

HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

C.P No.D-949 of 2023

[Mohammad Idrees vs. Province of Sindh & Others]

Before:

Justice Arbab Ali Hakro

Justice Riazat Ali Sahar

Petitioner by : Mrs. Razia Ali Zaman advocate

Respondents by : Mr. Muhammad Ismail Bhutto
Additional A.G Sindh a/w D.C
Shaheed Benazirabad (Abdul
Samad Nizamani)

Date of Hearing : **27.05.2025**

Date of Decision : **27.05.2025**

J U D G M E N T

ARBAB ALI HAKRO J:- Petitioner, being person with disabilities, seeks directions against the respondents to appoint him against the post of Naib Qasid, Chowkidar or Beldar by implementing the 5% quota reserved for persons with disabilities.

2. Learned counsel for the petitioner submits that the petitioner, as person with disabilities, possess educational degree and is thus entitled to induction into government service under the 5% quota reserved for persons with disabilities. Counsel further submits that the respondents had published advertisements inviting applications for appointments against certain posts under the disability quota, pursuant to which the petitioner, being eligible, applied for various posts based on his qualifications. Counsel maintains that interviews were conducted by the respondents under the chairmanship of the Deputy Commissioner, Shaheed Benazirabad; however, the petitioner was not considered. Having no alternate remedy, he seeks the indulgence of this Court with the prayer that the respondents be directed to consider his applications and appoint him to any suitable, mentioned above.

3. Learned Additional Advocate General (AAG), while referring to the comments filed by the Respondents, particularly the

reports/parawise comments submitted by the Deputy Commissioner Shaheed Benazirabad, who heads the District Selection Committee (DSC), Shaheed Benazirabad, submits that though the petitioner appeared recruitment process conducted by the District Recruitment Committee in the year 2019 and 2022 but he could not qualify while the certain persons were appointed, who quailed in the said process. Learned AAG further submits that again in compliance with the directions issued by the Supreme Court of Pakistan¹ and a Division Bench of this Court at Sukkur², applications were invited in the year 2024 through public advertisements for appointments under the disability quota. Numerous persons with disabilities, including the petitioner, applied, and the DSC, along with the heads of other departments of District Shaheed Benazirabad as its members, conducted the interviews of eligible candidates. After proper scrutiny of documents, 26 candidates who met the merit criteria were appointed under the subject quota against available vacant posts at the relevant time, whereas the petitioner again could not qualify and, therefore, was not considered. Learned AAG further submits that, since the petitioner did not qualify in the interviews, which is a prerequisite for appointment to government or public post, he is not entitled to the relief claimed, and the petition is liable to be dismissed as not maintainable. He further contends that the petitioner is at liberty to apply afresh under disable quota, as and when posts are announced by the Deputy Commissioner Shaheed Benazirabad being head of DSC, and if he qualifies, he will be considered in accordance with the law.

4. We have heard the learned counsel for the petitioner, the learned Additional A.G, and have perused the material available on record.

5. A perusal of the record reflects that, although the petitioner applied for various posts pursuant to the advertisements and public notices, he did not qualify in the interviews conducted under the chairmanship of the Deputy Commissioner, Shaheed Benazirabad. The persons who did qualify in the said interviews have been inducted

¹ Penned down in *C.Ps No.745-K to 750-K & 966-K to 971-K of 2022*.

² *Vide Order dated 10.10.2024 handed down in C.P No.D-176 of 2023 alongwith connected matters*

into various posts through implementation of the 5% quota reserved for persons with disabilities, as per the list attached to the comments/ report filed by the Deputy Commissioner, Shaheed Benazirabad. It is important to observe that every aspirant seeking appointment to a government/ public post under any reserved quota must first meet the prerequisite mandatory requirements, namely participation in the test and/or interview conducted after advertisement/public notice, and qualification therein.

6. While the petitioner is indeed person with disabilities, and the relevant Act³ guarantees certain rights, including a 5% quota in government jobs, this right does not grant him the ability to bypass the mandatory prerequisites outlined above.

7. Since the petitioner could not qualify in the tests/interviews conducted by the respondents, he is not entitled to the reliefs prayed for. Accordingly, this petition is **dismissed** as not maintainable, leaving the petitioner at liberty to participate in the recruitment process in accordance with the law, as and when conducted by the respondents. If the petitioner participates in the recruitment process, his appointment under the 5% disability quota will be subject to fulfilling the mandatory prerequisite requirements.

JUDGE

JUDGE

Sajjad Ali Jessar

³ Sindh Empowerment of Persons with Disabilities Act 2018.