

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Const. Petition No. D - 495 of 2025

Date	Order with signature(s) of Judge(s)
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For hearing of main case

Before

Mr. Justice Muhammad Saleem Jessar
Mr. Justice Nisar Ahmed Bhanbhro

29.01.2026

Mr. Abdul Haseeb Qazi, Advocate along with the petitioner.

Mr. Ishrat Ali, Advocate for the respondent.

M/s. Hakim Ali Shaikh, Addl. A.G. Sindh and Sagheer Ahmed Abbasi, AAG.

Nisar Ahmed Bhanbhro, J. Through this petition, the petitioners have sought the following reliefs:

- I. Pending this Petition, direct the Respondents No. 1 and 2 to reserve two seats for the Petitioners according to their group preference, based on the merit list, out of 28 vacant seats and restrain them from making further appointments or allocations of vacancies under CCE 2021 until the grievances of the Petitioners are adjudicated by this Hon'ble Court.
- II. II. Declare that the actions of the Respondent No. 1, including the arbitrary disqualification of the Petitioners during the *viva voce* stage of the Combined Competitive Examination (CCE) 2021, are illegal, unlawful, and void *ab initio*.
- III. Declare that the disqualification of the Petitioners at the *viva voce* stage violates their fundamental rights under Articles 9, 14, 18, 25 and 27 of the Constitution of Pakistan, and that the Petitioners are entitled to allocation to available seats reserved for urban areas, and to remedy such violations.
- IV. Direct Respondent No. I to allocate available seats in various departments of the Respondent No. 1 to the Petitioners according to their group preference, based on the merit list, out of 28 vacant seats reserved for urban areas.

Or, alternatively.

- V. Declare that the *viva voce* proceedings conducted by Respondent No. 1 for CCE 2021 were tainted with *mala fide*, gross irregularities, and extraneous considerations, rendering the process unlawful and liable to be set aside.

VI. Direct the Respondent No. 1 to provide the Petitioners with copies of the video recordings and complete records of their viva voce proceedings, and re-evaluate the Petitioners' viva voce performance fairly, transparently, and in accordance with the Sindh Public Service Commission Act, 2022, and the Sindh Public Service Commission (Recruitment Management) Regulations, 2023.

Or, alternatively,

VII. Declare the final result of the Combined Competitive Examination 2021 as illegal, arbitrary, and conducted in violation of the 2022 Act and the 2023 Regulations, and set it aside.

VIII. . Grant costs of the Petition in favor of the Petitioners.

IX. Grant such other relief as this Hon'ble Court deems just and proper in the facts and circumstances of this case.

2. Learned counsel for the petitioner contended that the petitioners secured 559 and 560 marks in written part of the examination, however, they were declared failed in the interview. He contended that the petitioners were interviewed by one Mr. Rizwan Memon, who was imposed a judicial censure by this Court in judgment dated 13.03.2024 passed in C.P. No. D-1708 of 2023 and contended that the petitioners were not given a free and fair treatment and the committee was annoyed with the petitioners, as they had complained against the members of Commission. He further contended that according to Recruitment and Management Regulations 2023 (RMR) of SPSC, the passing percentage in the interview part of examination was 40%, whereas number of candidates were declared passed, who secured less than 40% marks in the interview part, which cast serious doubts on the transparency and fairness in the CCE 2021. He prayed to allow this petition.

3. Mr. Ishrat Ali, learned counsel for SPSC contended that the petitioners failed in the interview part of the examination, therefore, they were not recommended by the Commission. He further argued that the SPSC conducted the Combined Competitive Examination of 2021 under 2019 Rules and under the said Rules, the passing percentage in the interview part of examination was 30% and all the candidates who were recommended for appointment had secured 30% or more marks, however, the petitioners failed to secure 30% marks in interview, therefore, were declared failed. He prayed to dismiss the petition.

4. Learned Assistant AG opposed the petition and contended that Petitioners were failures, there was no provision under the SPSC Laws to conduct a fresh interview. He further argued that petitioners have failed to point out any ill will or mala fide on the part of commission that may call for indulgence by this Court. He prayed to dismiss the petition.

