

IN HIGH COURT OF SINDH, BENCH AT SUKKUR

C.P No. D-1256 of 2023  
[Khurram Ahsan v. P.O Sindh & others]

Before:  
Mr. Justice Zulfiqar Ali Sangi  
Mr. Justice Riazat Ali Sahar

Counsel for Petitioner:	Mr. Abdul Mujeeb Shaikh, Advocate.
Counsel for Applicant/Intervener:	Mr. Feroz Uddin N. Shaikh, Advocate.
Counsels/ Representatives for Respondents No.2&3:	Mr. Irshad Hussain Dharejo, Advocate along with Ghulam Murtaza Soomro, PS to Chairman BISE Sukkur on behalf of Respondents No.2&3.
Counsel for Respondent No.1:	Mr. Ali Raza Baloch, Additional A.G- Sindh.
Date of Hearing:	19.09.2025
Date of Judgment:	19.09.2025

J U D G M E N T

RIAZAT ALI SAHAR,J - Through the instant Constitutional Petition, the petitioner submits that, notwithstanding his fulfilment of all requisite eligibility criteria and successful qualification in the written examination for the post of Assistant (BS-16), he has been unlawfully denied appointment by the Respondents. Instead, appointment orders have been issued in favour of politically-influenced and preferred candidates, in manifest violation of merit. Such arbitrary and discriminatory action has deprived the petitioner of his legal, fundamental, and constitutional rights. He, therefore, approaches this Court seeking the following reliefs:

- a) To declare that the act of the respondents not issuing the appointment order to the petitioner is illegal, null, void, ab-initio against the norms of law.*
- b) To direct the respondents to issue appointment order to the petitioner for the post of Assistant (BS-16) as he has passed the written test on merit basis conducted by the respondents.*
- c) To direct the respondents No.2 to 4 to submit the written test result of 57 candidates before this Honorable Court who were appointed as well as other candidates if who have called for interview by the respondents.*
- d) To grant any other relief, which this Honourable Court deems fit and proper in circumstances of the case.*

2. Notices were duly issued to the Respondents, in pursuance whereof Respondent No. 2 and Respondent No. 3 entered appearance and submitted their para-wise comments to the Petition.

3. Learned counsel for the petitioner argued that the petitioner, being a law-abiding citizen, had duly applied for the post of Assistant (BS-16) after the respondents published an advertisement inviting applications from eligible candidates, and that he successfully appeared in the written examination, securing 42 marks. It was submitted that despite fulfilling all prescribed requirements and qualifying on merit, the petitioner has not been issued an appointment order, whereas the respondents, in blatant disregard of the principles of transparency, fairness, and merit, have proceeded to appoint their favoured individuals, largely consisting of relatives, family members, and political nominees of influential persons. Counsel emphasised that such conduct amounts to a colourable exercise of authority, is violative of the petitioner's fundamental rights guaranteed under Articles 4, 18, and 25 of the Constitution of the

Islamic Republic of Pakistan, 1973, and undermines the sanctity of merit-based recruitment. He further contended that the action of the respondents in bypassing the petitioner, while accommodating ineligible or less meritorious candidates, not only deprives the petitioner of his legitimate right to public employment but also erodes public confidence in the recruitment process. Learned counsel thus urged that the respondents be directed to act strictly in accordance with law and to issue the appointment order to the petitioner without further delay.

4. Learned counsel representing Respondents No. 2 and 3 admitted the fact that petitioner has obtained 42 marks and maintained that interview calls were only issued to candidates obtaining 50 marks and above and petitioner did not fall in that category, therefore he was never called to the interview.

5. Having heard the submissions of the learned counsel and having carefully perused the record, it is manifest that the petitioner secured 42 marks in the written examination. However, as per the admitted stance of the respondents, only candidates who secured 50 marks and above were considered eligible to be called for the interview. This threshold of 50% marks is neither arbitrary nor capricious; rather, it constitutes the minimum benchmark of competence and merit that is indispensable in any fair and transparent recruitment process for public employment.

6. The Supreme Court, in Pakistan Bar Council v. Federation of Pakistan (2019 SCMR 389), while addressing the

standards of legal education and the introduction of the Law Graduate Assessment Test (LAW-GAT), laid particular emphasis upon the necessity of prescribing minimum qualifying criteria to ensure quality, transparency, and fairness. The restoration of the LAW-GAT with the stipulation of minimum passing marks of 50% was not merely to set an arbitrary threshold, but to safeguard the sanctity of professional standards and to maintain the integrity of institutions. The principle underlying this judgment is of general application; *mutatis mutandis* the same analogy can be extended to all written examinations held for recruitment to public posts.

