accrual of the right, was the death of the civil servant. As and when the death of a civil servant takes place, one of the children and/or spouse acquires the right to be appointed in the civil service. The process of application and/or a formal appointment letter are administrative acts. Since right had accrued in favour of private respondents, hence judgment of the Supreme Court does not come in their way for appointment on deceased employee children/spouse

quota. It is trite law that judgments of the Supreme Court operate prospectively and not retrospectively. Even otherwise, the Supreme Court in a subsequent decision, clarified that the judgment reported as PLD 2024 SC 1276 supra does not take away the accrued rights and/or set aside the past and closed transactions. In view of above position of law, we do not find any legal infirmity in the reasoning handed down by the learned Sindh High Court, in the impugned judgment, warranting interference.

8. Under Article 189 of the Constitution of Islamic Republic of Pakistan, 1973 judgments of the Federal Constitutional Court are binding upon the Supreme Court of Pakistan as well as to this Court, therefore, in view of the judgment rendered in the case of *Province of Sindh vs. Muhammad Rizwan Khan & others*, the petitioner is entitled for a job on the deceased quota in the respondent department.

9. The petitioner has been recommended for appointment as Junior Clerk, however his next process for the appointment could not materialize for the reason of the judgment of the Hon'ble Supreme Court in the *GPO* case. As discussed supra, the said clog now also stands removed to the extent of the petitioner and the department was under obligation to implement the recommendation of the DRC.

10. For the foregoing reasons, case for indulgence by this Court is made out; consequently, this petition is hereby **allowed**. The competent authority of respondent's department is directed to issue appointment letter to the petitioner within a period of fifteen days from the date of this order.

11. Office is directed to send copy of this order through facsimile to the respondents for compliance. Learned MIT-II to ensure compliance.

Judge  
Head of Const. Benches

Judge