5. Heard arguments and perused the material available on record.

6. Scanning of the record revealed that the petitioners qualified in the written part of the examination. However they could not secure required marks in the interview, therefore were declared failed as per the SPSC Laws which required a minimum threshold of marks for passing an examination. Petitioners' concerns over the interview results might be of worth considerations to their own satisfaction but no any observation can be rendered on the result of interview. It entirely depends upon the interviewer to award marks on the basis of personal observation and replies tendered by a candidate. This Court cannot sit as a Court of appeal against the SPSC particular for the interview process. This Court cannot interfere into recruitment process in a routine manner unless tangible material comes on record to say that the merit and transparency were compromised and non meritorious candidates were recommended under favoritism and nepotism. The Petitioners were burdened to establish that they were declared fail in the interview under some extraneous considerations, or the recommendations were made under favoritism by colorful exercise of the discretion. The request of the Petitioners for fresh interview was also without any statutory backing and if this practice is allowed, it will create embarrassment for the recruitment agency and the selected candidates and recruitment will turn into a never ending process.

7. Adverting to the contention of the petitioners that the candidates having secured less than 40% marks were recommended for appointment under combined competitive examination (CCE) 2021. It is an admitted position that the CCE 2021 was conducted under the 2019 Rules of SPSC, wherein as per the note 10 of the general guidance, the minimum threshold of the passing marks in interview was kept as 30% of the total marks, which becomes 60 marks out of 200. We have examined the record carefully and find that through notification dated 17.12.2024 the final recommendation of the successful candidates was made and all the

recommended candidates are shown to have secured 60 marks or more thus fall within the minimum passing threshold of the interview process. For the ease of reference the note 10 of general instructions is reproduced below :

“NOTE-10: No candidate shall be summoned for Viva-Voce test unless he/she obtains at least 33 percent marks in each individual written paper and 50% marks in the aggregate of the written portion of the examination. No candidate shall be considered to have qualified in the examination unless he/she also obtains at least 30 percent marks in Viva-Voce and failure in or absence from Viva-Voce shall mean that the candidate has failed to qualify for appointment and his/her name will not be included in the merit list.

8. On promulgation of SPSC Act, 202s, the SPSC framed Recruitment Management Regulations, 2023 (“**RMR**”)and all the examinations after year 2023 were conducted under the said Regulations. Per Note 8 of Regulation 81, the passing threshold in interview part of the examination was fixed as 40%. Since the RMR were framed in October, 2023, therefore, the same shall apply prospectively to the competitive examination conducted thereafter and the effect of RMR cannot be applied retrospectively to the recruitment process of year 2021. It will be conducive to reproduce Note 8 of the Regulation 81 of RMR which reads as under:

“NOTE-8: No candidate shall be summoned for Viva-Voce test unless he/she obtains at least (33 %) marks in each individual written paper and (50%) marks in the aggregate of the written portion of the overall examination. No candidate shall be considered to have qualified in the examination unless he/she also obtains at least (40 %) marks in Viva-Voce and failure in or absence from Viva-Voce shall mean that the candidate has failed to qualify for appointment and his/her name will not be included in the merit list.

9. To prove mala fides on the part of SPSC, Counsel for the Petitioner has placed on record copy of the judgment dated 25.11.2025 passed by a Learned Division Bench of this Court at Hyderabad Bench in Constitution Petition No D 65 of 2025 titled Dr Asad Ali V. F.I.A and others, wherein directions were issued to the Director General of Federal Investigation Agency to probe into the complaint of Petitioner Dr Asad Ali that pertained to the incidents highlighted on media maligning the character of

Petitioner, which per learned Counsel sufficiently established mala fides on the part of commission. No doubt mala fides either of the fact or of the law if established would render even the solemn proceedings to nullity, but, from the record so placed before this Court mala fides of law were not established and for bringing on record mala fides of fact recourse may be taken to a forum capable of recording evidence which practice cannot be done under the writ jurisdiction of this Court.

10. For the foregoing reasons, the petitioners have failed to make out any case for indulgence of this Court to exercise the powers of judicial review, the instant petition therefore fails and is hereby dismissed accordingly.

JUDGE

JUDGE
HEAD OF CONST. BENCHES

Approved for reploting

Azeem