

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANA**

Constt: Petition No.D-46/2023

Before:

Mr. Justice Muhammad Saleem Jessar

Mr. Justice Nisar Ahmed Bhanbhro

Petitioner: Mohammed Bux Kalhoro

Through Mr. Shakeel Ahmed G. Ansari, Advocate.

Respondents: Through Mr. Liaqat Ali Shar

Additional Advocate General, Sindh.

Date of hearing: 21-08-2025

Date of Decision: 21-08-2025

ORDER

Nisar Ahmed Bhanbhro J.- Through the instant petition the petitioner has claimed following relief:

- a. To direct the respondents to appoint the petitioner on the post of Primary School Teacher in BPS-14 as he has qualified for the post in accordance with law.
- b. To award the cost
- c. To grant any other equitable relief, which this honorable court may deem fit and proper under the circumstances of the case, in favour of the petitioner.

2. Mr. Shakeel Ahmed G. Ansari learned counsel for the petitioner argued that the petitioner is a graduate from Shah Abdul Latif University Khairpur and suffered visual impairment due to a disease in year 2019 and such disability certificate was issued in his favor by the department for empowerment of the persons with disability. He argued that petitioner applied

for the post of Primary School Teacher and appeared in the recruitment test conducted by Sukkur IBA in the year 2021, petitioner secured 33 marks in the test and as per policy he was entitled for appointment on the post of PST.

3. Mr. Liaqat Ali Shar, learned Additional Advocate General, Sindh controverted submissions of learned counsel for the petitioner and argued that petitioner qualified recruitment test but due to visual impairment he is not a fit person for appointment as Primary School Teacher. He contended that the petitioner though was person with disability but the particular facts and circumstances of the case, his request for appointment of Teacher cannot be granted. He prayed for dismissal of the petition.

4. Heard arguments and perused material available on record.

5. Scanning of the material on record revealed that the petitioner was a graduate having done his B.Sc from Shah Abdul Latif University Khairpur. Petitioner appeared in the recruitment test conducted by the Sukkur IBA and secured 33 marks, the government of Sindh, Education and Literacy Department framed Teachers Recruitment Policy 2021 and vide notification dated 08-12-2021 fixed a threshold of 33 passing for appointment of teachers under PWDs quota. The petitioner has secured 33 marks and as per policy he was also entitled for 10 grace marks for his visual impairment. The petitioner suffered visual impairment in the year 2019 and he appeared in the test in the year 2021.

6. We, are surprised to learn that Petitioner was denied the disability certificate for the reasons that he suffered from visual impairment. We have made a thorough search of the provisions of THE SINDH EMPOWERMENT OF 'PERSONS WITH DISABILITIES ACT' 2018 SINDH ACT NO. XLVIII OF 2018, to know that registration of disability could be refused to a person suffering from visual impairment, or he can be avoided induction in service on that ground. We have failed to comprehend the logic, which attracted the Respondents to deprive petitioner from

registration as PWD and induct him in government service. The Disability has been defined in section 2(h) of the SEPWD Act in the following manner:

h) “Disabilities/Specified disabilities” means the disabilities specified in the schedule;

7. The schedule to section 2(h) specified the disability as Physical Disabilities, Neuro-Developmental Disorders, which included impairments of the growth and development of the brain or central nervous system, that includes disorder of brain function that affects emotion, learning ability, self-control and memory and that unfolds as an individual develops and grows, Disabilities caused due to chronic neurological conditions, such as: (i) "multiple sclerosis" and Parkinson's disease. Since the Petitioner was facing visual impairment therefore his case was covered in the limb of definition of Physical Disabilities, and fell the schedule as under:

1. Physical disabilities: A. Locomotor disabilities

.....

