

# HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

**Before:**

**Justice Arbab Ali Hakro**

**Justice Muhammad Hasan (Akber)**

**C.P No.D-825 of 2024**

*[Abdul Rasheed v. Province of Sindh and 05 others]*

Petitioner by : Raol Faisal Ali, Advocate a/w Petitioner

Respondent No.6 by : Mr.Abdul Rauf Arain, Advocate a/w  
Respondent No.6

Respondents No.1 to 5 by : Mr.Ayaz Ali Rajper, Assistant A.G Sindh a/w  
Accountant of District and Sessions Judge,  
Mirpurkhas (**Muhammad Iqbal Shaikh**)

Dates of Hearing : **25.02.2026**

Date of Decision : **18.03.2026**

## **ORDER**

**ARBAB ALI HAKRO J:-** The petitioner has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution, alleging denial of his lawful right to appointment against the reserved quota for persons with disabilities. The grievance centres on the recruitment process undertaken by the Departmental Selection Committee for the posts of Naib Qasid, Chowkidar and Mali in the District Judiciary, Mirpurkhas, in which respondent No.6 was appointed under the disabled persons' quota. The petitioner asserts that the process was tainted by arbitrariness and disregard of merit, whereas the respondents maintain that the selection was carried out strictly in accordance with the applicable rules, quota policy and the criteria adopted by the Committee.

2. The petitioner, a person with disability and matriculate by qualification, applied for the post of Naib Qasid pursuant to an advertisement dated 17.04.2024 issued by respondent No.2. He participated in the written test and secured 25 marks, whereas respondent No.6 secured 12 marks as reflected in the combined result sheet. The petitioner was included in the list

of 126 candidates who qualified for the interview. It is averred that respondent No.6 did not qualify for the written test and, therefore, could not have been considered for appointment. The petitioner further asserts that four candidates applied under the disabled persons' quota, including himself and respondent No.6. He maintains that being the highest scorer in the written test among disabled candidates, he was entitled to appointment on quota basis. He alleges that despite repeated approaches to the authorities, no lawful justification was provided for his non-selection.

3. Respondent No.2 confirms that both the petitioner and respondent No.6 applied for the post of Naib Qasid and were assigned combined roll numbers for the joint written test conducted for Naib Qasid, Chowkidar and Mali. It is admitted that the petitioner secured 25 marks and respondent No.6 secured 12 marks in the written test. However, it is clarified that both candidates remained unsuccessful on merit, as the petitioner was declared unsuccessful in the final interview, while respondent No.6 had already failed the written test. Respondent No.2 further states that a separate process was undertaken for candidates applying under the deceased son's quota and the disabled persons' quota. Vide Notice No. E/2011 dated 24.05.2024, both the petitioner and respondent No. 6 were called afresh for an interview under the disabled persons' quota. After assessing suitability, disability severity, and age profile, the Committee selected respondent No. 6 for the post of Chowkidar (BPS-03). It is further stated that respondent No.6 was 21 years and 7 months old, falling within the prescribed age limit of 28 years under the Sindh Judicial Staff Service Rules, 1994, whereas the petitioner was above 41 years of age. The Committee, therefore, found respondent No.6 more suitable for appointment under the quota.

4. Respondent No.6 denies that he was unsuccessful in the legal sense, asserting that once both candidates failed to secure positions on open merit, the marks of the general written test became irrelevant for the quota-based selection. He submits that four candidates applied under the disabled quota and all were called for an interview on 30.05.2024, irrespective of their

written test marks. He further states that the Committee evaluated candidates on the nature of disability, age suitability and interview performance. Being 21 years old and physically capable of performing the duties of Chowkidar, he was found more suitable than the petitioner, who was over 41 years of age.

5. Learned counsel for the petitioner submits that the petitioner was the only disabled candidate who qualified for the written test with 25 marks, whereas respondent No.6 failed the written test and therefore could not have been considered for appointment. It is argued that the recruitment process was manipulated to favour respondent No.6, who was not even on the list of qualified candidates. Counsel contends that the petitioner's fundamental rights under Articles 18 and 25 were violated by depriving him of his rightful appointment against the reserved quota. It is further argued that the petitioner's disability certificate, qualifications, and performance in the written test placed him at a superior footing, and that the Committee acted arbitrarily by ignoring merit and the quota policy. Counsel submits that the petitioner, being a poor and severely disabled person, was entitled to preference under the law.

