ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No.243 of 2019
Tania Gulzar
Versus
Establishment Division, Cabinet Secretariat and another

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	30.01.2020	**M/s Bilal Hassan Sabri and Muzammil Hussain Shad, Advocates for the petitioner** **Mr. Muhammad Nadeem Khan Khakwani, learned Assistant Attorney-General.** **Mr. Nadeem Arshad, Section Officer, Establishment Division.** **Through the instant writ petition, the petitioner, Tania Gulzar, impugns the order dated 08.01.2018, whereby employment as Naib Qasid (BS-01) was granted to her on contract basis for a period of two years under the Prime Minister's Assistance Package for Families of Government Employees who Die in Service.** **2. Learned counsel for the petitioner submitted that the petitioner's father died while in service on 21.06.2017; that at the time of the petitioner's father's death, the Prime Minister's Assistance Package dated 20.10.2014 was in vogue; that under the said Assistance Package, an employment to widow/widower, one son or daughter to the posts in BS-01 to BS-15, on <u>regular basis</u> without advertisement against the post criteria of which the applicant fulfills, was to be given; that instead of being appointed on regular basis, the petitioner was appointed on contract basis; that the petitioner should have been given employment commensurate with her educational qualifications; and that it was obligatory upon the respondents to have the petitioner appointed on regular basis. Learned counsel for the petitioner prayed for the writ**

petition to be allowed in terms of the relief sought therein.

3. On the other hand, learned Assistant Attorney-General, assisted by Mr. Nadeem Arshad, Section Officer, Establishment Division, submitted that the petitioner never accepted the offer for appointment as Naib Qasid on contract basis; that since the petitioner's father died on 21.06.2017, the Assistance Package dated 04.12.2015 was in vogue and not the Assistance Package dated 20.10.2014; and that under the Assistance Package dated 04.12.2015, the petitioner could only be given a contractual employment. Learned Assistant Attorney-General prayed for the writ petition to be dismissed.

4. I have heard the contentions of the learned counsel for the petitioner as well as the learned Assistant Attorney-General and have perused the record with their able assistance.

5. It is an admitted position that the petitioner's father, Gulzar Maseeh, who was employed as a Sanitary Worker (BS-03) in the Prime Minister's Office, died on 21.06.2017 while in service. Under the *"Assistance Package for Families of Government Employees who Die in Service"*, revised vide office memorandum dated 04.12.2015, an employment against posts in BS-01 to BS-15 on two years contract basis without advertisement was to be offered to the widow/widower, one son or daughter of a deceased government employee.

6. Under the *"Assistance Package for Families of Government Employees who Die in Service"* issued by the Establishment Division vide office memorandum dated 20.10.2014, an employment on regular basis to the widow/widower, one son or daughter to posts in BS-01 to BS-15 was to be

offered. However, since the petitioner's father died on 21.06.2017, the provisions of the *"Assistance Package for Families of Government Employees who Die in Service"* as revised by the office memorandum dated 04.12.2015 would apply. By reason of this revision, the petitioner could only have been offered employment on contract basis. Therefore, there is no substance in the contention of the learned counsel for the petitioner that the petitioner should have been offered employment on regular basis.

7. In the writ petition, it is pleaded *inter alia* that the petitioner should have been offered employment in accordance with her qualifications. It is not disputed that the petitioner is a graduate having done her Bachelor of Arts from the Quaid-e-Azam University in the year 2016. Given her educational qualifications, it is my view that it is not just demeaning to the petitioner but also a violation of her dignity to be offered employment as a Naib Qasid (BS-01). The reason why under the said Assistance Package employment in BS-01 to BS-15 can be given is that a person to be appointed ought to be given an appointment which is commensurate with his/her educational qualifications. A person who has not done his matriculation can certainly not be appointed against a post in BS-15. By the same analogy, a person who is a graduate cannot be appointed against a post of a Naib Qasid (BS-01). Therefore, the petitioner did not act unreasonably much less unlawfully by not accepting the appointment as Naib Qasid (BS-01).

8. True, the grant of an employment to a widow/widower, son or daughter of a deceased government employee under the said Assistance Package is a matter of privilege. However, the

policy behind the said Assistance Package would be reduced to a farce if graduates are offered employments as Naib Qasid (BS-01).

9. In view of the above, the instant writ petition is allowed to the extent that the offer of employment to the petitioner as Naib Qasid (BS-01) vide letter dated 08.01.2018 is set-aside. Furthermore, it is declared that under the *"Assistance Package for Families of Government Employees who Die in Service"* as revised vide Establishment Division's office memorandum dated 04.12.2015, the petitioner is entitled to be given employment on contract basis against a post which is commensurate to her educational qualifications. There shall be no order as to costs.

(MIANGUL HASSAN AURANGZEB)
JUDGE

Ahtesham*

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