

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P No. D – 78 of 2022

Along with C.P No.D- 1214 of **2023**, 706, 1496, 1520, 1531, 1950, 2033, 2035, 2050, 2051, 2058, 2060, 2063, 2068, 2069, 2070, 2073, 2076, 2079, 2082, 2084, 2086, 2090, 2096, 2102, 2108, 2111, 2113, 2114, 2117, 2129, 2130, 2133, 2140, 2157, 2160, 2170, 2178, 2184, 2186, 2188, 2193, 2195, 2210, 2215, 2219, 2240, 2244, 2250, 2252, 2265, 2267, 2272, 2276, 2283, 2291, 2294, 2295, 2297, 2305, 2327 and 2329 of **2024**, 19, 20, 29, 47, 48, 54, 58, 64, 93, 98, 106, 115, 122, 131, 134, 136, 137, 141, 146, 147, 172, 190, 200, 201, 206, 213, 215, 216, 229, 251, 261, 295, 308, 310, 489, 509, 519, 764, 765, 799, 846, 847, 848, 851, 960 and 986 of **2025**

Present;

Mr. Justice Muhammad Saleem Jessar

Mr. Justice Nisar Ahmed Bhanbhro

Petitioners : Through M/s Abdul Raheem Mahar, Ali Akbar Shar, Sohail Ahmed Khoso, Abdul Naeem Pirzada, Muhammad Aslam Gadani, Shahzado Dreho, Muhammad Hamzo Buriro, Noor Hassan Malik, Nazeer Ahmed Chachar, Altaf Hussain Hisbani, Syed Zafar Ali Shah Bukhari, Ather Hussain Abro, Alam Sher Khan Bozdar, Achar Khan Gabol, Ghulam Ali Bozdar, Deedar Ali Chohan, Muhammad Raza Soomro, Zaheer Ahmed Ujjan, Muhammad Qayyum Arain, Shamsuddin Ghanghro, Muhammad Yasin Khaskheli, Yamin Ali Khoso, Mansoor Hussain Maitlo, Waqar Ali Phulpoto, Mehboob Ali Wassan and Qadeer Ahmed Shaikh, Advocates

Respondents : Province of Sindh and others through Mr. Ali Raza Baloch, Additional Advocate General Sindh, along with Nazir Ahmed Mirani, ADC-II, Sukkur, Shamsuddin Channa, Office Superintendent, RPO Sukkur, Dr. Amanullah Jumani, CRMO, KMCA, Ahsanullah Simair, Additional Director, Agriculture Sukkur, Abdul Qudoos Memon, Regional Director, DEPO Sukkur Region, Muhammad Naeemuddin, XEN PHE, Ghotki, Mumtaz Ali Channa, Mukhtiarkar on behalf of Deputy Commissioner, Kashmore, Rashid Nawaz Rajper, MukhtiarkarUbauro on behalf of Deputy Commissioner, Ghotki, Fazalullah Phulpoto, Abdul Shakoore, Waseem Akram and Munawar Ali Gopang, Niaz Hussain Mangnejo, Focal Person on behalf of Deputy Commissioner, Khairpur, Abdul Sami Bhanbhro, District Education Officer (ES&HS), Khairpur, Mr. Khuda Bux Chohan, Advocate for Respondents/ SMC Mr. Abdul Basit Shaikh, Advocate for Respondent No.9 in C.P No.D-2096 of 2024

Date of hearing : **05.08.2025**

Date of order : **05.08.2025**

ORDER

Nisar Ahmed Bhanbhro, J:- Petitioners, through the captioned petitions seek indulgence of this Court for their induction in Government Service on the quota reserved for Persons With

Disabilities (PWDs). Since all the petitions involve common question of law and fact, we therefore, propose to decide the fate of the captioned petitions through this Common Order.

2. Brief facts of the case of the Petitioners as averred in the pleadings are that the Petitioners suffer from physical disabilities. Pursuant to the advertisement inviting applications for recruitment to various positions in Government Establishments / Departments, petitioners applied for the job in ministerial, teaching and non-teaching positions against the five per cent quota reserved for the differently able persons. The Petitioners submitted Disability Certificates issued by the Department for Empowerment of Persons With Disabilities (DEPWD). Petitioners claimed that official Respondents did not entertain the applications and denied their right to job. The Respondents were unwilling to accommodate Petitioners against the quota reserved for Persons With Disabilities (PWD). Hence these petitions.

3. On notices, Respondents filed reply, wherein it was asserted that pursuant to the advertisements, the applications were received and entertained and recruitment was made against the 5 % quota for PWDs. All the vacant positions stood filled and there remained no vacancy to accommodate Petitioners. However, they assured that Petitioners would be inducted in service as and when fresh recruitment process was commenced subject to the availability of seats under 5 % quota reserved for PWDs.

