

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C. P. No. D-5241 of 2022
(Mukhtar Ahmed & others v Province of Sindh & others)

Date

Order with signature of Judge

Before:-

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order:-16.04.2026.

Mr. Ali Asadullah Bullo advocate for the petitioner.

Mr. Ali Safdar Depar, AAG

ORDER

Adnan-ul-Karim Memon , J This instant petition was disposed of vide order dated 4.9.2025 on the premise that the competent authority of the respondents shall review the cases of all eligible petitioners for the remaining vacant positions to ensure equal protection under the law.

2. The learned counsel for the petitioners submitted that, in terms of Sections 3 and 4 of the Contempt of Court Ordinance, 2003 read with Article 204 of the Constitution of the Islamic Republic of Pakistan, the respondents have willfully failed to comply with the specific order dated 04.09.2025 passed by this Court. It was prayed that contempt proceedings be initiated against the alleged contemnors for deliberate and contumacious disobedience of the said order. It was further stated in the supporting affidavit that the deponent, being Petitioner No.37, is fully conversant with the facts of the case and that the contempt application has been filed under instructions, the contents whereof may be read as part of the affidavit for brevity. The petitioners alleged that the respondents have intentionally and deliberately failed to comply with the clear and binding directions of this Court, thereby committing contempt. The petitioners relied upon the order dated 04.09.2025, whereby this Court had held that candidates securing 50% or more marks in the NTS test were eligible for consideration against the remaining vacant posts and that exclusion of similarly placed candidates, while others from the same recruitment batch were appointed or reinstated, was violative of Article 25 of the Constitution. It was further contended that the Court had directed the competent authority to review the cases of the petitioners for the remaining vacancies and ensure equality of treatment within a period of two months. It was alleged that despite lapse of the stipulated period, the respondents neither conducted the required review in its true spirit nor passed any speaking order, nor extended meaningful consideration to the petitioners' cases. According

to the petitioners, this inaction and selective implementation, particularly in view of the appointment or reinstatement of candidates with comparatively lower merit, amounts to willful disobedience of the Court's order. The petitioners's counsel contended that such conduct not only undermines the authority and dignity of this Court but also perpetuates the discriminatory treatment which the earlier judgment sought to rectify, thereby attracting proceedings under the Contempt of Court Ordinance, 2003. It was further submitted that due to non-compliance of the Court's directions, the petitioners are suffering financial hardship and loss of service benefits without any fault on their part, and that unless the contempt application is allowed, they are likely to suffer irreparable loss and mental distress. The petitioners accordingly prayed that contempt proceedings be initiated against the respondents for willful disobedience of the order dated 04.09.2025.

3. The AAG submitted that the department had acted in full compliance with judicial directions, conducted re-interviews transparently, and appointed candidates strictly on merit. It was emphasized that the competent authority, after examining the petitioners' grievances along with the record of the recruitment process and subsequent developments, passed a speaking order by the Health Department. It was further stated that the recruitment process in question was originally initiated in March 2018 for 1,733 Union Council-wise vacancies. The entire process was scrutinized and finalized under the supervision of this Court. In pursuance of the judgment dated 12.02.2021, this Court directed fresh interviews for 1,611 candidates who had secured 60% or above marks in the NTS test, with appointments to be made strictly against the Union Council-wise posts as originally advertised. The Department complied with the said directions, and after conducting re-interviews, 971 candidates were selected strictly on merit and appointed against the available vacancies in their respective Union Councils. It was clarified that the petitioners, having secured less than the required merit within their respective quotas, were not selected, and their non-appointment was a lawful consequence of the merit-based, quota-specific process rather than any discriminatory treatment. It was further submitted that the Court's directions were twofold: firstly, to conclude the 2018 recruitment process through fresh interviews, and secondly, to re-advertise any remaining vacancies. In compliance thereof, the Department issued a fresh advertisement in February 2022 for 715 posts. This was a separate and independent recruitment exercise, and the competent authority, in its discretion and keeping in view administrative requirements, prescribed new criteria for the said process. It was contended that the petitioners' attempt to carry forward or transplant their earlier merit from the concluded 2018 process into the new 2022 recruitment was legally impermissible, as each recruitment exercise constitutes a distinct competitive process governed

