

IN THE HIGH COURT OF SINDH AT KARACHI

Constitution Petition No. D-1253 of 2025

(Waqar Ahmed Khan v. Federation of Pakistan through Secretary Ministry of Communication & others)

Present:

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

Petitioner : *In person*
Respondents : Through Ms. Shazia Hanjrah, DAG
Date of hearing : 28.04.2026
Date of Reasons : 11.05.2026

ORDER

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

- a) To set-aside the impugned Termination Order dated 18.02.2025 as illegal, void ab-initio in the eye of law and without lawful authority, holding that appointment of petitioner is duly processed and finalized prior to the appointment.
- b) To direct the respondent No.5 to release the salaries/ outstanding amount of Rs.116,000/- of the petitioner along-with arrears accrued thereon forthwith to the petitioner.
- c) To suspend the operation of impugned termination order dated 18.02.2025 issued by the respondent No.4 to the petitioner till final disposal of instant petition.

2. The petitioner is present in person and submits that his father while serving as Sorter (BPS-10) in the respondent department was subjected to *invalidation retirement* vide order dated 13.09.2023 pursuant to the recommendations of the President Central Medical Board dated 23.08.2023. He further submitted that being son of an invalidated employee, he was accordingly appointed as Sorter (BPS-09) on 16.01.2024 on invalid retirement quota on a two-year contract basis effective from the date of assumption of the charge i.e. 26.01.2024. He contended that his appointment was made after fulfilling all codal formalities; however, without prior notice or affording an opportunity of hearing, as required under the law as well as under clause 14 of

the appointment letter dated 16.01.2024, he was abruptly terminated from service vide letter No. MSTK/B-6/1 (Contract Basis) dated 18.02.2025, to which petitioner filed department appeal before Respondent No.4, who has been failed to respond to it. He asserts that the impugned termination is illegal, unlawful, and *void ab initio*, being in violation of the principles of natural justice and the terms of his appointment. He, therefore, prays that the petition may be allowed and the impugned termination order may be *set aside*.

3. Learned Deputy Attorney General for Pakistan contended that the petitioner was appointed as Sorter (BPS-09) on 26.01.2024 in the respondent department against *invalidation quota* for a period of two years on contract basis. However, in compliance of order dated 08.12.2022 passed by Hon'ble *Islamabad High Court* in Writ Petition No.1146/2022 contractual services of the petitioner were terminated on the recommendation of the Inquiry Committee. She therefore prayed for dismissal of this petition.

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

5. On invalidation retirement, father of the petitioner moved an application to the department for appointment of his son (petitioner), which was considered by the department and he was appointed as Sorter (BPS-09) on invalidation quota vide appointment letter dated 16.01.2024 on contract basis for a term of two years. The Petitioner's service contract was terminated vide termination letter dated 18.02.2024, pursuant to the judgment rendered by Honorable Supreme Court of Pakistan in the case of *General Post Office, Islamabad and others v. Muhammad Jalal* reported as **PLD 2024 SC 1276**.

6. Petitioner's father served in General Post Office Department Government of Pakistan. A review of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973, the rules governing appointment in service of Federation did not provide for nor envisages any provision to benefit the family of a civil servant who died while in service or retired under physical invalidation to perform further job. The Establishment Division vide Office Memorandum (OM) dated 13 August 2001 opened a gate for the appointment, without open advertisement, of a widow or one child of a civil servant of the Federal Government who died during service or subjected to invalidation retirement, to a post in BPS-5 and on lower grade on contract

basis. Through OM dated 5 January 2002 issued by the Establishment Division, extended this benefit to employees working in BPS-10. Thereafter, vide OM dated 13 April 2005 issued by the Establishment Division the widow/widower/ child of a civil servant who died during service or who became permanently disable during service and took retirement from service, were made entitled for appointment on contract basis to any position up to BPS-10 without the same being advertised.

7. The Establishment Division introduced the Prime Minister's Assistance Package ('the Package') vide OM dated 13 June 2006 for the families of Federal Government employees, who died in service, grants for different grades which covered pensionary benefits, accommodation, free education, free health, allotment of plot, house building advance and employment to the posts in BPS-1 to 15 for two years on contract without the post being advertised. The Package was amended vide OM dated 20 October 2014 and additional benefits were granted with effect from 15 June 2013 to the families of Government employees who died in service including employment of widow/widower/one son or daughter to the posts in BPS-1 to 15 on regular basis without advertising the post provided the applicant fulfilled the criteria of the said post. The Package was further amended vide OM dated 22 October 2014 with effect from 15 June 2013 and included retention of official accommodation by the family of a Government employee who died in service or payment of rent for five years or till the age of superannuation, whichever is later. The Package was again revised by the Establishment Division vide OM dated 4 December 2015 with effect from 9 February 2015 with the grant of a three hundred percent increase in lump sum grant in the package earlier issued in 2006 and provided for other benefits, including employment to posts in BPS-1 to 15 on two years contract without the post being advertised. The Package was again revised by the Establishment Division vide OM dated 23 December 2022 with effect from 4 December 2015 whereby the provision of contract employment under the Package of 2015 was replaced with regular appointments with immediate effect and services of all the contract employees appointed under the Package of 2006 and the Package of 2015, who were contractual employees were regularized with immediate effect. Office Memorandum reads as under:-

