

**GOVERNMENT OF PAKISTAN
REVENUE DIVISION
FEDERAL BOARD OF REVENUE
ADMINISTRATION/HR**

C.No.13(02)HRMC-IV/2024

Islamabad, the 23rd July, 2024

To:


1. All Chief Collectors / Director Generals of Customs Field Formations
2. All Collectors / Directors of Customs Field Formations

SUBJECT: RESTRAINING OF APPOINTMENTS UNDER PRIME MINISTER'S ASSISTANCE PACKAGE.

I am directed to refer to the subject noted above and to forward herewith a copy of interim Order dated 08.12.2022 passed by Hon'ble Islamabad High Court Islamabad in WP No. 1146//2022 for strict compliance in letter and spirit.

2. All Heads of Customs Field Formations are accordingly requested to withhold the cases of appointments under Prime Minister's Assistance Package (PMAP) and contract appointments under the Contract Policy, as lastly amended vide Establishment Division's OM No.4/1/2005-CP-I dated 13.04.2005, till vacation of restraining order by the Hon'ble Court.

Encl: (As Above)


(Munir Ahmad)
Second Secretary (M/HR.C-IV)
Phone: 051-9205360
23/07/2024

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ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No.1146/2022

Mst. Fazilat Bibi & another.

Versus

The Directorate General Immigration & Passports, through its Director General, Islamabad & others.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
(06)	08.12.2022	Ch. ShafiqurRehman, Advocate for the petitioners. Mr. AqeelAkhtar Raja, Assistant Attorney General. Mr. Afzal Khan, DAD (Admn), on behalf of respondents No.1 & 2. Hafiz Muhammad Ishfaq, Deputy Secretary (CP-II) and Mr. Muhammad Arfan, Section Officer ¹ (Lit-V), Establishment Division. Ms. Tousif Zia, A.D (Admn) DG Passport.

The learned Assistant Attorney General states that the Prime Minister Assistance Package ("**PM's Package**") is being afforded to families of government employees who died in service, as advertised on 04.12.2015, and not under the office memorandum dated 13.04.2005 amended through office memorandum dated 17.04.2018. He states that the august Supreme Court in **the Government of Pakistan through Secretary Establishment Division, Islamabad vs. Muhammad Ismail and another (Civil Appeal No. 410 of 2020)** hasheld that the office memorandums cannot be applied retrospectively

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W.P No. 1146/2022

but are to be applied prospectively and consequently there is no infirmity with the manner in which the summary to appoint petitioner No.2 was rejected by the Prime Minister on 22.11.2021.

2. The learned counsel for the petitioner states that the judgment rendered by the august Supreme Court is distinguishable to the extent that in such case the employee in question died in service and the PM's Package, had not been put in place up until 13.06.2006. And in view of such facts the august Supreme Court held that the next-of-kin of the deceased employee were not entitled to the benefits under the PM's Package in question. He states that it is the petitioner's case that Establishment Division issued an office memorandum on 21.03.2000 where it had been held that in the event that a civil servant died during service the condition of open advertisement could be relaxed by the Chief Executive for purposes of appointment, on contract basis, of the widow or one child of the deceased to a post under BS-10 and below. He states that it is under this office memorandum, which was in place at the relevant time and placed no embargo on the age of the child of the deceased that the benefit was sought by the petitioner. He states that the embargo in

question (i.e. that the application for an appointment on contract basis by the next-of-kin which should be made within a period of one year) was introduced through office memorandum dated 13.04.2005. This O.M stated that the next-of-kin was to seek the contract employment benefit within a period of one year of the demise of the Civil Servant in question. And further that in case of a minor the said one year period would commence when the child attained the age of 18 year. He states that the office memorandum dated 17.04.2018 merely extended the period of one year applicable to a minor from the time that he/she attains the age of majority to the maximum age limit prescribed for an initial appointment to a civil post under the Relaxation of Upper Age Limit Rules, 1993. The learned counsel for the petitioner states that the manner in which the office memorandum dated 17.04.2018 is being given effect is discriminatory as it arbitrarily creates an entitlement for next-of-kin of some civil servants to apply under the PM's package till they reach the maximum age limit prescribed under the initial appointment to civil posts relaxation of Upper Age Limit Rules, 1993, with effect from 17.04.2018 but deny such facility to the next-of-kin of a civil servant who

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died even one day before the issuance of such office memorandum dated 17.04.2018.

3. It appears that the manner in which the PM's Package as well as contract employment under office memorandums dated 21.03.2000, 13.04.2005 and 17.04.2018 is being afforded is completely whimsical. The original purpose of affording a contractual job under the PM's Package to the next-of-kin of a deceased employee seems to have been to afford continued means of subsistence to the family of the deceased in the immediate aftermath of a demise, which purpose seems to have been lost. The Establishment Division and the Prime Minister's office appear to be acting in manner as if they are functioning in a Kingdom not governed by rules guided by requirements of fairness in treating citizens in an equal manner.

4. Let the Establishment Division file a detailed report providing a summary of all cases in which contractual employment has been afforded under the PM's Package as well as the aforementioned office memorandums dated 21.03.2022 and 13.04.2005 since the notification of office memorandum dated 17.04.2018. It *prima facie* appears that PM's Package in its very spirit is unconstitutional and in breach of Article 25 of the Constitution. As the manner in which it

has been implemented can afford certain benefits to the children of a Civil Servant almost two decades after the demise of such civil servant in relation to government jobs, even though at such time such citizens ought to compete fairly with other eligible citizens for government jobs. The offering of government jobs has to be in accordance with requirements of Article 4 read together with Articles 9, 18 and 25 of the Constitution by providing a level-playing-field to all citizens. Those in the higher echelons of the Establishment Division and the PM's office have no authority under the law and the Constitution to dispense state largesse at their whims. The Establishment Division and the PM's office are restrained from processing further cases for grant of contract employment under the PM's Package and the aforementioned O.Ms till the next date of hearing when the Establishment Division shall satisfy this Court that the provisions of such package have not been given effect in a discriminatory manner. As the matter involves interpretation of law and constitutionality of a government policy, let notice also be issued to the Attorney General's office under Order XXVIIA of CPC.

5. Let the matter be fixed for **02.02.2023**.
Let the Establishment Division file details of

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contractual jobs offered under the PM's Package
since 17.04.2018 before such date.

(BABAR SATTAR)
JUDGE

Shakeel Afzal