

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

C.P No. D-285 of 2014

[Muhammad Hanif & others v. Province of Sindh & others]

Before:

Mr. Justice Arbab Ali Hakro

Mr. Justice Riazat Ali Sahar

Petitioners	:	Muhammad Hanif and others through M/s. Muhammad Hashim Laghari and Roshan Ali Azeem Mallah, Advocates.
Respondents No.1to4	:	Through Mr. Muhammad Ismail Bhutto, A.A.G. Sindh.
Respondents No.5to7	:	Nil.
Respondents No.8&9	:	Umaro Zadi and Shamim Ara through Mr. Rustam Ali Talpur, Advocate.
Date of Hearing	:	23.05.2025
Date of Judgment	:	08.08.2025

JUDGMENT

RIAZAT ALI SAHAR.J., - Through the instant petition, the petitioners have submitted that they are hardworking, educated and reform-oriented individuals who have dedicated their lives to the cause of educational development in their respective localities. They further submitted that despite belonging to poor families and being raised in remote rural areas, they struggled for progress and academic excellence. However, due to socio-economic disparity and institutional indifference, their desires and rights have been adversely affected. They also submitted that they applied for the posts of Junior School Teachers (JST) in the Education & Literacy Department and duly appeared in the recruitment test conducted by

the National Testing Service (NTS) and they successfully qualified the said test. The petitioners have stated that under the Teachers' Recruitment Policy 2012, seats are to be allocated Union Council-wise by the District Recruitment Committee (DRC), which is bound to determine the UC of each candidate based on concrete documentary evidence, including the permanent address mentioned in the CNIC. The petitioners have further averred that respondent No.5, Aneeka d/o Khuda Bux, who secured higher marks than petitioner No.1, is in fact a resident of Tando Jan Muhammad City, District Mirpurkhas, yet was considered for a seat in a UC other than her rightful one, thereby infringing upon the lawful entitlement of petitioner No.1. Despite representations and applications submitted to the competent authorities, no action was taken.

2. The petitioners have further asserted that respondents No.6 and 7, who belong to a different UC, have also been considered under UC Malhan, thus, usurping the rights of petitioner No.2. Similarly, respondents No.8 and 9, though residents of other UCs, have been accommodated under UC Peero Lashari, depriving petitioner No.3 of her legitimate entitlement. The petitioners have further asserted that this nonconformity from policy by the DRC and official respondents has caused serious prejudice to their rights and undermined their efforts toward educational reform. They further submitted that the respondents have acted with *mala fide* intent, misusing their authority to accommodate candidates with influence, thereby defeating the purpose and spirit of merit-based recruitment.

3. They also submitted that as per policy, 10% of JST seats are to be maintained under the Taluka Pool, while the remaining seats are to be filled on a UC basis. The policy mandates that all qualifying candidates from a particular UC are to be appointed first; only if sufficient candidates are not available, the vacant seats may be transferred to the Taluka Pool. However, respondent No.4, in contravention of the policy, transferred one JST seat from UC Rajo Khanani to the Taluka Pool despite the availability of 10 qualified candidates, including petitioner No.1, who was thereby unlawfully

excluded from selection. Although, he submitted an application to higher authorities, but his grievance was not redressed. As such, the grievance of the petitioners that petitioner No.1, a meritorious candidate who had secured first position in UC Kandhro in the NTS test, was demoted to third position due to the award of 20 additional marks to female candidates. The third seat, which should have been granted to him, was subsequently transferred to the Taluka Pool, again in violation of the recruitment policy.

4. The petitioners have further submitted that petitioner No.5 also qualified the test, yet respondent No.4 unlawfully transferred two JST seats from UC Bhudho Qambrani, thereby depriving petitioner No.5 of his rightful claim.

5. The petitioners have also submitted that they exhausted all avenues for redressal of their grievances by approaching the concerned authorities but to no avail. They alleged that the impugned actions of the respondents are not only arbitrary and discriminatory but also constitute a clear violation of Articles 25 and 27 of the Constitution of the Islamic Republic of Pakistan, 1973. Aggrieved by the inaction and policy violations by the official respondents, the petitioners have approached this Court seeking appropriate relief through the instant constitutional petition.