B. Visual impairment

(a) “blindness” means a condition where a person has any of the following conditions after best correction

(i) total absence of sight; or

Visual acuity less than 3/60 or less than 10/200 (Snellen) in the better eye with best possible correction; or

(iii) limitation of the field of vision subtending an angle of less than 10 degree

(b) “Low vision” means a condition where a person has any of the following conditions, namely:

(i) visual acuity not exceeding 6/18 or less than 20/60 up to 3/60 or up to 10/200 (Snellen) in the better eye with best possible corrections; or

(ii) limitation of the field of vision subtending an angle of less than 40 degree up to 10 degrees

8. The case of the Petitioner falls under clause 1(B) of the schedule and he was a PWD to reap benefits of the SEPWD Act. The petitioner under harsh conditions continued his education, competed for the post of Primary School Teacher and appeared in the recruitment test, wherein he secured 33 marks. Under the recruitment policy 2021, minimum passing marks for

recommendation to appointment were 33, which petitioner secured and qualified for the appointment. The Petitioner was held disentitled for job for his blindness, though SEPWD Act did not place any embargo on the appointment of blinds.

9. The SEPWD Act 2018 was enacted to give effect to the United Nations Convention on the Rights of 'Persons with Disabilities' and for matters connected therewith or incidental thereto adopted by the United Nations General Assembly on the 13th day of December, 2006; and ratified by the Pakistan in year 2011. The convention laid down the principles for empowerment of 'Persons with Disabilities', respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons; non-discrimination; full and effective participation and inclusion in society; respect for difference and acceptance of 'Persons with Disabilities' as part of human diversity and humanity; equality of opportunity; accessibility; equality between men and women; respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities;

10. Financial independence is pivotal to resolve the problems faced by the PWDs. For the financial independence it is essential that PWDs should be either engaged through self-employment by financing them for business or by way of employment in public and private entities or organizations. It is equally important for all people; without financial independence and social inclusion the self-esteem cannot be achieved. Employment has the potential to improve a person's financial situation, open up opportunities for social contact, build new relations. Contrary to it, unemployment can cause not only poverty and social exclusion but also result in a lower sense of self-worth. The unemployment caused severe health issues like depression and anxiety. The unemployment situation for PWDs has resulted in aggravated health, social and economic issues. The situation with the blind is still worst, on account of suffering from blindness, they lose normal social life and get very little chance of engagement in society. They usually were discarded in marriage and hardly

get married, if got employed they get a reasonable chance of enjoying a right to have family, enshrined as principles of policy under the constitutional command of the Country.

11. Learned Additional Advocate General has placed on record the details of appointments made in the district Shikarpur for the post of PST. Out of 1800 appointees, none has been appointed against the PWDs quota. It is not the case of respondents that the positions were filled and petitioner did not fall under merit but in fact all the 90 seats which should have been filled by the PWDs were lying vacant and the respondents were under obligation to consider the case of petitioner.

12. Learned Division Bench of this Court while dealing with the cases of PWDs observed that any recruitment that excluded the appointment of PWDs shall not be accepted. Government of Sindh filed appeal against the judgment passed by this Court before Honorable Supreme Court. The Appeals filed by the government of Sindh were dismissed by Honorable Supreme Court of Pakistan in the case of *The PROVINCE OF SINDH through Chief Secretary, Government of Sindh, Karachi and others versus ABID ALI JATOI and others* reported as 2025 S C M R 1058 and it was held that:

9. Obviously, the 2018 Act is beneficial legislation enacted for the empowerment of persons with disabilities, focused on a particular subject. Therefore, this law ought to be enforced and implemented in letter and spirit across the board without any bias and discrimination. Mere legislation is not sufficient, nor does it serve any purpose unless it is specifically enforced and administered. Implementing and enforcing laws in the right dimensions represent the unfeigned strategy through which government authorities put the laws into action for effective and meaningful compliance under their beneficiaries. The effectual and proficient implementation of the law is not only essential for maintaining order, but it also guarantees justice, evenhandedness, and equality in society with impartiality. Contemporaneously, the tool of judicial review is also a significant modus operandi that authorizes the courts to dwell on legislative competence, the constitutionality of law, and executive actions, to analyze whether the law aligns with constitutional mandates

and whether its implementation is fair and just, without any arbitrariness or discrimination. This is necessary for safeguarding and upholding the rights of people as a key element in strengthening the rule of law.

