

# THE HIGH COURT OF SINDH KARACHI

C.P. No. D - 1780 of 2023

[Nisar Ahmed Shaikh versus Government of Sindh & others]

Petitioner : Nisar Ahmed Shaikh through Riaz Ahmed Phulpoto, Advocate.

Respondents 1 & 2 : Government of Sindh & another through M/s. Hakim Ali Shaikh and Saghir Ahmed Abbasi, Additional Advocates General, Sindh.

Respondent No.3 : Nemo.

Date of hearing : 08-04-2026

Date of decision : 08-04-2026

## ORDER

**Nisar Ahmed Bhanbhro, J.** - Through this petition, the Petitioner claims following relief(s):

- a. *It is therefore, respectfully prayed that under Article 25 & 27 of the Constitution of Islamic Republic of Pakistan, 1973. The petition case may be treated at par as all citizens of Pakistan are equal before the law and Article 27 of the Constitution of Islamic Republic of Pakistan, 1973, discourages discrimination in service so the petitioner may be awarded the same relief which have been awarded to the respondent no.3.*
- b. *Any other relief which this Honourable court may deem fit and proper in the interest of justice and fair play.*
- c. *The cost of the petition may also be awarded to the petitioner.*

2. Learned counsel for the Petitioner contends that under similar circumstances, Respondents No. 1 and 2 recommended the appointment of Respondent No.3, whereas the Petitioner was subjected to discriminatory treatment without any cogent or lawful reasons. He further contended that the Petitioner duly filed a representation before the competent authority, which too was declined. He further contended that any delay in filing of present petition occurred on account of the late decision rendered on the said representation. He further submitted that Respondent No.3 was appointed pursuant to 2003 tests/competitive examination and

upon recommendation by the Sindh Public Service Commission (SPSC), and that the case of the Petitioner stands on identical footings. Therefore, it is urged that the similar treatment be accorded to the Petitioner.

3. Learned Additional Advocate General, Sindh, submits that the Petitioner cannot claim appointment merely on the basis of an appointment order issued in favour of another individual. It is contended that, in order to invoke the principle of equity, the Petitioner must establish that his case stands on identical footing with that of Respondent No.3. He further contends that Respondent No.3 (Zameer Hussain) secured 703 marks in the relevant examination, whereas the Petitioner obtained only 625 marks and, thus, fell below the prescribed merit for recommendation. Therefore, he prayed for dismissal of the petition.

4. Heard learned counsel and perused the material available on record.

5. The Petitioner seeks parity of treatment with Respondent No.3 on the basis of the relief extended by Respondents No.1 and 2, which, according to the Petitioner's own contention, was granted pursuant to a letter issued by the Advocate General, Sindh. However, it is a settled principle of law that, in order to invoke the doctrine of equality or claim equitable relief, the Petitioner must establish that the relief granted to another person was in accordance with law and that the Petitioner's case stands on identical footing. Furthermore, Articles 25 and 27 of the Constitution of the Islamic Republic of Pakistan, 1973, speaks about the equality before law and equal protection of law; however, such equality is not absolute and does not envisage "negative equality." In other words, a person cannot claim entitlement to a benefit merely because an unlawful advantage has been conferred upon another individual who may not have been legally entitled to the same.

6. Since the Petitioner secured 625 marks, whereas, by his own admission, Respondent No.3 secured 703 marks, the Petitioner cannot claim even positive equality, as his case does not stand on identical footings with that of Respondent No.3 in terms of merit. Consequently, the Petitioner has failed to establish that any of his fundamental rights have been infringed or violated on account of the appointment of Respondent No.3. As such no case for indulgence by this Court is made out. Accordingly, the instant petition, being devoid of merit, is hereby dismissed.

**JUDGE**

**JUDGE  
HEAD OF THE CONST. BENCH**

*\*PS/SADAM*

APPROVED FOR REPORTING