4. Learned Counsel for the Petitioners contended that the Respondents were under an obligation to accommodate the petitioners in government service against the Five per cent quota for PWDs. They contended that the Petitioners were declared as PWDs by the Board constituted for the determination of disabilities. Board on examination of the Petitioners issued certificate of disability. They contended that since last many years Petitioners were attending the offices for their due right but denied by the Respondents in a slipshod manner without assigning any reasons. They prayed for allowing the petitions.

5. Mr. Ali Raza Baloch, learned Additional Advocate General controverted the submissions of learned counsel for the petitioners. He argued that pursuant to the advertisements issued by government Establishments / Departments, vacancies as available up to 5% quota for PWDs have already been filled by the Government and no vacancy was available; however, he assured that the Petitioners shall be accommodated on merits as and when fresh recruitment process was initiated. He contended that petitioners could only be inducted in government service when an advertisement is issued and selection shall be made strictly on merits.

6. Heard arguments, perused material available on record.

7. People with disabilities are individuals who experience long-term physical, mental, intellectual, or impairments that may limit their full and effective participation in society. Allah Almighty is full of grace for man; He created him in the fairest stature,

and has subjected to his use all things in the heavens and on earth. But – out of His will and wisdom- He takes away from some people some of these bounties, whether they are injuries or disabilities, whether being born with it, or becoming disabled afterwards. No matter what caused it, the disabled suffers both physically and psychologically. Islam shuns all kinds of discrimination against the man or woman for their physical or psychological disorder. Before Allah Almighty all men and women are equal. God, the Almighty, said:

“There is not upon the blind any guilt or upon the lame any guilt or upon the ill any guilt [for remaining behind]. And whoever obeys God and His Messenger - He will admit him to gardens beneath which rivers flow; but whoever turns away - He will punish him with a painful punishment.”
(An-Nur 24:61)

8. However, long standing emphasis of Islamic Teachings on proper dealing with this group with utmost care, noting that the spiritual attributes are valued more than the physical appearance in Islam, helped this group of people suffering from disabilities to lead a life reasonably free from discrimination. The historical perspective underscores negative attitudes mistreatment and discriminatory practices towards people with disabilities in ancient Europe. It was influenced by false beliefs, superstitions philosophies. The societies of that time believed in myths associating mental disabilities with demonic possession and evil spirits. These erroneous beliefs were adopted by Western philosophers and scientists, further contributed to the mistreatment of individuals with disabilities. Philosopher Plato went as far as declaring people with special needs a malicious category and a burden on society, suggesting they were detrimental to the idea of the Republic. Herbert Spencer, a prominent figure in Western philosophy, advocated for the prohibition of various forms of assistance to people with special needs. Darwin's observations on the natural order of plants and animals reinforced Spencer's belief that the social order was governed by the "survival of the fittest".

9. The prevalence of people with any type of disability is estimated at 1.3 billion people worldwide, representing 16% of the world's population (or 1 in every six people). Eighty percent of people with disabilities live in developing countries and the World Bank estimates that 20% of the world's poorest people suffer from some kind of disability. The rates are significantly higher among groups with low educational achievement than with a higher level of education. According to UNESCO, 90% of children with disabilities in developing countries do not attend school and Mortality rate of children with disabilities is very high. According to International Labour Organization (ILO) reports Persons with Disabilities share an estimated 386 million of the world's population who are in working-age. The unemployment among the PWDs is as high as 80 per cent in some countries. Often employers assume that PWDs are unable to work or underperform, therefore, create financial implications. In Pakistan, estimates of the number of persons living with disabilities vary between 3.3 million and 27 million.

10. The United Nations General Assembly for Human Rights, in its general meeting held on the 13th of December 2006, (UN Convention on the Rights of Persons with disabilities (UNRPD) issued a resolution stating, "The need to have access to the material, social, economic, cultural, health, educational, and informational status that enables persons with disabilities to fully enjoy all human rights." The purpose of this convention is to promote, protect, and ensure personal independence, non-discrimination, full and effective participation, integration into society, respect for difference, and acceptance of persons with disabilities as part of human diversity and humanity. The Convention, which became operational in 2008, is the first human rights treaty of the 21st century and the first UN treaty protecting the fundamental rights of persons with disability. In line with the general discourse around development-related issues today, the treaty is a move towards viewing disability from a rights-based approach.

11. The UNCRPD created a binding framework for the rights-based model of laws on disability. Disabled persons by virtue of being a human have the right to enjoy life, liberty, equality, security and dignity. Despite these facts, studies on disability legislation reveal that only 45 countries have anti-discrimination and other disability laws. Pakistan ratified the UNCRPD in year 2011 and in all its provinces and Capital Territory Islamabad have separate enactments providing a framework for the rehabilitation of the disabled persons. Analysis of the disability laws enacted in different countries like USA, Australia, Germany, Canada, Turkey and other European countries revealed that laws so enacted provided for non-discrimination of the PWDs.