**“Government of Pakistan
Cabinet Secretariat
Establishment Division**

F. No.8/23/2021-E-2(pt)

Islamabad, the 23rd December, 2022

OFFICE MEMORANDUM

Subject: PROVISION OF REGULAR APPOINTMENT UNDER THE ITEM "EMPLOYMENT IN PRIME MINISTER'S ASSISTANCE PACKAGE FOR THE FAMILIES OF GOVERNMENT EMPLOYEES WHO DIE IN SERVICE"

The undersigned is directed to refer to this division's O.M. No 7/40/2005-E-2 dated 13.06.2006 and O.M. 8/10/2013-E-2 dated 04.12.2015 on the above subject and to state that the Prime Minister has been pleased to approve following amendment/addition under the item "Employment"

- i. The provision of "Contract Appointment" under PMAP-2015 is replaced with "Regular Appointment" with immediate effect in accordance with Civil Servants (Appointment, Promotion and Transfer) Rules, 1973, except the condition of Advertisement, which has already been relaxed by the Prime Minister.
- ii. In case of Regular Appointment under PMAP - 2015 if the applicant fails to pass the required aptitude/skill test for a specific post up to BS -15 under Civil Servants (APT) Rules, 1973, the opportunity of Regular Appointment shall be extended to next lower posts.

2. The Prime Minister has further been pleased to approve the service of contract employees appointed under PMAP-2006 and PMAP-2015, who are still working under the existing contract shall be regularized with immediate effect, as one time dispensation.

3. All Ministries/Divisions are required to ensure circulation of the above mentioned amendment/addition to their attached departments and sub-ordinate offices under their administrative control for implementation in letter and spirit.

Sd/
Syed Ashan Ali
Section Officer E -2"

8. Per reply filed to the petition by the Respondent Department, Petitioner's appointment was withdrawn in compliance of the order dated 08.12.2022 passed in Writ Petition No.1146 of 2022 by the learned Islamabad High Court, but it is pertinent to note that petitioner was appointed by the respondent department vide order dated 16.01.2024. Islamabad High Court's order was interim in nature and final verdict in the matter has not been placed on record. It is stated in the comments filed by the respondent department that Islamabad High Court's order attained finality in pursuance to the pronouncement of Honorable Supreme Court in the GPO case (*supra*).

9. Honorable Supreme Court in GPO case (*supra*) clarified that the judgment shall not affect the appointments already made in respect of the widow/widower, wife/husband or child of deceased or retired civil servants. The spirit of the judgment was that it did not apply retrospectively. Since Prime Minister's Assistance Package was declared ultra vires to the Constitution and stood omitted pursuant to the directions

contained in the GPO case (*supra*). A large number of petitions were filed before this Court and were allowed by a Division Bench of this Court (comprising both of us) holding that the GPO case would not apply retrospectively and rights accrued to the bereaved families prior to the pronouncement will not be vanished. The Government of Sindh assailed upon the orders passed by this Court in various petitions before Honorable Federal Constitutional Court of Pakistan through F.C.P.LA No 508 of 2025 and others (*Re- The Province of Sindh v. Muhammad Rizwan Khan & others*). The interpretation rendered by this Court was approved and petitions for leave to appeals were dismissed vide esteemed order dated 27.02.2026 penned down by the Honorable Federal Constitutional Court, 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.”

10. 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, judgment rendered in the case of *Province of Sindh v. Muhammad Rizwan Khan*

& others, shall have the binding effect. The petitioner is held entitled for a job on the deceased/invalidation quota in the respondent department.

11. The petitioner was appointed as Sorter (BPS-09) on contract basis for a period of two years; however, his services were terminated during subsistence of the contract in compliance of the order passed by the Islamabad High Court (*supra*) relying upon the GPO case. The Petitioner's appointment was protected under GPO case as it was observed by the Honorable Supreme Court that appointments made earlier shall not be affected. However, the said clog now also stands removed to the extent of the petitioner upon interpretation by the Honorable Federal Constitutional Court.

12. The Petitioner was entitled for a regular job pursuant to modification in the Prime Minister's Assistance Package in year 2022, but he was issued appointment on contract basis. Withdrawal of appointment of the petitioner rested upon hypothetical assumption by the department that such appointments were not tenable under the law, as such is not sustainable.

13. For the foregoing reasons, case for indulgence by this Court is made out; consequently, this petition is **allowed** and termination order dated 18.02.2025 is hereby *set aside*. The petitioner is reinstated in service with full back benefits. The competent authority of the respondents' department is directed to issue a fresh appointment letter to the petitioner on regular basis in continuity of earlier contract appointment against invalidation quota.

14. These are the reasons for our short order dated 28.04.2026. 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