

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD

C.P No. D-1133 of 2023
[Farhan Ahmed Shaikh and others v. Province of Sindh and others]

C.P No. D-1362 of 2023
[Mst. Fazeela and others v. Province of Sindh and others]

C.P No. D-1919 of 2023
[Muhammad Zahid v. Province of Sindh and others]

C.P No. D-1920 of 2023
[Abid Ali v. Province of Sindh and others]

Before:
JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE RIAZAT ALI SAHAR

Counsel for Petitioner: Mr. Allah Dino Dayo, Advocate
Mr. Zulqarnain Talpur, Advocate
Mr. Farhan Ahmed Shaikh, Petitioner

Counsels/ Representatives for Respondents: Mr. Rafique Ahmed Dahri, Assistant
A.A.G. Sindh.

Date of Hearing: 13-11-2025

Date of Judgment: 13-11-2025

JUDGMENT

RIAZAT ALI SAHAR, J: - Through these connected Constitutional Petitions, the petitioners seek enforcement of their fundamental rights under Article 199 of the Constitution, as despite clearing the JEST/PST tests and falling within the 5% disability quota, the respondents arbitrarily refused to issue their appointment orders on technical grounds, even after the petitioners produced their disability CNICs and certificates. Since similarly situated candidates have already been appointed pursuant to this Court's earlier judgment, the petitioners, having no

alternate remedy, are constrained to approach this Court for redress. Thus, seeking following reliefs:

“A.To direct the respondents to appoint the petitioners for the post of JEST/PST on the disabled quota upon production of disability CNICs and disability certificates, as they have successfully passed the JEST/PST tests conducted by SIBA and should not be discriminated against.

B.To grant interim orders restraining the respondents from making any fresh appointments against the disabled quota for the posts of JEST/PST in Shaheed Benazirabad District until the final disposal of this petition.

C.To grant any other relief which this Honourable Court deems fit, just, and proper in favour of the petitioners.”

2. Learned counsel for the petitioners argued that the petitioners, being qualified disabled candidates, had duly applied pursuant to the advertisement issued by the Education Department, appeared in the JEST/PST tests conducted by SIBA and passed with commendable scores, thereby fully meeting the merit and eligibility criteria prescribed for appointment on the 5% reserved disability quota. It was contended that the only reason cited by the respondents for withholding their appointment orders—non-production of disability CNICs and disability certificates at the initial stage—stands wholly untenable in law, as such documents were subsequently issued by the competent authorities and promptly submitted before the respondents. Despite this, the petitioners were consistently denied consideration on frivolous pretexts, while attempts were allegedly being made to accommodate favoured individuals through non-transparent means, defeating the very purpose of the statutory disability quota. Learned counsel further submitted that the respondents’ refusal amounts to arbitrary discrimination, violative of Articles 4, 9, 18, and 25 of the Constitution, especially when this Honourable Court has already granted relief in an identical matter in C.P. No. D-659 of 2022, wherein a similarly placed disabled candidate was issued

an appointment order. It was thus forcefully argued that the petitioners, having no other alternate or efficacious remedy, are entitled to similar treatment and lawful appointment against the reserved quota, and the persistent inaction of the respondents warrants necessary directions from this Honourable Court to prevent further injustice.

3. Upon notice, the District Education Officer submitted his reply wherein he stated that while certain preliminary facts were admitted, the petitioners had originally applied under the *general category* and not against the *disabled quota*, and therefore could not later claim a right under the said quota. It was asserted that the petitioners were duly informed that their results had been declared under the general quota and not as disabled candidates, since neither their disability CNICs nor their disability certificates had been issued prior to the cut-off date i.e. **09-04-2021**. The respondent relied upon Conditions 16 (i) and 17.2 (a) of the **Recruitment Policy-2021 (Teaching & Non-Teaching Staff)** issued by the School Education & Literacy Department, Government of Sindh, which mandatorily required all degrees, domicile/PRC, CNIC, disability CNIC with wheelchair logo, and disability certificates to be submitted *before the closing date of advertisement* and specifically barred consideration of provisional documents or those obtained subsequently. Reference was also made to the Department's clarification dated **24-12-2021**, which permitted consideration of candidates lacking only a CNIC with a wheelchair logo—*provided* a valid disability certificate issued **before the advertisement** existed; however, in the petitioners' case, no such certificate or CNIC existed before the cut-off date. It was thus contended that the petitioners, having procured their disability documents only after the closing date, were rightly not considered under the disabled quota and cannot be treated as "aggrieved persons" under Article 199 of the Constitution. The respondent maintained that all appointments were made strictly in accordance with the recruitment policy

and that the petitioners' claim was misconceived, unjustified, and contrary to the applicable rules.

4. We have heard the learned counsel for the parties, perused the material available on record, including the recruitment policy relied upon by the respondents, as well as the judgment placed on record in C.P. No. D-659 of 2022. The admitted position is that the petitioners successfully cleared the JEST/PST tests and fall within the constitutionally and statutorily protected 5% disability quota. The respondents' sole objection rests on the premise that the petitioners did not submit their disability CNICs or disability certificates before the closing date. However, nothing has been placed on record to demonstrate that the disability existed only after the cut-off date; rather, the petitioners' disability is a permanent physiological condition, and the certificates merely constitute official recognition thereof. The requirement of submitting documents by a cut-off date is procedural in nature and cannot override a substantive right created under the law, particularly when the disability itself is not disputed. More importantly, in an identical matter decided in C.P. No. D-659 of 2022, this Court has already held that such technical deficiencies cannot be allowed to defeat the protective purpose of the disability quota, pursuant to which the petitioner therein was duly appointed. The principle of consistency mandates that similarly placed individuals must receive similar treatment. The respondents have also failed to show any prejudice that would arise from considering the petitioners against the reserved quota, nor have they placed any material to rebut the allegation that several reserved posts remain vacant.

5. In these circumstances, the denial of appointment to the petitioners on the basis of mere procedural shortcomings despite their merit, disability status and the existence of vacant reserved posts amounts to arbitrary discrimination and frustrates the command of Articles 25 and 27 of the

Constitution, which require equal protection and fair participation of persons with disabilities in public employment. The respondents' stance, therefore, cannot be sustained in law.

6. Accordingly, these Constitutional Petitions are ***allowed*** in terms of latest decision of the Supreme Court maintaining the order passed by this Court on the aforesaid analogy and the respondents are directed to consider and appoint the petitioners against the 5% disability quota for the posts of JEST/PST, subject to verification of their disability status from the competent authority and availability of vacancies within a period of four (04) weeks.

7. All pending applications stand disposed of in the above terms.

JUDGE

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