12. It is notable that not every country around the globe has comprehensive regulations and laws protecting the rights of people with disabilities. The laws relating to PWDs in Republic of China and Pakistan manifested the legislative intent for effective rehabilitation of the persons with disabilities. The Law of the Peoples Republic of China on the Protection of Persons with Disabilities provide a complete scheme for rehabilitation of the PWDS through effective social and cultural engagement. The rehabilitation measures included the rights to health, shelter, education and employment. The law obligated the state to provide assistance to the PWDs to lead a self – dependent life. Article 21 of the Law obligated the state to take education of the PWDs as component of the state education program and included in overall planning and effective measures to ensure employment of the PWDs. Article 21, 30, 31 and 32 of Law of the Peoples Republic of China on the Protection of Persons with Disabilities could be a good and proper guidance to the organizations involved in rehabilitation of PWDs in Pakistan.

13. 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.

14. The PWDs are considered less effective segment due to the physical impairments that hinder their routine performance. Social awareness at grass roots level is required to curb the trends of discrimination and mockery. One of the major difficulties faced by PWDs is that employers have the erroneous assumption that these people will probably underperform in most areas of their duties - something which is actually not the case. Another plausible issue is that when the majority of workplaces are not made accessible to people with disabilities, employers may feel that they will have to make an unwarranted investment to provide facilities for people with disabilities, and some do not believe in the employment potential of such people.

15. In Pakistan, policy approaches to disability have largely been focused on rehabilitation, lawmaking on the rights of PWDs has shown the attitude of responsibility by the state towards them. The effective implementation of the laws would help mitigate the sufferings of PWDs. This has been changing since UNCRPD, which Pakistan ratified in 2011, but progress around building an inclusive society has been woefully slow. It is important for the public and private sector institutions to understand that within Pakistan, the population of persons with disabilities (PWDs) varies between 3.3 million to 27 million. As stated above that the World Health Organization (WHO) estimated 16% of the global population experienced significant disabilities today, most of whom are of working age. As such, it remains pivotal to consider the importance of PWDs towards human capital development, particularly towards employment.

16. The goal to have a society free from discrimination, it is essential to afford a platform of financial independence to PWDs. The employment in that regard is foundational and without employment, there is a greater risk of detrimental effects to the physical and mental health of the individual. Employment of PWDs is not a charity but a right. Our constitutional values of equality and social justice, the fundamental rights to life, to carrying out a profession and to non-discrimination also extend to PWDs and make no distinction between PWDs and others. Therefore, any law or policy relating to PWDs is rights-based and is not to be viewed as charity or pity or mercy. The universality, indivisibility, interdependence and interrelatedness of constitutional values and fundamental rights fully encompass the persons with disabilities and guarantees them full protection without discrimination.

17. The petitioners have invoked the writ jurisdiction of this Court to enforce their rights as to their empowerment by implementation of the laws enacted in their favor. In a landmark move to empower the most marginalized section of the Community, the Provincial Assembly of Sindh on 24th.May, 2018 passed the Bill namely Sindh Empowerment of 'Persons with Disabilities' Bill 2018, (SEPWD, Act) which on assent by the worthy Governor Sindh on 7th June, 2018 came into force in the province. The preamble of the SEPWD, Act read that the law was enacted to give effect to the international treaty reached by the member nations for the rights of persons with disabilities. The declaration of United Nations Convention on the rights of the persons with disabilities was adopted by the General Assembly of the United Nations on 13.12.2006. The legislation aimed at general welfare, benefit and empowerment of PWDs. This Act recognizes the rights of the PWDs, Section 3 enunciated that the PWDs shall not be discriminated in any walk of life and they shall be provided equal treatment and the government shall ensure the rights of PWDs as to respect, as to individual dignity to lead a decent life, equal opportunities to get education and rehabilitation services and all the Institutions public and private were bound to ensure that the PWDs were given equal treatment. Section 4 of the Act protected the right of the privacy of PWDS, Section 5 guaranteed the special care for women, children and elderly people with disabilities, Section 6 ensured the access of mobility, Section 7 Protected the PWDs from torture or cruel or inhuman or degrading treatment, Sections 9, 10, 11 and 12 safeguarded the rights of the PWDs as to education, health, skill development, equality in employment an financial stability. Section 14, 15, 16, 17, 18, 19 and 20 recognized the rights of PWDs as to the accommodation, standards of living, right to own property, right to family, freedom of expression and right to take part in politics.

18. Financial stability of PWDs is one of the most attracting and aesthetic part of this beneficial legislation, as in all the other province of the country the job quota reserved for PWDs in public and private establishments is not more than three percent and under federal legislation this quota is restricted to two per cent only. The population of Sindh province was projected to be approximately 55.7 million per the latest census data made available under census 2023. The census data indicated 2.3 % of the total population suffered from physical disabilities. As such under the available data there were about 1.2811 million persons suffering from physical impairment. SEPWD, Act reserved a five percent quota to accommodate them with employment in public and private sector, which if implemented in its spirit as provided under the law, no PWD in the province would be left jobless.