10. After due deliberation, what we comprehend is that the learned High Court, in fact, recapped its earlier orders passed on 29.08.2024, 18.09.2024, 03.10.2024, 10.10.2024 and 17.10.2024, whereby the competent authority was directed to consider the cases of the respondents/ petitioners for appointment. In the same breath, it also cited the orders passed by this Court in [C.P.L.As.](#) Nos. 745-K to 750-K of 2022 and Civil Petitions Nos. 966-K to 971-K of 2022 for appointments on the aforementioned quota. At the time of ensuring swift compliance and implementation of its own orders, the High Court austerey cautioned the Deputy Commissioners that any appointment made without the inclusion of the respondents/ petitioners, who are differently-abled persons, shall not be accepted and will be subject to legal scrutiny and action. The Additional Registrar was also called upon to ensure compliance in letter and spirit until the remaining respondents/ petitioners are accommodated. If truth to be told, we do not find any logical justification to cause any interference in the impugned judgment merely on the foothold of the alleged or purported objectionable portion highlighted by the learned Additional Advocate General, Sindh, which is nothing but an amplification in the broader context. The learned High Court directed that all such persons who have already applied for the jobs against vacant situations should have their applications considered at the outset rather than shelved or deferred under the garb or guise of fresh applications submitted for the same purposes by new entrants. Hence, Deputy Commissioners were cautioned that any appointment made without the inclusion of the respondents/ petitioners, who are differently-abled persons, shall not be accepted and will be subject to legal scrutiny and action. In our considered view, such observations of the High Court, seems to be quite logical and do not prejudice the interest of the petitioners (Government of Sindh) in any event but rather serve as a guideline to ensure finality and conclusiveness in the recruitment process of disabled or differently-abled persons in accordance with the law.

13. The legislation in its wisdom has wiped out the impression that persons with disabilities are a burden on the society. The legislation aimed at

rehabilitation of PWDS to make them valuable and integral part of the society, who deserve respect, recognition, and rights. Any act on the part of the executive authority discriminating the PWDs would amount to nullify the provisions of SEPWD Act and an act militating Article 25 of the Constitution, which articulated that all citizens were equal before the law and were entitled to equal protection of the law, and there shall be no discrimination on the basis of sex, cast or creed. Article 25 not only shuns discrimination but also safeguards and guarantees equal opportunity among the persons within the same class or genre, without illogical distinctions or partialities. The Principles of Policy contained in Article 38 of the Constitution also obligated the State to ensure and secure the well-being of the people by raising their standards of living, ensuring an equitable adjustment of rights between employers and employees, and providing for all citizens, within the available resources of the country, facilities for work and adequate livelihood, while reducing income disparities among individuals.

14. The Petitioner should have been given a compassionate treatment. The Respondent No 2 present in Court was adamant to issue appointment order to the Petitioner for want of his visual impairment, but he failed to consider that the Petitioner passed the recruitment test in the similar circumstances. It is for the Respondents to create good working atmosphere for the Petitioner so that he imparts education freely.

15. For what has been discussed hereinabove, we are of the considered view that the DRC has failed to consider the case of petitioner in its due mandate and acted beyond the bounds of law by not considering the petitioner for appointment as Primary School Teacher under PWD quota which offended his fundamental rights enunciated under Article 27 of the Constitution, bringing his case for exercise of powers under judicial review. Accordingly, this petition is allowed, the respondents are directed to convene the meeting of DRC and recommend the case of petitioner for appointment within the period of one month from today. Since, the petitioner is seeking appointment for the post of Teacher and if the respondents at any point of time feel that the

petitioner lacks the requisite abilities for teaching, they shall be at liberty to shift or transfer or absorb the job of the petitioner to any other ministerial position commensurate to his present grade of appointment.

16. The petition stands disposed of in above terms. Office is directed to communicate copy of this order to the respondents for compliance.

JUDGE

JUDGE

Larkana
Dated: 21.08.2025
Approved for reporting
Asghar/P.A