

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D-7054 of 2022
(Naeem Hussain Awan v Government of Pakistan & others
Constitutional Petition No. D-4447 of 2021
(Abdul Razzak Federation of Pakistan & others)

Date	Order with signature of Judge(s)
	Before: Mr. Justice Muhammad Karim Khan Agha Mr. Justice Adnan-ul-Karim Memon

Date of hearing and order 29.08.2025

Mr. Naseer Ahmed Khan advocate for petitioner in C.P. No. D-7054/2022.
Mr. Wazeer Ali advocate for petitioner in C.P. No. D-4447/21
Mr. Khalilullah Jakhro advocate for respondent No.2 in C.P. No.D-7054/2022
Mr. Zafar Imam advocate for respondent No.2 in C.P. No.D-4447/2021
Ms. Wajiha Mehdi, Assistant Attorney General

ORDER

Adnan-ul-Karim Memon, J: Naeem Hussain, the petitioner, has filed this petition with a request to this court to order Respondent No. 2 to issue him an appointment letter for the position of Motor Car Driver (BPS-04).

2. The petitioner's counsel argues that the petitioner is qualified for the vacant Motor Car Driver (BPS-04) position and that the refusal to appoint him is illegal and discriminatory. The counsel states that the petitioner applied for the position at the Custom House, Karachi, in 2019, was issued a roll number (2040145), and was declared a successful candidate, but was not appointed. The counsel is asking the court to order Respondents No. 2 and 3 to provide all appointment records.

3. Learned counsel for the petitioner, Abdul Razak, argued that his client is being unfairly and maliciously denied an appointment as a Motor Car Driver (BPS-04) position, despite having qualified for the position. The counsel claims this refusal violates the petitioner's fundamental rights, specifically Articles 25 and 27 of the Constitution of Pakistan, which relate to equality and non-discrimination in public service. The petitioner is requesting the court to order the respondents to issue an appointment letter and provide any other relief the court deems appropriate.

4. Learned counsel representing the respondent No.2 in CP No.7054 of 2022, argued that the petitioner's reference to another candidate's roll numbers and the dismissal of two other candidates are deemed irrelevant. However, he acknowledges that the petitioner, Naeem Hussain, who was on a waiting list, did apply for a vacant position. However, he argues that waiting list candidates can only be appointed if an originally selected

candidate fails to accept their offer and a vacancy is created from the very start. They cannot be appointed if a position becomes vacant due to a resignation or dismissal of an already appointed employee. The respondent counsel states that the waiting list was only valid for six months, and the petitioner's application was "time-barred." He claims that the COVID-19 pandemic caused delays and prevented them from prioritizing recruitment. The respondent counsel acknowledges that they did write to the Federal Board of Revenue to try and accommodate the two petitioners to save time and money. The respondent counsel concludes by requesting this court to decide the matter in accordance with the law, highlighting that waiting lists are typically only valid for a specific, limited period.

5. The learned counsel for the respondents in CP. No 4447 of 2022, argued that the petitioner is not entitled to the position, submitting that his claim is based on irrelevant information, such as the dismissal of two appointed candidates. According to the counsel for the respondent, waiting list candidates can only be appointed if a selected candidate initially fails to join the position. Vacancies created later due to resignation, dismissal, or other circumstances do not apply to the waiting list. The respondent counsel also claims that the petitioner's application is time-barred because the waiting list was only valid for six months, as per the Board's guidelines. However, he submitted that the delay in processing the petitioner's application to the COVID-19 pandemic, which caused a countrywide lockdown and reduced working hours. The respondent counsel concludes by requesting that this court dismiss the petition, asserting that the waiting list is no longer valid.

6. We have heard the learned counsel for the parties and perused the record with their assistance.

7. This petition No.7054 of 2022 outlines the situation regarding the recruitment of eight drivers (BPS-04). Initially, all eight selected candidates accepted their appointment letters. However, one candidate chose to accept a different position (Sepoy) instead, leaving seven drivers confirmed. Within a year of their appointment, two of the seven drivers were dismissed from service, reducing the total number of drivers to five. The two candidates on the waiting list (at merit numbers nine and ten) have since applied for these newly vacant positions. It is urged that the official guidelines state that the waiting list is only valid for six months and only applies if a selected candidate initially fails to join. Since all eight candidates initially accepted their appointments, the waiting list candidates were not considered for the subsequent vacancies. However,

due to a shortage of drivers and the lengthy process of new recruitment, it was proposed that the six-month limitation be waived to allow the vacant positions to be filled from the waiting list. Since the petitioner filed this petition in 2022 and the respondent department proposed to hire the services, due to a shortage of Drivers, let them do so in terms of their proposal.

8. Given the acknowledged driver shortage and the lengthy recruitment process, this court deem it proper to direct the respondent department to proceed with their proposal to waive the six-month waiting list limitation. The petitioners, who filed their case in 2022, should be appointed on the subject positions subject to availability of vacancy, and this action should be completed within two months.

9. Theses petitions stand disposed of in the aforesaid terms.

JUDGE

Head of Constitutional Benches