19. Legislation to provide a sustainable life with financial independence, through Section 11 of the SEPWD Act laid down a mechanism for induction of the PWDs in public and private establishments or organizations. Section 11 reads as under:

11. Skills Development and Equity in Employment. - (1) The Government shall formulate schemes and programs including provision of loans at concessional rates to facilitate and support employment of 'Persons with Disabilities' especially for their vocational training and self-employment.

(2) The schemes and programs referred to in sub-section (1) shall provide for;

(a) inclusion of persons with disabilities in all mainstream formal and non-formal vocational and skill training schemes and programs;

(b) ensuring that a person with disabilities has adequate support and facilities to avail specific training;

(c) exclusive skill training programs for 'Persons with Disabilities' with active links with the market, for those with developmental, intellectual, multiple disabilities and autism;

(d) loans at concessional rates including that of microcredit;

(e) marketing of the products made by 'Persons with Disabilities'; and

(f) maintenance of disaggregated data on the progress made in the skill training and self-employment by the 'Persons with Disabilities'.

(3) No Government establishment shall discriminate against any person with disabilities in any matter relating to employment:

Provided that the Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, exempt any establishment from the provisions of this sub section.

(4) No establishment, whether public or private, shall discriminate against a person on the ground of disabilities in the matters of employment, promotion, career development and enjoying fruits of his/her employment. (5) Every establishment shall ensure the provision of reasonable accommodation including necessary aid and equipment and appropriate barrier free environment which a Person with Disabilities would reasonably require to perform his/her duties.

(6) Every establishment shall notify equal opportunity policy detailing measures proposed to be taken by it in pursuance of the provisions of this section in the manner as may be prescribed by the Government.

(7) Every establishment shall register a copy of the said policy with the Authority.

(8) Every establishment shall maintain records of the 'Persons with Disabilities' in relation to the matter of employment, facilities provided and other necessary information in compliance with the provisions of this section in such form and manner as may be prescribed by the Authority. The record maintained under this sub section shall be open to inspection at all reasonable hours by such persons as may be authorized in this behalf by the Authority.

(9) Authority shall establish a 'Special Employment Exchange and portal', to which every establishment shall furnish such information as maybe prescribed by the Government in relation to vacancies earmarked for "Persons with Disabilities" which have occurred and filled or are about to occur.

(10) Every Government establishment shall appoint a Grievance Redressal Officer for the purpose of this section and shall inform the Authority, about the appointment of such officer. Any person aggrieved with the non-compliance of the provisions of this section, may file a complaint with the Grievance

Redressal Officer, who shall investigate it and shall take up the matter with the establishment for corrective action.

(11) The Grievance Redressal Officer shall maintain a register of complaints in the manner as may be prescribed by the Authority, and every complaint shall be inquired within two weeks of its registration. If the aggrieved person is not satisfied with the action taken on his/her complaint, he or she may approach the Authority.

(12) The Government shall reserve a quota of five percent (5%) at various levels for the 'Persons with Disabilities' in the Government departments, institutions, entities, and corporate entities owned and managed by the Government. The Government shall through notification provide for such relaxation of upper age limit for employment of person with disabilities as it thinks fit.

(13) The private establishments shall ensure that their workforce will have 5% 'Persons with Disabilities' and the Government will provide incentives through a long-term inclusion plans for which necessary resources will be allocated.

(14) The terms and conditions of employment shall not be less favorable for 'Persons with Disabilities' as compared with those offered to other persons appointed against same or similar positions.

(15) Establishment which does not employ 'Persons with Disabilities' as per requirement under sub section 13, shall pay into the 'fund' each month the sum of money it would have paid as salary or wages to a Person with Disabilities had s/he had been employed.

20. The above provisions of law mandated that not less than five percent of the total number of persons employed by an establishment at any time shall be the PWDs. While "Establishment" under the SEPWD Act included both public or private organizations defined under sections 2(k). We have been informed that the PWDs are inducted in service to the reserved quota of five percent subject to the recruitment drive initiated. The section 11 does not provide for the calculation of the number of seats on the basis of advertisement but the five percent quota for induction of PWDs in service of an establishment is calculated on the basis of the total number of working strength or workforce of the establishment. Every establishment has a variety of posts with different qualifications; job descriptions and skill sets. Appointments to these posts are based on different selection criteria and separate merit lists. The mechanism for appointment against 5% Disability Quota is also to work side by side with the general recruitment process for every category of posts. Therefore, the total Disability Quota for the establishment is further apportioned and allocated against the sanctioned strength of various category of posts which have a separate selection criterion, as in the case of university it has got teaching faculty requiring different qualification as compared to non-teaching faculty employees.

