

**ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI**

C.P. No.D-5050 of 2016

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar

Mr. Justice Abdul Ghani Soomro

Miss Remeshan Oad & another Petitioners

V E R S U S

The Chief Programmer Manager NTS,
Reform Support Unit, Karachi & others Respondents

Date of hearing 23.09.2016

Syed Shafqat Ali Shah Masoomi, Advocate a/w Petitioners.

Mr. Abdul Jaleel Zubedi, A.A.G.

Mr. Muhammad Ashraf, Additional MIT-I, High Court of Sindh

Mr. Muhammad Imran Khan, Deputy Director, NTS (South).

Muhammad Ali Mazhar, J: The Petitioners are practicing lawyers. Through an advertisement the vacancies for the appointment of Additional District and Sessions Judge were announced. The preliminary test was scheduled through NTS on 04th September 2016 in the Sindh High Court premises. The Petitioners appeared in the test, however, both the Petitioners obtained 57 marks each. They have approached this Court with the prayer that some questions were ambiguous, therefore, they could not secure passing marks. Now they have challenged the pre-qualification test through this Constitution Petition.

2. Notice was issued to the Additional MIT as well as representative of the NTS. Today Mr. Muhammad Imran Khan, Deputy Director, NTS filed his reply to the main petition and

Additional MIT-I has also filed the comments. In the comments, NTS stated that after examination, due weightage was given to the question papers and answer keys. The matter was placed before one of the hon'ble Judges of this Court under the directives of the hon'ble Chief Justice and since four questions were found ambiguous, therefore, across the board four marks were decided to be allocated to all the candidates appeared in the test including the Petitioners. The Representative of NTS has also brought the original White and Yellow question books alongwith Answer Keys. Before hearing the matter, ample opportunity was given to both the Petitioners and their counsel to examine the White and Yellow question books alongwith their Answer Keys. The Petitioners pointed out few questions which in their own view are considered ambiguous but when we have examined the questions alongwith answer keys, we do not find any ambiguity except in one question and answer of White Book listed at Serial No.97. It is also a fact that in one question, the petitioner No.1 has given right answer but for the same question the Petitioner No.2 has given the wrong answer. It is also a fact that number of candidates have cleared the NTS and 19 other persons have Secured 59 marks but they have not challenged the pre-qualification test on the ground of any ambiguity in the questions or answer keys. It is also a fact that 100 Multiple Choice Questions were given to solve, out of which four marks have already been allocated to all the candidates across the board including the Petitioners under the direction of the hon'ble Senior Judge of this Court. If one question is still

treated ambiguous by us even then 95 questions were already available to both the Petitioners to solve but they have secured only 57 marks each including four marks given to them on account of some ambiguity in the questions.

3. Learned counsel for the Petitioners argued that the NTS management recklessly prepared the question papers and due to serious ambiguities the candidates had become victims of confusion and within a limited period of time it was very difficult for them to solve all the questions in this uncertainty.

4. On the other hand, the NTS management states that after completion of the NTS process, the question book and answer keys were placed before the hon'ble Chief Justice to nominate any hon'ble Judge to examine and scrutinize the question papers and answer keys and after due weightage, the matter was closed. Ambiguity in question, if any, does not mean a wrong question. Even otherwise four marks have already been given to every candidate and despite including four marks the Petitioners have obtained only 57 marks each while their actual score was 53 only.

5. As a result of above discussion, the petition is dismissed alongwith pending application. However, the management of NTS shall ensure that in their future test at least for this institution they will take proper care so that the ambiguities in questions if any may be avoided.

JUDGE

JUDGE