

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constitutional Petition No. D-1943 of 2024
[Sajjad Ahmed Khuhro vs. Province of Sindh and others]

Before:-

Mr. Justice Amjad Ali Bohio,
Mr. Justice Ali Haider 'Ada'.

Petitioner : Sajjad Ahmed Khuhro, *through*,
Mr. Achar Khan Gabol, Advocate.

Respondents : Province of Sindh and others,
through, Mr. Ali Raza Balouch,
Additional Advocate General, Sindh.

Date of Hearing : 22.04.2026

Date of decision : 28.04.2026.

JUDGMENT

Ali Haider 'Ada' J.- Through this Constitutional Petition, the petitioner has called in question the order passed by the Appellate Committee of the Sindh Public Service Commission (SPSC), whereby the decision of the Member (Appeals), SPSC, dated 23.09.2024, was set aside vide order dated 01.11.2024.

2. The brief facts, as set out in the petition, are that the petitioner possesses an engineering degree in Metallurgy and Materials from Dawood University of Engineering and Technology, Karachi, having secured a first division. The Sindh Public Service Commission, through an advertisement dated 30.07.2019, invited applications for various posts in BPS-17 under the Combined Competitive Examination. The petitioner applied pursuant thereto. It is the case of the petitioner that subsequently he suffered from a neurological disorder, as a result whereof he lost the functional ability to use his fingers. Consequently, the Department of Empowerment of Persons with Disabilities (D.E.P.D), Government of Sindh, issued a disability certificate in his favour on 07.11.2019. The petitioner appeared in the written examination conducted by SPSC, wherein he was allowed

the assistance of two persons nominated by the Commission to write his answers. Although the said examination was later cancelled, he was again permitted to appear in the examination held in June 2023, with similar assistance. The petitioner successfully passed the written examination and was thereafter called for an interview, wherein he also qualified; however, he was not allocated any post on merit.

3. Feeling aggrieved, the petitioner filed a representation before the competent forum, whereupon the Member (Appeals), SPSC, passed an order in his favour. However, the said order was subsequently set aside by the Appellate Committee, SPSC, through the impugned order dated 01.11.2024, which is assailed in the present petition.

4. Learned counsel for the petitioner contended that although in the application form the petitioner had indicated his status under the disabled quota, certain remarks reflected otherwise, allegedly due to a technical or procedural discrepancy. In support of his contention, learned counsel produced additional material, including an electronic record (USB), to demonstrate that the petitioner's profile had been updated from the general category to the disabled quota. He further argued that there is no dispute regarding the petitioner's success in the examination process, as the same has been admitted by SPSC in its para-wise comments, particularly in response to paragraph No.8 of the petition. It was also contended that the post in question is still vacant and has not yet been filled. Learned counsel emphasized that the Member (Appeals), SPSC, had passed a well-reasoned and speaking order after due consideration of all relevant facts; however, the Appellate Committee, comprising two members, set aside the said order without properly appreciating the legal and factual aspects of the case. He, therefore, prayed that the impugned order be declared illegal, void ab initio, and set aside, with a further direction to the respondents to allocate a post to the petitioner under the disabled quota.

5. Conversely, learned Additional Advocate General, relying upon the comments filed by SPSC, submitted that the relevant amendment in the Sindh Public Service Commission (Recruitment Management) Regulations, 2023, was made on 06.05.2024. He argued that the said amendment does not have a retrospective effect and, therefore, the petitioner's case does not fall within the ambit of the disabled quota. He thus prayed for dismissal of the instant petition.

6. Heard learned counsel for the parties and perused the material available on record.

7. It is an admitted position on record that the petitioner suffers from a neurological disorder, which has been duly acknowledged by the SPSC. In recognition thereof, the petitioner was permitted the facility of assistance through scribes for the purpose of attempting the written examination. Furthermore, the disability certificate initially issued in favour of the petitioner on 07.11.2019 was subsequently reassessed, and upon such reassessment, another disability certificate was issued by the Department of Empowerment of Persons with Disabilities, Government of Sindh, on 05.08.2024. This clearly establishes that, from the very outset, the petitioner was treated and considered within the ambit of a person with disability.