21. The Honorable Supreme Court of Pakistan in the case of Malik Ubaidullah versus Government of Punjab reported as 2021 P L C (C.S.) 65 while dealing with the issue of

determination of 2 % quota of disabled persons under section 10 of the Disabled Persons (Employment and Rehabilitation) Ordinance (XL of 1981) has held as under:

Section 10 of the Ordinance provides that not less than 2% of the total number of persons employed by an establishment at any time shall be PWDs. The total number of persons employed means the total sanctioned posts²² of the establishment, i.e., an Organization, Authority, Department or Ministry. 2% of the total sanctioned posts or workforce of the establishment becomes the Disability quota for the establishment. Every establishment has a variety of posts with different qualifications; job descriptions and skill sets. Appointments to these posts are based on different selection criteria and separate merit lists. The mechanism for appointment against 2% Disability Quota is also to work side by side with the general recruitment process for every category of posts. Therefore, the total Disability Quota for the establishment is further apportioned and allocated against the sanctioned strength of various category of posts which have a separate selection criteria.

22. Section 11 further required that every public and private establishment to notify a policy for accommodation of PWDs. The Authority created under the provisions of this Act shall establish a ‘Special Employment Exchange and Portal’, to which every establishment shall furnish such information as maybe prescribed by the Government in relation to vacancies earmarked for “PWDs” which have occurred and filled or are about to occur. Section 11 also required government to appoint Grievance Redressal Officer in every government establishment for the purpose of this Act to inform the authority about the grievances filed by the PWDs and its redressal. It also lays down that at various levels for the persons with disabilities in government departments, Institutions, Entities and Corporate Entities owned and managed by the government, the government shall through notification provide such relaxation of upper age limit for employment of persons with disabilities as may be fit. It was made incumbent upon the private establishment to ensure that their work force contain 5% quota of persons with disabilities.

23. In the case of Peerzada Waqar Alam versus National Accountability Bureau (NAB) through Chairman Islamabad and others reported in 2023 S C M R 742 Supreme Court of Pakistan was pleased to issue directions for the implementation of the provisions of the Disabled Persons (Employment and Rehabilitation) Ordinance (XL of 1981) and held as under:

“7. At present, we are informed that NAB has 741 sanctioned posts for Assistant Director. Under the Ordinance, 3% of these posts are to be earmarked for PWDs which comes out to 22 posts. The 3% quota for PWDs must co-exist alongside the general category of posts. Given the variety of posts with different qualifications, skillsets, and descriptions it is only appropriate that the Disability Quota be apportioned and allocated against the sanctioned strength of various categories which have a separate selection criterion.³ National Accountability Bureau is directed to immediately comply with the provisions of the Ordinance and earmark posts representing 3% quota for PWDs across the institution at all tiers and

submit a compliance report with the Additional Registrar (Judicial) of the this Court within a month. In case the said report is not filed, the officer shall fix this case before the Court for appropriate orders against the Chairman NAB.”

24. Sub-section 15 of the Section 11 was quite important and relevant for the purposes of induction of PWDs in service of private establishments. It curbs the possibility of evasion to employ PWDs, it enunciated that every establishment which did not employ PWDs as per requirement of sub-section 13, would pay into the ‘funds’ each month the sum of money it would have paid as salary or wages to a Person with disabilities if he / she had been appointed as employee. This contribution to Fund would help in implementation of the schemes proposed and planned for the welfare of PWDs as laid down under section 12 of the Act.

25. Under the provisions of the SEPWD Act, every establishment is required to provide list of the persons employed and a determination as to the 5% vacancies of the disabled persons. Suppose for the sake of convenience in a corporation like Sukkur Municipal Corporation, the total sanctioned strength of employees appointed by Council is 5000, the Council is required to accommodate 250 PWDs under the 5% quota. In case of University if total strength of employees is 200, the University is required to accommodate 10 PWDs. This calculation shall apply in similar manner to the private establishment where 5 % of the total workforce shall be PWDs. In case any establishment avoids employment of PWDs on any of the grounds, it shall contribute the salaries of amount equal to 5 % of the salaries of the total employees in each category or group of employees towards the funds created under the provisions of this Act.

26. From perusal of record made available to this Court, it transpired that no such exercise has been done by any of the department of the Government of Sindh to say that how many employees were working with them and for their total establishment what would be the number of the PWDs under 5% quota and how many PWDs were working there. It appeared that Special Employment Exchange and Portal has not been created to facilitate the registration of PWDs. The Fund to receive grants has not been established. Each department has furnished its report denying the availability of the vacancies without any substantial report as to the current status of working strength. It also appeared that Authority for the Empowerment of PWDs has not as yet started the registration process and even no scheme has been devised to provide adequate standard of living and social protection to PWDs.

27. The provisions of law not only provided a platform to ensure the employment of PWDs, in case of failure to get employment, they would be entitled for unemployment allowance as articulated under section 12 of SEPWD Act. For the ease of reference section 12 is reproduced below:

12. Adequate Standard of Living and Social Protection – (1) The Government shall with the advice of the Council and within the limits of its economic capacity shall formulate exclusive schemes and programs for ensuring the

right of adequate living standards and social protection of 'Persons with Disabilities' to enable them to live independently or within the community

(2) The Government while devising these schemes and programs shall give due consideration to the diversity of disabilities, gender, age, and socio-economic status.