6. Learned counsel for respondent No.6 contends that the petitioner's reliance on written test marks is misplaced, as the quota-based recruitment is a distinct process governed by separate criteria. It is argued that both candidates failed on merit, and that the Committee was therefore competent to assess their suitability afresh under the disabled quota. Counsel submits that the Committee lawfully considered age, nature of disability and interview performance, and found respondent No.6 more suitable for the duties of Chowkidar. It is argued that no mala fide, bias or procedural irregularity has been established by the petitioner.

7. Learned A.A.G adopts the stance of respondent No.2 and submits that the recruitment process was conducted strictly in accordance with the Sindh Civil Servants Act, the Sindh Empowerment of Persons with Disabilities Act, 2018 and the instructions issued by the High Court of Sindh. It is argued that the Committee

exercised its discretion within the bounds of law and that the petitioner has failed to demonstrate any violation of statutory rules or quota policy.

8. We have heard learned counsel for the parties as well as the learned A.A.G, and have examined the material available on record.

9. The foundational facts are undisputed. The petitioner and respondent No.6 both applied for the post of Naib Qasid under the general recruitment process. The petitioner secured 25 marks in the written test, whereas respondent No.6 secured 12 marks. Both were unsuccessful on merit. Thereafter, the Departmental Selection Committee initiated a separate process for candidates applying under the deceased son's quota and the disabled persons' quota. It is this second-stage process that lies at the heart of the present dispute. The petitioner contends that the quota-based selection must remain anchored in objective criteria, including performance on the written test, whereas the respondents assert that the Committee was entitled to assess suitability afresh, independent of written test scores.

10. The record reveals that the Committee issued Notice No. E/2011 dated 24.05.2024, calling candidates under the disabled persons' quota for interview. The petitioner and respondent No.6 appeared before the Committee. The minutes of the Committee reflect that respondent No.6 was selected for the post of Chowkidar (BPS-03) on the basis of "severity of disability" and "age suitability," whereas the petitioner, being above 41 years of age, was considered unsuitable. The Committee's reasoning, however, raises several legal and factual concerns which require careful judicial examination.

11. The first issue concerns the "scope of discretion" available to a Departmental Selection Committee when making appointments under a reserved quota. While it is correct that quota-based recruitment is distinct from open merit, it is equally settled that such recruitment cannot be divorced from the principles of fairness, transparency and objective assessment. The quota does not create unstructured or unguided discretion; rather, it ensures representation while maintaining minimum suitability standards. The

Supreme Court in the case of **Muhammad Yasin**<sup>1</sup> emphasised that public appointments must adhere to constitutional norms of fairness and transparency, and any deviation from the prescribed procedure renders the appointment void.

12. The second issue concerns the “relevance of written test performance”. Respondent No.2 asserts that written test marks became irrelevant once the process shifted to quota-based recruitment. This contention cannot be accepted in its absolute form. While the quota may permit relaxation of merit thresholds, it does not authorise the Committee to disregard objective indicators of competence altogether. The petitioner's superior performance in the written test, 25 marks as opposed to 12, constitutes a relevant factor that ought to have been considered. The Committee's minutes, however, are silent on why the petitioner's performance was disregarded or why respondent No.6, who had failed the written test, was preferred.

13. A further and significant legal infirmity that emerges from the record is that respondent No.6 never applied under the disabled persons' quota, nor did he submit any separate application identifying himself as a candidate seeking consideration under the statutory 5% quota reserved for persons with disabilities. The advertisement required candidates to apply for posts in accordance with the prescribed procedure, and the Sindh Empowerment of Persons with Disabilities Act, 2018, read with Section 12 thereof, mandates that recruitment under the disabled quota must be undertaken from amongst those who have expressly applied under that category and have furnished the requisite disability certification. The petitioner's application clearly reflected his candidature under the disabled quota, supported by a disability certificate, whereas the respondent No. 6's application, on the face of the record, was submitted only for the post of Naib Qasid under the general category. The Departmental Selection Committee has not produced any material demonstrating that respondent No.6 ever opted for, or was

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<sup>1</sup> Muhammad Yasin v. Federation of Pakistan (PLD 2012 SC 132)

processed under, the disabled quota at the time of submission of applications. The subsequent inclusion of respondent No. 6 in the interview list for disabled candidates, without any foundational application or declaration, constitutes a deviation from the advertisement, the statutory framework, and the principles of transparency and equal opportunity. The Committee's action in treating respondent No.6 as a disabled-quota candidate, despite the absence of any application under that category, therefore strikes at the root of the recruitment process and renders the selection legally unsustainable.