by its own rules and criteria. It was further contended that the petitioners did not possess any vested, accrued, or enforceable right to appointment, and it is a settled principle of law that participation in one recruitment process does not create any entitlement to appointment in a subsequent independent process, as each selection is competitive and governed by its own policy framework. The Department maintained that it had acted throughout in good faith, in a transparent manner, and in strict compliance with judicial directions. The petitioners were afforded equal opportunity under the applicable rules, thereby satisfying the requirements of Articles 18 and 25 of the Constitution. It was emphasized that the right to equality does not guarantee appointment, nor does it require that criteria for future recruitment exercises remain fixed to accommodate unsuccessful candidates of earlier processes. It was further submitted that the recruitment process arising out of the 2018 advertisement had attained finality, and all judicial and administrative directions had been duly complied with. The present petition, it was argued, effectively seeks to reopen a concluded matter under the guise of discrimination, which would undermine the finality of public recruitment processes conducted under judicial supervision. In these circumstances, it was prayed that the instant contempt application be dismissed.

4. In view of the rival submissions and material placed on record, it appears that the grievance of the petitioners essentially stems from non-selection in a recruitment process which has already travelled through multiple rounds of judicial scrutiny and implementation. It is an admitted position that the original recruitment process initiated in March 2018 for 1,733 Union Council-wise vacancies was conclusively adjudicated by this Court through its judgment dated 12.02.2021, whereby a structured mechanism of fresh interviews was directed for eligible candidates. The record further reflects that the said directions were duly implemented, resulting in selection and appointment of 971 candidates strictly on merit in accordance with Union Council-wise allocation. The petitioners' non-selection, as explained by the respondents, was based on their comparative merit position within the prescribed quota framework and not on any extraneous or discriminatory consideration.

5. It is apparent that the subsequent advertisement issued in February 2022 for 715 remaining posts constituted an independent and fresh recruitment exercise, distinct from the earlier concluded process. The law is well-settled that each recruitment cycle is a separate and self-contained competitive process, and no candidate acquires a vested or enforceable right to claim appointment or carry forward merit from a previous recruitment exercise. The petitioners' attempt to project eligibility from the earlier process into the subsequent one is, therefore, misconceived in law.

6. So far as the contempt allegation is concerned, the record shows that pursuant to the order dated 04.09.2025, the competent authority did undertake consideration of the petitioners' cases and passed a speaking order after examining the recruitment record and relevant facts. Whether the outcome of such consideration is acceptable to the petitioners or not does not, by itself, establish willful disobedience. For a case of contempt to succeed, it must be shown that there has been deliberate, intentional, and contumacious violation of a clear and unambiguous court order. Mere difference of interpretation, dissatisfaction with administrative determination, or adverse decision on merits does not attract contempt jurisdiction.

7. In the present case, the respondents have demonstrated compliance by conducting a review and passing a speaking order, while maintaining that the petitioners were not entitled to appointment on merit and legal grounds. The action complained of, at best, reflects an adverse administrative conclusion rather than defiance of judicial command. It is also noteworthy that the underlying recruitment process has attained finality through prior judicial pronouncements, and the present proceedings, under the guise of contempt, effectively seek reconsideration of concluded adjudication, which is impermissible.

8. In these circumstances, the essential ingredients of contempt, namely willful and deliberate disobedience of a clear court order, are not made out. Accordingly, the contempt application appears to be misconceived and not maintainable, warranting dismissal. However the petitioners are at liberty to assail the legality of the speaking order before appropriate forum which shall be decided on merits if filed subject to all just exceptions as provided under the law.

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