

THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 508 of 2023

[Arbab Ali Mahar v. Federation of Pakistan and others]

Before:

Justice Arbab Ali Hakro

Justice Nisar Ahmed Bhanbhro

Petitioner by : Mr. Sohail Ahmed Khoso, Advocate

Respondents by : M/s Ubedullah Malano, Advocate and Syed Naveed Ahmed Shah, Deputy Attorney General

Date of Hearing : **23.09.2026**

Date of Decision : **23.09.2026**

ORDER

ARBAB ALI HAKRO, J. – The petitioner competed for the post of Junior Engineer (Electrical) (BPS-17) in the Pakistan Water and Power Development Authority (hereinafter referred to as ‘**WAPDA**’). He seeks a direction for his appointment to that post and a declaration that the second interview, conducted under the amended recruitment policy, was *ultra vires* the SOP-2018 in force when the posts were advertised. He also prays that the post not be filled until the decision of this petition.

2. WAPDA advertised forty posts of Junior Engineer (Power) on 20.03.2022. Twenty-four were in the Electrical discipline, of which five were earmarked for Sindh (Rural).¹ The advertisement stated that “Written test shall be conducted by PTS and later on interview will be conducted by WAPDA”, that “Merely passing of written test does not make the candidate eligible for further recruitment process” and that WAPDA reserved the right to withhold or cancel the process at any stage. The petitioner, then a Sub-Engineer in the Public Health Department, Government of Sindh, applied through proper channel, sat the written test conducted by the Pakistan Testing Service (hereinafter referred to as ‘**PTS**’) on 22.05.2022 and obtained 97 marks out of 100.²

¹ Advertisement published by WAPDA, Annex-B to the para-wise comments of respondents No.1 to 4.

² PTS roll number slip and result, Annexes C and D to the petition.

3. When the posts were advertised, recruitment in WAPDA was regulated by the “SOP-2018 for Recruitment against Posts in BPS-1 to 15 and BPS-16 and above” dated 07.02.2018 (hereinafter referred to as ‘**SOP-2018**’). Under clause (j), the top five candidates were to be short-listed for interview against each vacancy, with the test score carrying 70% weightage and the interview 30%.³ While the process was at the post-test stage, the Authority, in its meeting held on 19.09.2022, approved amendments to the WAPDA Recruitment Policy and Service Rules for direct induction in BPS-17 and above, which were notified vide Office Order dated 03.10.2022 (hereinafter referred to as ‘**the amended policy**’).⁴ The selection boards for BPS-17 and 18 were retitled as shortlisting boards. The interview was split into two phases: the first before the shortlisting board, which was to call the five top candidates in the written examination against each vacancy and shortlist two against each; the second before the final selection board, i.e., the Chairman/Authority. The assessment criteria of SOP-2018 (30%, 40% and 30%) were retained for both phases, and the final result was to be worked out on 50% for the written test, 20% for the shortlisting interview and 30% for the final interview. The office order declared that the policy would come into effect immediately.

4. By letter dated 30.11.2022, the petitioner was called for a “short listing interview” on 21.12.2022.⁵ He appeared but was not recommended for the final interview, which, according to him, was held on 03.03.2023 without announcing the result of the first interview. This petition was filed on 14.03.2023.

5. Para-wise comments have been filed on behalf of respondents No.1 to 4 through the General Manager (Hydel) Operation, WAPDA. It is stated that section 18 of the Pakistan Water and Power Development Authority Act, 1958 (hereinafter referred to as ‘**the Act of 1958**’) empowers the Authority to prescribe the procedure for appointment; that the amended policy, approved by the Authority, was applied with immediate effect and not

³ SOP-2018 dated 07.02.2018, Annex-B to the petition.

⁴ Office Order No.AD(E.IA)/7038/90/2020/16369-16468 dated 03.10.2022, Annex-E to the petition and Annex-C to the para-wise comments.

⁵ Letter dated 30.11.2022 of the Assistant Director (HR&Admn) Hydel, WAPDA, Annex-F to the petition.

retrospectively; that twenty-five candidates, including the petitioner, were called by the shortlisting board for the five Sindh (Rural) posts with a cut-off of 85 marks in the written test; that eleven were recommended for the final interview and that the petitioner, placed at serial No.14 of the merit list, did not qualify for the second interview. The proceedings of the shortlisting board are annexed.⁶

6. In his counter-affidavit, the petitioner maintains that SOP-2018 governed the process from the advertisement to the test, that the amended policy could not be given retrospective effect, and that, for five seats, the respondents called eleven candidates for the final interview in breach of their own policy.

7. Learned counsel for the petitioner reiterated these grounds. He argued that the petitioner had topped the written test; that the rules of recruitment could not be altered once the process had begun; that two interviews for one post were unknown to public recruitment and were introduced solely to oust the petitioner; and that the petitioner was entitled to appointment under SOP-2018.

8. Learned counsel for WAPDA and the learned Deputy Attorney General supported the comments and sought the dismissal of the petition.

9. The points that arise are: (i) whether the amended policy could lawfully apply to the recruitment in hand; (ii) whether the petitioner acquired any right to appointment on the strength of his written test; and (iii) whether the shortlisting discloses any illegality or mala fides calling for interference under Article 199 of the Constitution.

10. Section 18 of the Act of 1958 reads as follows:

“The Authority shall prescribe the procedure for appointment and terms and conditions of service of its officers and servants, and shall be competent to take disciplinary action against the officers and servants.”

