

IN THE HIGH COURT OF SINDH AT KARACHI

Constitution Petition No. D-5900 of 2025
(Ramz Ali v. Federation of Pakistan through Secy. Information and others)

Present:

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

Petitioner : Through Mr. Habibullah Jamali, Advocate

Respondents : Through Ms. Shazia Hanjrah, DAG
alongwith Mr. Toufique Ahmed, Assistant
Director, Department of Survey of
Pakistan, Karachi

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. Declare that the petitioner is eligible and capable to get the Job in the department respondent No.2 & 3 on Deceased Son Quota basis.
- B. To please direct the respondent No.2 & 3 to appoint the petitioner in their department on Deceased Son Quota basis to any suitable post on support the deceased family.

2. Learned counsel for the petitioner contended that father of the petitioner was serving as Draftsman in respondent's department and died while in service on 03.10.2017. He further contended that her mother as well as petitioner being son of the deceased employee applied for a job under deceased quota on 22.09.2025 and 20.08.2024, which were not considered by the department; therefore, this petition has been maintained.

3. Learned DAG contended that the petitioner claims a job under deceased quota, which cannot be allowed in view of the judgment of the Hon'ble Supreme Court of Pakistan in the case of *General Post Office, Islamabad and others Vs. Muhammad Jalal (PLD 2024 SC 1276)*, ("GPO Case"). She therefore prays for dismissal of the petition.

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

5. Admittedly, father of the petitioner served in the Survey of Pakistan, Ministry of Defence, Government of Pakistan as Draftsman and passed away on 03.10.2017. His spouse as well as petitioner moved applications to the department for appointment of his son (petitioner) dated 22.09.2025¹ and 20.08.2024² under deceased quota, which were not considered by the department on the pretext that the Prime Minister's Assistance package stood withdrawn from the date of judgment of the Hon'ble Supreme Court of Pakistan in GPO case (*supra*) dated 18.10.2024.

6. 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, 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

¹ Available at page 25 of the Court file.

² Available at pages 31 & 33 of the Court file.

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 by the respondent department, the petitioner could not be appointed as the Prime Minister's Assistance Package stood withdrawn pursuant to the judgment of the Hon'ble Supreme Court of Pakistan in the GPO case (*supra*) dated 18.10.2024, and further that the petitioner applied for appointment against the deceased quota on 20.08.2024³, after a delay of two years and eight months from the date he attained the minimum eligible age for employment, i.e., 16.12.2021. However, it is an admitted position that the petitioner had moved application dated 20.08.2024 prior to the pronouncement of the judgment of the Hon'ble Supreme Court of Pakistan dated 18.10.2024. Moreover, the spirit of the said judgment was that it would not operate 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 order dated 27.02.2026 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

³ Available at page 33 of the Court file as well as annexed at Annexure-D to the comments of Respondent Nos.2 and 3 presented by the learned DAG on 28.02.2026.

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.”

9. Under Article 189 of the Constitution of the Islamic Republic of Pakistan, 1973, judgments of the Federal Constitutional Court are binding upon the Supreme Court of Pakistan as well as this Court; therefore, the judgment rendered in the case of *Province of Sindh v. Muhammad Rizwan Khan & others* has binding effect. Consequently, the petitioner is entitled to appointment against the deceased quota in the respondent department.

10. The petitioner was not considered for appointment under deceased quota on the basis of the judgment of the Hon’ble Supreme Court in the GPO case; however, as discussed above, the said impediment no longer survives in view of the interpretation rendered by the Hon’ble Federal Constitutional Court. The GPO case does not operate retrospectively so as to defeat rights that had already accrued to bereaved families prior to its pronouncement. The petitioner, therefore, was entitled to regular appointment pursuant to the modification in the Prime Minister’s Assistance Package, 2022, but was unlawfully ignored by the department. The withdrawal of the petitioner’s appointment process, based merely on the department’s assumption that such appointments were not legally sustainable, is without lawful justification and cannot be sustained.

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

12. 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

B-K Soomro

Approved for Reporting.