

W.P No.14377 of 2013 1  
Form No:HCJD/C-121  
**ORDER SHEET**

**IN THE LAHORE HIGH COURT LAHORE  
JUDICIAL DEPARTMENT**

Case No: W.P No.14377 of 2013

***Fakhar Imam***

**Versus**

***Govt. of Punjab etc.***

S.No. of order/ Proceeding	Date of order/ Proceeding	Order with signature of Judge, and that of parties of counsel, where necessary.
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20.6.2013 Syed Muhammad Ahmad Abbas Bukhari,  
Advocate for the petitioner.  
Syed Abid Ali Tahir, AAG with Rukhsana  
Kausar, Law Officer, Forest Department, Bilal  
Ahmed, Assistant Director Fisheries and  
Tasawar Mehmood, ADF.

Through this constitutional petition the  
petitioner seeks direction to issue appointment  
letter to the petitioner and meanwhile restrain  
them to fill the post vacated by the father of the  
petitioner.

2. Brief facts giving rise to the filing of this  
writ petition are that father of the petitioner  
namely Muhammad Siddique served respondent  
department for about 26 years and retired on  
medical ground on 18.3.2013. The petitioner  
being entitled to the benefit of Rule 17-A of the  
Punjab Civil Servants (Appointment and  
Condition of Service) Rules, 1974, made an  
application for his appointment as Fisheries  
Watcher BS-1 on the seat vacated by his father

on medical ground. He was asked to submit the requisite documents, whereafter the respondent No.4 wrote a letter refusing such appointment on the ground that the petitioner did not qualify as he passed the Matric in third division.

3. The learned counsel for the petitioner submits that the petitioner is entitled to have the benefit of Rule 17-A of the Punjab Civil Servants (Appointment and Condition of Service) Rules, 1974; that the father of the petitioner was the only source of livelihood for the family, who has already been retired on medical ground; that the petitioner being citizen of Pakistan is entitled to the equal protection of law and under Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 he is required to be dealt with only in accordance with law.

4. Conversely, the learned AAG on the basis of parawise comments submitted by respondent No.2 submits that the petitioner does not qualify for appointment as Fisheries Watcher BS-1 as he is Matric E-Grade/third division and under the Punjab Fisheries Department Service

Rules 2011 in Item No.42 the requisite qualification for the post is Matric with Science (Second Division) from a recognized board and the respondent Department is bound by rules and as such the petitioner is not entitled for the appointment.

5. I have heard the learned counsel for the parties and perused the available record.

6. Under proviso of Rule 17-A of the Punjab Civil Servants (Appointment and Condition of Service) Rules, 1974, one child of a government servant who has been declared invalidated/incapacitated of other services shall be provided a job against the post in the BS-1 to 5 in the department without observance of formalities prescribed under the rules/procedure, if such child otherwise is eligible for the post. Under Punjab Fisheries Department Services Rules, 2011, in item No.42, the minimum qualification for Fisheries Watcher is Matric with Science (Second Division) from a recognized Board. However, the perusal of the Matric Certificate of the petitioner reveals that the petitioner obtained

grade-E, but said certificate does not mention Second Division or Third Division. In my opinion, Item No.42 of the Rule ibid, only mentions the word second division without prescribing the grades either A,B,C,D or E having different percentages of pass marks which means that the petitioner is not specifically disqualified to be appointed under Rule 17-A of the Punjab Civil Servants (Appointment and Condition of Service) Rules, 1974. Additionally, it has been made mandatory for the respondent to appoint at least one child of such a government servant. The petitioner has also completed his FA and the Rules ibid are silent as to the benefit/effect of his changed status after having improved his qualification. There is no other competitor for the said post, therefore, the Rule 17-A is required to be interpreted in order to advance benefit to the petitioner.

7. In this view of the matter, I dispose of this petition with the direction to respondent No.3 to consider the petitioner for his appointment under Rule 17-A of the Punjab Civil Servants

(Appointment and Condition of Service) Rules, 1974 in view of the observations supra, as he cannot be disqualified on the basis of his educational qualification.

(ALI BAQAR NAJAFI)  
JUDGE

~~ZAHOR~~\*

Approved for Reporting.

Judge.