The amended policy was approved by the Authority itself and falls squarely within this power. Its vires has not been challenged; prayer (b) is

⁶ Proceedings of the shortlisting board for the post of Junior Engineer (Electrical), Sindh (Rural) quota, Annex-D to the para-wise comments.

aimed only at holding the second interview. Framing a recruitment and selection policy lies within the domain of the competent authority, and a court does not substitute its own view unless the policy infringes a vested right or offends the law, as held in **Shiraz Manzoor**.⁷ Neither is shown here.

11. The plea of retrospectivity does not hold. The amended policy took effect on 03.10.2022. By then, only the written test had been held; no interview had taken place, no merit list had been drawn up, and no recommendation had been made. The petitioner was interviewed on 21.12.2022, some eleven weeks later. A policy that governs stages of a process yet to be undertaken operates prospectively; it would be retrospective only if it reopened or undid what had already been completed. Nothing completed was undone here. The petitioner's 97 marks stood as they were and were included in the final computation, with their weightage reduced from 70% to 50% for every candidate alike. The office order itself drew this distinction by making separate provision for recruitments in which "*entire process has been completed but appointment letters have not been issued*". The petitioner's case was not one of them.

12. A candidate who passes the written test earns a place in the next stage of the competition and nothing more. The Supreme Court has consistently held that success in the written test, or even in the interview, does not by itself confer on a candidate a right to appointment enforceable in the writ jurisdiction: **Ghulam Safdar and Waheed Gul Khan**.⁸ If there is no right to the post, there can be no vested right to be judged under a particular weightage formula. The advertisement promised none. It stated only that the interview would follow the test and be conducted by WAPDA, and cautioned that passing the test would not, by itself, carry a candidate further.

13. The doctrine of legitimate expectation does not advance the petitioner's case either. In **Uzma Manzoor**, experience marks not contemplated by the advertisement were awarded to one candidate to the detriment of another and the selection was found to have strayed outside

⁷ *Federal Public Service Commission v. Shiraz Manzoor* 2023 SCMR 2087.

⁸ *Secretary Finance v. Ghulam Safdar* 2005 SCMR 534; *Waheed Gul Khan v. Province of Sindh* 2024 SCMR 1701.

the advertised terms.⁹ In **Muhammad Akhtar**, the Supreme Court distinguished that case and reiterated that an expectation is legitimate only where it is founded on the sanction of law, custom or established procedure.¹⁰ Here, the advertised eligibility and qualifications remained unchanged. The change concerned the manner of assessment, which the competent authority made before the interview stage and applied to every candidate in the field. No one was preferred, and no one was singled out.

14. There is another aspect. The letter dated 30.11.2022 informed the petitioner that he was being called for a “shortlisting interview”. He appeared without demur and raised his grievance only after he was not recommended. Having taken his chance under the amended policy, he cannot be heard to question it merely because the result went against him.

15. The objection that two interviews are unheard of is misconceived. Whether selection is to be made in one or two tiers is a matter of policy for the employer. Both phases here apply the very criteria prescribed by SOP-2018, so the substance of the assessment was not altered.

16. The record also addresses the complaint regarding eleven candidates. Twenty-five candidates, i.e. five for each of the five vacancies, were called, and three did not appear. The three members of the shortlisting board awarded interview marks out of 20, which were added to half of the PTS score to give a total out of 70. The tenth and eleventh candidates each secured 59 marks, and this tie at the cut-off accounts for eleven recommendations in place of ten. The petitioner obtained 9.9 out of 20 in the interview, the second lowest among the twenty-two who appeared, and with an aggregate of 58.4 stood at serial No.14. Had the list been confined to ten, he would still have been outside it. Even if the marks actually recorded are recast in the 70:30 ratio of SOP-2018, on which the petitioner builds his case, he remains well below the fifth candidate. The objection, therefore, causes him no prejudice.

17. Assessment at an interview is a subjective exercise. What persuaded the members of the board to award the marks they did is not something a

⁹ *Uzma Manzoor v. Vice-Chancellor, Khushal Khan Khattak University, Karak* 2022 SCMR 694.

¹⁰ *Government of Balochistan v. Muhammad Akhtar* 2025 SCMR 656.

court is equipped to probe, and interference is justified only where mala fides, bias or an error of judgment floats on the surface of the record.¹¹ The allegation of mala fides here is bald. No member of the board is named, no bias is attributed, and no material is produced. A bare assertion does not suffice.

18. A writ of mandamus issues only where the law imposes a duty on the authority and the petitioner holds a corresponding legal right. The Federal Constitutional Court in **Altaf Hussain Somroo** reaffirmed that the existence of a legal right in favour of the person seeking mandamus is a sine qua non, and the Supreme Court in **Ghulam Safdar** held that the question of appointment to a particular post falls within the exclusive domain of the public functionaries.¹² The petitioner has no right to the post, and WAPDA owes him no legal duty to appoint him. Moreover, the candidates recommended for the final interview and those ultimately selected have not been impleaded. A direction for the petitioner’s appointment would necessarily unsettle them, and that cannot be done behind their back.¹³

19. The amended policy was framed by the competent authority and applied prospectively and uniformly. The petitioner failed to meet the merit criteria at the shortlisting stage. No illegality, discrimination or mala fides is made out. The petition is, therefore, **dismissed**, along with the pending application(s). There shall be no order as to costs.

The above are the reasons for our short order dated 23.09.2026.

J U D G E

J U D G E

Naveed Ali

¹¹ *Muhammad Ashraf Sangri v. Federation of Pakistan* 2014 SCMR 157; *Waheed Gul Khan* (n.8 above).

¹² *Vice Chancellor, Shaheed Mohtarma Benazir Bhutto Medical University v. Altaf Hussain Somroo* F.C.P.L.A. No.14 of 2025 (Federal Constitutional Court); *Ghulam Safdar* (n.8 above).

¹³ *Waheed Gul Khan* (n.8 above).