

FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
(Original/Appellate/Advisory Jurisdiction)

PRESENT:

Justice Amin-ud-Din Khan, Chief Justice
Justice Ali Baqar Najafi

CPLA No. 1901 of 2022

[against impugned order dated 12.04.2022 passed by Peshawar
High Court, D.I.Khan Bench in W.P.No.692-D/2020]

Chairman, State Life Insurance Corporation of Petitioner
Pakistan, Principal Office Karachi and others (s)

Versus
Shahzad Saleem Faiz and others Respondent (s)

For the Petitioner (s) : Mr. Waseem-ud-Din Khattak, ASC
a/w Muhammad Ishaq Khan, Manager
(L)

For the Respondent(s) : Mr. Aftab Alam Yasir, ASC

Date of Hearing : 22.09.2026

JUDGMENT

Ali Baqar Najafi, J.- Through this petition under Article 185(3) now converted into Article 175 F(2) of the Constitution of the Islamic Republic of Pakistan, 1973, leave to appeal is sought against the impugned order dated 12.04.2022 passed by Peshawar High Court, D.I.Khan Bench, whereby, the Writ Petition filed by Shahzad Saleem Faiz [**respondent No.1**] was allowed while sending his case to the Zonal Head, State Life Insurance Corporation of Pakistan, Kohat Zone Kohat, to consider him for the employment strictly in accordance with the policy within a period of one month.

2. **After hearing** the learned counsel for the parties and perusing the record, it is noted that the respondent No.1, born on 19.03.2000,

to Gul Faiz Muhammad, a Superintendent in State Life Central Zone, Lahore who died during service on 24.05.2005. The respondent No.1 being the youngest son and no other sibling having been accommodated/adjusted against his father's post, under Assistance Package against Family Claim, applied for the job on the basis of his Matric and F.A. (*certificates not enclosed*) on 05.12.2019. His application was not attended, therefore, he filed a Constitutional Petition praying for a direction to the petitioners to appoint him on any post compatible to his qualification being son of an employee of petitioner/State Life Insurance Corporation died during service under the policy of Federal Government. This petition was allowed by virtue of impugned order which has been assailed by the petitioner/Corporation before this Court.

3. We have noticed that to address the demands made by the employees of State Life Insurance Corporation/petitioner and consequent to a CBA agreement adopted in the 219th meeting of the Board of Directors of Corporation held on 22.04.2011, it was mutually agreed by both the employees and employer that one child of the government servant who died during service will be adjusted but only after 13.06.2006. It is an unfortunate fact that the father of the respondent No.1 had already died on 24.05.2005 i.e. about a year before the cut-off date.

4. The case of the respondent No.1 before the High Court was that the Federal Government Policy for Prime Minister's Assistance Package for the families was promulgated on 13.04.2005 at the time when his father was alive and the respondent No.1 being an employee of the petitioner/Corporation was entitled to draw the

benefit of said policy who, therefore, had earned a right to be considered for appointment. He added that vide notification dated 17.04.2018, an amendment in the policy dated 13.04.2005 was introduced whereby such employee's children could apply within one year for the job and, therefore, he had applied within the stipulated time. The High Court had held that the policy of the Federal Government was applicable to the petitioners *mutatis mutandis* and that the adoption of the policy of the Federal Government by the Board of Directors w.e.f. 13.06.2006 could be further extended back and applied retrospectively to the date of death of the father of the respondent No.1, i.e. 24.05.2005 so as to accommodate him. To assess whether the policy could at all be applied with back date in the absence of an express clause and merely as a beneficial interpretation for a person and whether any policy of the Federal Government could be adopted automatically by a semi-autonomous body like State Life Insurance Corporation/ petitioner, we will have to discuss the status of the petitioners/ Corporation.

5. The State Life Insurance Corporation of Pakistan is a *semi-autonomous* body which is run by its Board of Directors and is controlled by the Federal Government. It has its own statutory rules as "*State Employees (Service) Regulations, 1973*". The instructions/ circulars issued by the Federal Government have to be adopted by the Board and they do not automatically transform into a statutory or executive instructions of the Corporation. We have asked the learned counsel for the petitioners to point out any person appointed on the basis of family claim prior to 13.06.2006 in the

petitioner/Corporation but no such example was cited. We have also noticed that in a similar situation Civil Petition No.410/2017¹ was dismissed by the Supreme Court on 07.03.2018 and the benefit of family claim for the appointment was not extended since the death of the employee of the Corporation had occurred on 08.04.2005, i.e. prior to 13.06.2006. As far as the cited judgment in Muhammad Rizwan Khan case² is concerned, suffice it to say that in that judgment this Court has held that the right to get the family claim for appointment accrues with the death but obviously, a prior applicable law must be in existence, therefore, that judgment is distinguishable.

6. It is trite law that if the policy did not intend to operate retrospectively, it must operate prospectively. Vide notification dated 26.07.2011 and consequent to the agreement with the CBA, the benefit to one child of the deceased employee in service was consciously and deliberately extended from a particular date i.e. 13.06.2006 with the understanding and keeping in view its practicability from a back date. By any intendment or reading into a Statute or policy, the Court cannot extend it backwards on its whims and desires so as to accommodate any person on compassionate grounds since such appointments have financial consequences and administrative fall out. If this interpretation is allowed to prevail, we wonder where the matter would end and how many claimants will have to be accommodated by the Corporation

¹ State Life Insurance Corporation of Pakistan through its Chairman and others versus Muhammad Hanif [Civil Petition No.410 of 2017]

² The Province of Sindh Vs. Muhammad Rizwan Khan & others [FCPLA Nos.508, 591, 346, 347, 348, 589, 267, 593, 130 & 353 of 2025 decided on 27.02.2026]

which might lead to serious question relating to the economic survival of the petitioner-Corporation.

7. However, we are cognizant of the settled principle of law that though the Courts may take into consideration genuine hardship, compassion and humanitarian circumstances in appropriate cases but it cannot be permitted to override, defeat or dilute an express provision of law, statutory rule or binding policy. Undoubtedly, compassion is not a substitute for law, nor can equitable considerations be invoked to confer upon a person a right which has been expressly denied by the applicable legal framework. The jurisdiction of a Court is to administer justice in accordance with law and not to dispense relief merely on the basis of sympathy or humanitarian considerations if such relief run contrary to an unambiguous statutory command. In Balqees Begum case³, it was rightly held by the Supreme Court that equity cannot be given precedence over the clear mandate of law. It goes without saying that to interfere into the policy matter is not within the domain of the Court unless it leads to some violation of an existing right without creating a new one. In the present case, no existing right of the petitioner was violated.

8. In view of the above discussion, this petition is converted into an appeal and is **allowed**.

CHIEF JUSTICE

Islamabad
22.09.2026
NOT APPROVED FOR REPORTING
A.Qadoos*

JUDGE

³ Director General, National Savings, Islamabad Versus Balqees Begum and others [PLD 2013 Supreme Court 174]