8. Furthermore, the stance taken by the Appellate Committee that the amendment in the Sindh Public Service Commission (Recruitment Management) Regulations, 2023, relating to the consideration of disability certificates against the quota reserved for persons with disabilities, cannot be applied retrospectively, appears to be inconsistent in the peculiar facts and circumstances of the present case. A careful perusal of the advertisement, annexed as Annexure-A by the SPSC, particularly clause No.4 about eligibility, unequivocally demonstrates that both male and female candidates, including differently-abled persons possessing the requisite

domicile and permanent residence of Sindh, were declared eligible to apply.

9. Admittedly, the said advertisement was issued much before the amendment dated 06.05.2024; therefore, the rights of the petitioner are to be examined in light of the terms and conditions of the original advertisement. Once the eligibility criteria expressly recognized and included persons with disabilities, the subsequent amendment cannot be so construed as to defeat or curtail the vested right of the petitioner. Consequently, the case of the petitioner squarely falls within the ambit of the disabled quota as envisaged under the original advertisement.

10. Even otherwise, the SPSC is a statutory body entrusted with the responsibility of recruitment and selection of candidates for various departments under the Government of Sindh. As is evident from the advertisement in question, applications were invited through the Combined Competitive Examination for recruitment to posts in BPS-16 and BPS-17 in different departments of the Government of Sindh. It is pertinent to observe that the Sindh Empowerment of Persons with Disabilities Act, 2018, was promulgated before the initiation of the recruitment process and holds the field. The said Act is to be applied in its strict sense (*stricto sensu*). Under Section 2(n) thereof, the term "Government" has been defined to mean the Government of Sindh. Consequently, all its departments, are bound to act in conformity with the mandate of the said statute. In such circumstances, the rights of the petitioner, being a person with disability, are protected under the aforesaid Act, and there remains no requirement for the petitioner to bring his case within the ambit of any subsequent amendment made in the Sindh Public Service Commission (Recruitment Management) Regulations, 2023.

11. The record further reflects that the Member (Appeals), SPSC, passed a reasoned order in favour of the petitioner; however, the

Appellate Committee, in exercise of powers purportedly under Regulation 161 of the Regulations, 2023, set aside the said order. For the sake of ready reference, Regulation 161 is reproduced hereunder:-

161. [Right of Representation & Appeal. A candidate aggrieved by any decision of the Commission or the nominated Member under the preceding regulations may, within 15 days of the communication of such decision, prefer a representation addressed to the Chairperson and submitted to the Secretary of the Commission adducing evidence in support of his/her claim. The Secretary, upon receipt of such representation, shall forthwith seek nomination of a Member from the Chairperson. The Member so nominated shall, within the next 15 days, hear the aggrieved candidate, evaluate the evidence produced by him/her, seek any counter evidence or explanation by the concerned Branch/Section of the Commission and announce his/her decision through a speaking order mentioning therein the respective versions of the parties and weighing them against the relevant provisions of law, rules and regulations. Any party aggrieved by the decision of the Member may, within 10 days of the announcement of such decision, prefer an Appeal to the Chairperson. The Chairperson, upon receipt of the Appeal, shall constitute a Committee comprising atleast 02 Members to hear the Appeal. The Member against whose decision the Appeal is preferred, shall not be a Member of the Appellate Committee. The Appellate Committee shall, after giving an opportunity of hearing to the parties concerned, dispose of the Appeal through a speaking order within the next 10 days. The decision of the Appellate Committee shall be final and binding on the parties].