(3) The schemes under sub-section (1) shall provide for;

- a) shelter/ safe houses with good living conditions in terms of safety, sanitation, health care and counselling for 'Persons with Disabilities' who have no place to live;*
- b) facilities for children with disabilities who have no family or have been abandoned, or are without shelter or livelihood;*
- c) support during natural or man-made disasters and in areas of conflict;*
- d) support to women with disabilities for livelihood and for upbringing of their children;*
- e) disabilities allowance to 'Persons with Disabilities' subject to such income ceiling as may be notified;*
- f) unemployment allowance to 'Persons with Disabilities' registered with Special Employment Exchange for more than two years and who could not be placed in any gainful occupation;*
- g) care-giver allowance to 'Persons with Disabilities' with high support needs;*
- h) any other matter which the Government may think fit.*

28. The provisions of the above law cast an obligation upon the government to devise scheme for general welfare of the PWDs, that included provision of shelter, disability allowance and unemployment allowance. No material has been placed on record to elicit that any scheme was devised by the authority to benefit the disabled persons during the period of their unemployment. Sub-section 3 of Section 12 provided that there shall be shelter /self-housing with good living conditions, facilities for the abandoned disabled children, support to women with disabilities for livelihood and for upbringing their children, disabilities allowance to PWDs subject to any income ceiling and unemployment allowance, care giver allowance to the PWDs. Provisions of Section 12 of the Act made it obligatory upon the State to formulate such exclusive schemes without showing any inadvertence and delay.

29. Honorable Supreme Court of Pakistan in the case of Chairman NADRA and others Versus Abdul Majeed and others reported as 2025 SCMR 612 while dealing with the case of PWDs observed that implementation of laws was necessary to rejuvenate the lives of PWDs. It is held that

17. Likewise, after the 18th Constitutional Amendment in 2010, the provinces have enacted their own laws to extend equal rights and benefits to the disabled or differently-abled persons, such as the "Punjab Empowerment of Persons with Disabilities Act, 2022" which is also a comprehensive legislation enacted to provide for the protection, welfare, empowerment, and inclusion of persons with disabilities and their families

in the province of Punjab. The "Sindh Persons with Disability Empowerment Act, 2018" is also legislated to safeguard the rights of persons with disabilities in the province of Sindh. It is a comprehensive law that has been enacted to recognize and protect the rights of persons with disabilities and to promote their integration and participation in society. While the "Khyber Pakhtunkhwa Disabled Persons (Employment and Rehabilitation) (Amendment) Act, 2012" and the "Balochistan Persons with Disabilities Act, 2017" are also both equally vigorous and effective to protect the interests of disabled persons, on all fours.

18. While the aforesaid catalogue of legislation is very commendable (except for those still at the Bill stage without any further progress), but in unison, a fundamental question cropped up in our frame of mind that although these laws in field are well-regimented and reflect sincere intentions, meaningful and earnest efforts are required at all government levels for proper and vigilant implementation of these laws. A proactive approach is needed to accord the benefits of these laws to disabled persons across the board, ensuring equal opportunity and non-discrimination. The raison d'etre of such legislation is not to merely provide some benefits as an act of compassion but to rejuvenate the category of such persons who suffer from some disabilities, despite their challenges, are differently-abled, and deserve to live with dignity and contribute meaningfully to society. There individuals require encouragement and motivation so that they may also enjoy the fundamental rights as enshrined in our Constitution, just as other citizens do. It is imperative for all government levels to facilitate their integration into the mainstream, enabling them to leverage their abilities and sense of worth. This, in turn, allows them to earn a livelihood with respect and independence, rather than relying on financial assistance or help, which may hurt their ego and undermine their self-esteem and dignity. The teachings of Islam also emphasize benevolence, care, and compassion towards such individuals, urging us to adopt a wide-ranging and solicitous approach to empower them for active participation in society with dignity and vitality.

30. This Court during proceedings called for reports regarding vacancy positions in the government departments and the appointment of PWDS against the said vacancies. Through learned Additional Advocate General, Sindh, statement dated 19.11.2024 was filed wherein the details of different districts with regard to the available vacancies was furnished. This Court vide order dated 19.11.2024 directed the concerned departments to consider the applications of the differently abled persons pending with them and resolve their grievances without any loss of time. Report so furnished reflected that in all 29 districts of Province of Sindh, there were about **1143** vacancies available, which were reportedly filled pursuant to the Court orders. Today, the learned Additional AG filed a statement showing that in all 6023 persons were appointed as Primary School Teachers (PSTs) in District Khairpur, which provided that out of these 6023 employees at least 301 appointees should have been the disabled persons, but surprisingly only 115 persons have been appointed under the PWD quota, which becomes the 2% of the total recruitment so far done. Though no report has been furnished for the other departments but surprisingly the vacancy position under the disabled quota shown in various districts of province of Sindh reveal very gruesome and

painful story. In District Hyderabad only 97 positions, in District Khairpur no position, in District Naushahro Feroze 74 positions were shown vacant against which recruitment could be made under PWD quota. The PWDs have right to appointment under each cadre of service provided under the provisions of Sindh Civil Servants Act, 1973 and Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974. The appointment in different cadres and grades is made through a competitive process. The merit shall not be compromised in such cases and PWDs would enjoy the right to vie for the competition in the said process as provided under the law or rules.