14. The third issue concerns the criterion of “severity of disability”. The Committee asserts that respondent No.6 was preferred due to the severity of his disability. However, the record contains no medical assessment, comparative evaluation or any objective material demonstrating that respondent No.6’s disability was more severe or more relevant to the duties of Chowkidar than that of the petitioner. The Committee’s reliance on this factor, unsupported by evidence, renders the decision vulnerable to judicial scrutiny. The Supreme Court in the case of **Syed Mubashir Raza Jaffri**<sup>2</sup> held that appointments made on the basis of subjective or unverified considerations constitute a violation of Article 25 and are liable to be struck down.

15. The fourth issue concerns “consistency and transparency in the recruitment process”. The judgment dated 16.04.2025, passed by a Division Bench of this Court in which one of us (Arbab Ali Hakro-J) was a member, in C.P. No.D-1397 of 2024, exposed serious procedural lapses in the recruitment conducted by the same Committee, including appointments made without applications, disregard of advertisement conditions and deviation from merit. The present case exhibits similar patterns. The Committee's reasoning is neither clearly recorded nor supported by objective material. The selection of respondent No.6 appears to rest on subjective impressions rather than verifiable criteria. This Court cannot overlook the broader context in which the recruitment

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<sup>2</sup> Syed Mubashir Raza Jaffri v. EOBI (2014 SCMR 949)

occurred, particularly when a Division Bench has already found systemic irregularities in the same process.

16. The fifth issue concerns the “doctrine of legitimate expectation”. The petitioner, having applied under the disabled quota, having qualified the written test and having been called for an interview, had a legitimate expectation that his candidature would be assessed fairly and in accordance with the criteria disclosed in the advertisement and the applicable rules. The Committee's opaque reasoning and reliance on undisclosed criteria defeat this expectation. The doctrine, though limited in its application, protects candidates from arbitrary deviation from established procedure.

17. The sixth issue concerns the “doctrine of public trust”. Public employment is not a private privilege; it is a trust reposed in public authorities to be exercised for the benefit of all eligible citizens. The Supreme Court in the case of **Muhammad Ashraf Tiwana**<sup>3</sup> reiterated that appointments made in disregard of merit and transparency constitute a breach of this trust. The Committee's decision, lacking objective justification, undermines public confidence in the recruitment process.

18. The seventh issue concerns the “Committee's reliance on “suitability””. While suitability is a recognised criterion, it cannot be used as a cloak for arbitrary decision-making. Suitability must be grounded in objective factors relevant to the duties of the post. The Committee has not explained why respondent No. 6, who failed the written test, was more suitable than the petitioner. Nor has it explained why the petitioner's disability rendered him unsuitable for the duties of Chowkidar. The absence of recorded reasons renders the decision unsustainable.

19. The eighth issue concerns “comparative assessment”. The Committee was required to assess all candidates under the disabled quota on a uniform and transparent basis. The record does not show that any comparative matrix, scoring sheet or evaluation criteria were applied.

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<sup>3</sup> Muhammad Ashraf Tiwana v. Pakistan and others (2013 SCMR 1159)

20. The ninth issue concerns “consistency with the advertisement”. The advertisement required candidates to apply for each post separately. While this requirement was central to **C.P. No.D-1397 of 2024**, its relevance here lies in the broader principle that recruitment must strictly comply with the terms of the advertisement. Any deviation renders the process void. The Committee's reliance on undisclosed criteria similarly violates the advertisement's implicit requirement of transparency.

21. Besides aforesaid the record does not show that both these candidates i.e petitioner and respondent No.6 ever applied for the post of Chowkidar, pursuant to advertisement, yet their candidature was considered against the post of Chowkidar in separate recruitment process.

22. In light of the above, we find that the Committee's decision to appoint respondent No.6 under the disabled persons' quota suffers from multiple legal infirmities. The decision is unsupported by objective criteria, inconsistent with statutory provisions, contrary to constitutional principles of fairness and equality and reflective of the same procedural lapses identified in the earlier judgment of this Court.

23. We are therefore constrained to hold that the appointment of respondent No.6 under the disabled persons' quota, coupled with the fact of consideration of his candidature for the post of Chowkidar for which he never even applied cannot, withstand judicial scrutiny. The process adopted by the Committee was neither transparent nor merit-based, and the reasons recorded are insufficient to justify deviation from objective indicators of suitability.

24. For the reasons recorded above, the appointment of respondent No.6 against disabled persons' quota is declared void ab initio, unlawful and of no legal effect. The said appointment is hereby set aside, and the post shall stand vacant. The competent authority shall advertise the said post and make appointment there-against strictly in accordance with law and

compliance to be submitted before the Additional Registrar of this Court. With these directions, the petition is **disposed of** in the above terms.

**JUDGE**

**JUDGE**

AHSAN K. ABRO