12. The concept of disability and the significance of gainful employment in the lives of persons with disabilities, as distinguished from persons without disabilities, has been duly recognized at both international and domestic levels. In this regard, Article 2 of the UN Convention on the Rights of Persons with Disabilities emphasizes the need to ensure equality, dignity, and full participation of persons with disabilities in all spheres of life, including employment. It is now a settled principle that reservation of quota for persons with disabilities is not merely a formality but a substantive right, which must be effectively implemented. For meaningful inclusion, such persons must be provided with necessary infrastructure, access, support, and facilities at their

workplaces. This includes appropriate modifications and reasonable accommodations, including assistive technologies, wherever required, so as to enable them to enjoy, on an equal basis with others, all human rights and fundamental freedoms. Support in this regard can be drawn from the authoritative pronouncement of the Hon'ble Supreme Court of Pakistan in the case of **Malik Ubaidullah v. Government of Punjab, 2021 P L C (C.S.) 65**.

13. The rights of persons with disabilities, as well as the object, purpose, and scope of the relevant legislation, have been clearly delineated by the Superior Courts. The *raison d'être* of such enactments is not merely to confer certain benefits out of compassion; rather, it is to rehabilitate and empower a distinct class of individuals who, despite suffering from disabilities, are differently-abled and possess the capacity to contribute meaningfully to society. Such persons are entitled to live with dignity and to enjoy the fundamental rights guaranteed under the Constitution on an equal footing with other citizens. These individuals require encouragement, facilitation, and institutional support so as to enable them to integrate into the mainstream and to realize their full potential. It is, therefore, incumbent upon all organs and levels of Government to adopt a proactive and inclusive approach, ensuring that persons with disabilities are provided with opportunities to connect their abilities and develop a sense of self-worth. This, in turn, enables them to earn their livelihood with dignity and independence, instead of being compelled to rely upon financial assistance, which may undermine their self-esteem and dignity. Even the teachings of Islam emphasize benevolence, compassion, and care for such individuals, advocating a broad and solicitous approach to empower them for active, meaningful, and dignified participation in society. Guidance in this regard is drawn from the judgment of the Hon'ble Supreme Court of Pakistan in **Chairman NADRA v. Abdul Majeed, 2025 SCMR 612**, wherein the aforesaid principles were comprehensively reaffirmed

14. The Sindh Empowerment of Persons with Disabilities Act, 2018, is a beneficial piece of legislation enacted with the affirmed object of empowering persons with disabilities and addressing issues pertaining to a specific and vulnerable segment of society. As such, said Act is required to be enforced and implemented in its true letter and spirit, uniformly and without any discrimination or bias. It is well settled that mere enactment of a law does not serve its intended purpose unless it is effectively enforced and properly administered. The true efficacy of any legislation lies in its meaningful implementation, which ensures that the rights conferred upon its beneficiaries are not rendered illusory. Proper and diligent enforcement of the law represents a sincere commitment on the part of the State to translate legislative intent into practical reality. Effective implementation of such laws is not only essential for maintaining order but also serves to guarantee justice, fairness, and equality in society, free from arbitrariness and discrimination. In this regard, the power of judicial review assumes paramount importance, as it enables the Courts to examine legislative competence, and scrutinize executive actions to ensure that they conform to constitutional mandates and are applied in a fair and just manner. Such judicial oversight is crucial for safeguarding and upholding the fundamental rights of citizens and for strengthening the rule of law. Reliance in this context is placed upon the judgment rendered by the Hon'ble Supreme Court of Pakistan in **Province of Sindh v. Abid Ali Jatoi, 2025 SCMR 1058**, wherein these principles were emphasized.

15. In view of the foregoing discussion and for the reasons recorded hereinabove, the impugned order dated 01.11.2024, passed by the Appellate Committee of the Sindh Public Service Commission, is hereby set aside, and the order dated 23.09.2024, passed by the Member (Appeals), Sindh Public Service Commission, is restored. Consequently, the Respondents-Sindh Public Service Commission, are directed to re-submit the case of the petitioner

before the competent forum/committee, with the approval of the Chairman, SPSC. In the event that a post under the disabled quota is available and the petitioner otherwise meets the requisite merit criteria, his case shall be considered strictly in accordance with the law. The entire exercise shall be completed within a period of one (01) month from the date of receipt of this order, positively. Accordingly, the instant petition stands disposed of in the above terms.

JUDGE

JUDGE