31. Report furnished by the Secretary, Services and General Administration Department Government of Sindh has been carefully perused, it transpired that the recruitments under the PWD quota have been done in School Education, Health, Irrigation, Highways, Agriculture, Public Health Engineering, College Education Department and Revenue Department, but no record has been furnished to evidence that PWDs were accommodated in departments like Population Welfare, Local Government, Universities and Boards, Fisheries and Live Stock, Forest, Excise and Taxation, Food , Relief and Rehabilitation. The law clearly provided that in case appointments under the PWD quota were not made, the concerned department / establishment shall contribute an amount equivalent to the salaries of 5% of their employees per month towards the fund created under the Act.

32. The Government of Sindh under the provisions of the Act was required to establish funds to be financed from grants from government, grants from any international organization, levies and other charges that are imposed for rehabilitation of persons with disability or through any other sources. No report whatsoever has been furnished to say that fund has been established and the departments which evaded or avoided the appointment of PWDs contributed an amount equal to the 5% of the gross salaries of the employees present in the establishment towards the said fund.

33. We are caught into surprise at the reports filed by the government departments, which do not furnish adequate information or any scheme or policy or any program for induction of PWDs in government and private service. The wisdom of legislation in province of Sindh deserved a big applause, but the fruits of this beneficial legislature are yet to be transferred to the PWDs, for the reason of zero enforcement of this law on the ground. Had his law stood implemented in its letter and spirit, the petitioners would not have been before this Court, but they would have been performing jobs in different establishments.

34. Since to devise and implement the policy falls purely in the domain and prerogative of the executive. The government should start a mass awareness campaign highlighting the needs of PWDs. The Society if not performed its role, the PWDs shall fall prey to vagrant mafia and will be utilized in the begging business and even result in human smuggling. It is high time that public and private sector institutions in Pakistan wake up to this realization and protect the constitutional and legal rights of the persons with the disabilities in the country and extend them the care, sensitivity and priority they

deserve in their policies and executive decisions. We leave it to the Government to evolve a policy for disabled persons and for the allocation of posts in different categories for disabled persons in the public and private establishments. The government by devising a policy may exempt certain departments or organizations (public and private) from operation of the SEPWD Act. While formulating the policy, the Government will ensure that although PWDs will have a separate quota under the Act, however, for the positions which require induction through competitive process the merit will not be compromised and same threshold of qualification, standard and eligibility shall be maintained as in the case of regular appointment. It is in this context that the assessment of the Board regarding the nature of work a disabled person is fit to perform, becomes relevant and crucial in terms of section 25 of the SEPWD Act.

35. In the case of Sajjad Ali Versus Vice Chancellor through Registrar University of Malakand at Chakdara, Dir Lower and others reported as 2020 S C M R 124 Honorable Supreme Court of Pakistan has held as under:

3. Respondent University, in light of the above provision and Khyber Pakhtunkhwa Disabled Persons (Employment and Rehabilitation) Rules, 1981, has worked out the total number of persons employed at the University to be 966 persons. Learned counsel for the University along with departmental representative submits that according to the total strength of the employees of the University, two percent quota for the disabled persons comes out to be 19 seats and the University is willing to allocate the said quota for disabled persons. Learned counsel representing the University submitted that University is in the process of formulating a policy for the allocation of this quota for disabled persons and as soon as it is done the case of the petitioner will be considered in the light of the said policy.

4. We leave it to the University to evolve a policy for disabled persons and for the allocation of the 19 posts for disabled persons in the University. While formulating the policy, the University will ensure that although disabled persons will have a separate quota under the Ordinance, however, merit will not be compromised and same threshold qualification, standard and eligibility shall be maintained as in the case of regular appointment. It is in this context that the assessment of the Provincial Council regarding the nature of work a disabled person is fit to perform, becomes relevant and crucial.