7. The rationale is straightforward: public employment is a trust reposed by the State, and it must be discharged by appointing only those who meet a fair and reasonable standard of merit. To dilute this standard would not only offend the principle of equality before law enshrined in Article 25 of the Constitution, but also transgress the doctrine of *fiat justitia ruat caelum*—let justice be done though the heavens fall. The prescription of a 50% threshold is, therefore, in consonance with settled canons of law and reason, as it ensures that only those who demonstrate a minimum level of proficiency are advanced to the next stage of recruitment.

8. In the present case, the petitioner, having secured 42 marks, undeniably falls short of the prescribed standard. His grievance that he was denied appointment despite “qualifying” cannot be sustained, for *qualificatio non sufficit si non sequatur effectus*—qualification alone is not sufficient if it does not produce the requisite

effect [Secretary Finance and others v. Ghulam Safdar (2005 SCMR 534]; same instance was upheld by this court in Muhammad Haneef Soomro v. P.O Sindh and others (C.P No. D-511 of 2024)]. Since he did not meet the cut-off score for interview, no right, vested or otherwise, accrued in his favour to claim appointment.

9. It is also a settled principle that the Court cannot compel the respondents to act contrary to their own advertised criteria, particularly when the criteria are neither shown to be discriminatory nor ultra vires of any statutory or constitutional provision. To direct otherwise would be to perpetuate illegality and compromise meritocracy, which the superior Courts have consistently frowned upon.

10. Order I, Rule 10(2) of the Code of Civil Procedure empowers the Court, at any stage of the proceedings, to implead any person whose presence is deemed necessary for the complete and effectual adjudication of the issues in controversy. The spirit of this provision is to avoid multiplicity of proceedings and to ensure that all necessary or proper parties are before the Court so that the subject matter is conclusively settled in one lis. The intervener, when so impleaded, steps into the proceedings for the purpose of defending or protecting his interest in the controversy, but does not thereby enlarge the scope of the suit or alter the nature of the cause of action pleaded by the petitioner.

11. In the instant matter, however, the objections of the intervener have been duly noted. It has been contended that the

intervener had secured 71 marks in the written examination and was, consequently, called for the interview/viva-voce, which places his position on a distinctly different footing from that of the petitioner. The petitioner, by contrast, was never called for the interview, having failed to attain the requisite standing in the written test. Thus, the causes of action invoked by the two stand on separate and unconnected foundations. The petitioner's claim is confined to the denial of appointment to the post of Assistant (BPS-16), whereas the intervener, on the other hand, seeks relief in respect of an altogether different post, namely that of Assistant Secretary/Assistant Controller Examination (BPS-17).

12. The settled principle is that a party impleaded under Order I, Rule 10 CPC may raise all legitimate defences available to a defendant, and may even pray for consequential or ancillary reliefs necessary to safeguard their interest in the controversy. Yet such intervention cannot be stretched to the extent of introducing a distinct and independent cause of action or to seek relief entirely foreign to that raised by the petitioner. To permit such an enlargement would transgress the boundaries of the original suit and distort its very character, contrary to the maxim *actor sequitur forum rei* and to the principle that litigation must be confined within its proper frame.

13. Accordingly, inasmuch as the applicant/intervener's claim pertains to a different post and is predicated upon a separate cause of action, the relief sought by him cannot be accommodated within the compass of the present petition.

14. For the foregoing reasons, and in light of the binding dicta laid down by the Honourable Supreme Court in the case of Pakistan Bar Council (*supra*), it is held that minimum threshold/passing marks for the written test—whether for admission to an educational institution or for appointment in any department or institution—would be at least 50%. Accordingly, this Court finds that the petition is devoid of merit. Consequently, the instant petition, along with any pending applications, stands **dismissed**. These are the detailed reasons for the short order of this Court dated 19.09.2025.

Let copy of this Judgment be communicated to the office of learned AAG for onward transmission to all concerned including Chief Secretary, Government of Sindh for information and compliance.

*JUDGE*

*JUDGE*

Ahmad