36. Since the material available on record did not controvert the claim of the petitioners that they were Special Persons falling within the definition of PWDs. To our understanding they were entitled to reap the fruits of beneficial legislation. In the given circumstances, until the policy stands devised by the Government to provide an ultimate solution to the grievance of the Petitioners, they cannot be left wandering here and there. It is the foundational concept of the law that the right must go to the person to whom it belongs. In our view the Petitioners have a fundamental right to employment under the provisions of SEPWD Act 2018. These Petitions are therefore allowed. The Department for Empowerment of Persons with Disabilities (DEPWD) is directed to take the following steps

to give effect to the provisions of the SEPWD Act 2018 so that the Petitioners and other PWDs get engaged in employment.

i. The DEPWD shall immediately establish “PWD Fund” to carry out the purposes of this Act.

iii. The DEPWD shall send a request to receive grants from Federal, provincial and other institutions for the PWD Fund and shall ensure that sufficient funds were available within a period of next three months. The finance department government of Sindh shall extend full cooperation to the DEPWD for generation of funds.

iv. The DEPWD shall immediately establish Special Employment Exchange and Portal in terms of Section 11 of the Act in each district of the province.

v. The DEPWD shall register the PWDs on the Employment Exchange and Portal, in a separate manner, based upon the academic qualification of PWD, ratio of disability and the capacity to perform duty in the particular field. The DEPWD shall ensure the registration of vagrants and take efforts to curb vagrancy in the province of Sindh, by removing all the beggars from public places to shelter homes, where they shall be provided facilities of living. The vagrants shall be encouraged to contribute to the society with their skills of art.

vi. The DEPWD shall call upon all government departments to furnish report regarding the working strength of employees, and ratio of five percent quota of PWDs and the number of PWDs employed by the department. Administrative Secretaries of all the departments of Government of Sindh shall ensure to submit such details to DEPWD within a period of two months from the date of order.

vii. The DEPWD shall call upon all private establishments to furnish report regarding the working strength of total workforce employed, with ratio of five percent quota of PWDs and number of PWDs employed. All the Public and Private Establishments shall be under an obligation to submit such report to the DEPWD within a period of two months from the date of order.

viii. All the Municipal Corporations viz. Karachi, Hyderabad, Sukkur, Larkano, Nawabshah (Shaheed Benazirabad), Mirpurkhas, all the Development Authorities viz. Karachi Development Authority, Hyderabad Development Authority, Malir Development Authority, Sehwan Development Authority, Layari Development Authority, Karachi Water and Sewerage Corporation, Water And Sewerage Authority Hyderabad, all the Municipal Committees, Town Committees, District Councils shall furnish a list of the working strength of the employees presently working and the details of the PWDs employed against such strength to the DEPWD within a period of two months from today.

ix. All the Town Committees in the province of Sindh, where the working strength of the employees is twenty or more shall furnish a list of the total employees working and the

details of the PWDs employed against such strength to the DEPWD within a period of two months from today.

x. The Universities public and private in the province of Sindh shall furnish a list of the working strength of the employees and the details of the PWDs employed against such strength to the DEPWD within a period of two months from today. The university administration shall also devise a policy for accommodation of the PWDs in different cadres of service within a period of three months from today.

xi. The DEPWD shall examine the details furnished by the departments, autonomous bodies, corporations and private establishments. The departments shall ensure that all the departments, autonomous bodies and private establishments were housing the five percent PWD under employment. The Departments, autonomous bodies wherein the working strength of the PWDs is less than five percent, the DEPWD shall refer the case of PWDs for appointment against PWD quota. In case any establishment (private) refuses to employ PWD for any of the reasons, the said establishment shall be called upon to pay an amount equal to the salary of the employees which would have been paid to the employees if appointed against PWD quota. Such amount so received shall be deposited in PWD funds.

xii. The DEPWD shall ensure that all the PWDs who can seek job and perform duties are engaged in public and private establishments against the positions which do not call for any competitive process within a period of three months from today in accordance with laws and rules. In case any establishment shows its inadvertence and reluctance to comply with the directions of DEPWD the penal action as provided under the Act shall be taken against the said establishment.

xiii. If any PWD is not capable of doing any work and he cannot be given employment for any of the reasons of physical impairment or mental disorder, the DEPWD shall make arrangements for payment of disability allowance and unemployment allowance besides the other allowances provided under sub-Section 3 of the Section 12 of the Act to the said PWDs from the PWD Fund on monthly basis.

xiv. The job positions which are required to be filled through competitive process, the policy for recruitment against the said positions shall not be changed, merit shall not be compromised in any case and recruitment threshold for the competitive positions shall remain unchanged.

xv. The DEPWD shall ensure that no PWD in province of Sindh remains unemployed, in case any of the PWD cannot be employed for any of the reasons, the said PWDs shall be paid disability allowance and unemployment allowance which shall not be less than the minimum wages payable under the Wages Act.

37. The Petitions stand disposed of in above terms. Office to place a signed copy of this order in all captioned connected petitions.

38. The office is directed to send the copy of this order to Chief Secretary Sindh, Secretaries of all the administrative departments, Secretary to Government of Sindh for Department for Empowerment of Persons with Disabilities through Learned Additional Advocate General for compliance.

Judge

Judge

Approved for reporting

Sukkur

05.08.2025

ARBROHI/PS