- a) To declare that the importing of respondents No.5, 6, 7, 8, 9 on part of official respondents is illegal and void.
- b) To bar official respondents from issuing any illegal order of appointment in respect of the aggrieved UCs.
- c) To declare that transfer from UC pool to Taluka pool without satisfying UCs qualified candidates is illegal.
- d) To declare that the petitioners are qualified candidates in their respective categories for the post of JST having successfully completed the criteria laid and passed the requisite qualifications.
- e) To award cost of petition.
- f) To grant any other relieve that this Honourable Court deems fit and proper and in the interest of justice.

6. In response to the petition, notice was issued to the respondents. Respondent No.3 filed para-wise comments, wherein it was not disputed that the petitioners had qualified the NTS-conducted test for recruitment of Junior School Teachers (JST). However, it was clarified that the petitioners failed to secure selection on the basis of merit within their respective Union Councils (UCs), as determined under the applicable recruitment policy. It was further explained that the District Recruitment Committee, in compliance with the Teachers' Recruitment Policy, determines the UC of each candidate based on verifiable documents, including CNIC, PRC Form-D and domicile certificates. Regarding specific respondents:

- Respondent No.5 applied from UC Rajo Khanani on the basis of PRC Form-D issued by the District Magistrate, Badin, bearing No.704 Tando Bago dated 11.10.1993.
- Respondents No.6 and 7 submitted their PRC Form-Ds issued by the EDO (Revenue), Badin, indicating their permanent residence in Village Nabi Bux Kambo, Taluka Matli, falling within UC Malhan.
- Respondent No.8 provided her PRC confirming her permanent residence in Village Haji Abdul Rahim Talpur, which is located within UC Peeru Lashari, Taluka Talhar.
- Respondent No.9 submitted her CNIC and PRC Form-D confirming her permanent address as Deh Pashyarki, Village Bagh Ali Khan, Talhar, also within UC Peeru Lashari.

7. It was further submitted that as per the policy, 10% of total JST posts in a Taluka are reserved under the "Taluka Pool." Once all UC-based seats are filled on merit, remaining qualified candidates may be considered for Taluka Pool seats. Where UC-based seats remain unfilled due to lack of qualified candidates, such vacancies may also be shifted to the Taluka Pool. Recruitment is conducted on a merit-cum-need basis.

8. With respect to UC Bhudho Qambrani, it was stated that no JST (General) male seat was allocated. The UC had seven JST (General) mixed seats, five of which were UC-based and two allocated to Taluka Pool. The last candidate selected under UC-based mixed seats obtained 72 marks, while petitioner No.5 obtained 71 marks and thus did not qualify. Respondent No.3 denied any

violation of Articles 25 and 27 of the Constitution and prayed for dismissal of the petition, contending that the petitioners failed to establish any legal right or breach of policy.

9. Respondent No.1, through statement dated 29.10.2018, adopted the comments of respondent No.3 and submitted that he had been impleaded only as a formal party. As per order dated 26.11.2018, respondent No.2 also adopted the comments filed by respondent No.3.

10. Respondent No.9 filed a counter affidavit, submitting that except for petitioner No.3, none of the petitioners have challenged her appointment. She stated that she has been residing in Village Haji Abdul Rahim, UC Peeru Lashari, since birth and that the village is known by the name of her grandfather. She received her primary and secondary education within the same UC and completed her B.A. and B.Ed. from the University of Sindh. Respondent No.9 qualified the NTS test for JST recruitment and secured 67 marks, ranking third in UC Peeru Lashari. Her documents, including Form-C and Form-D, were duly verified by the DRC prior to her selection. She asserted that petitioner No.3 has falsely implicated her due to personal jealousy and that all grievances should have been raised before the DRC, which was the competent forum. She further contended that the instant constitutional petition involves disputed factual issues requiring inquiry, which cannot be resolved in writ jurisdiction.

11. Additionally, respondent No.3 submitted a detailed statement on 21.11.2024, clarifying the merit position of each petitioner in their respective UCs and the Taluka Pool, as follows:

- **Petitioner No.1 (Muhammad Hanif):** Secured 64 marks in JST General test (January 2013) from UC Rajo Khanani. In the UC, the last selected male candidate secured 65 marks; for Taluka Pool, the merit closed at 80 marks. Hence, petitioner No.1 did not qualify.
- **Petitioner No.2 (Muhammad Imran):** Secured 70 marks in JST Science test from UC Malhan. The last selected mixed candidate in

the UC obtained 82 marks; for Taluka Pool, the merit closed at 86 marks. Thus, he did not qualify.

- **Petitioner No.3 (Miss Meena):** Secured 86 marks in JST General test from UC Peeru Lashari. The last selected female candidate in the UC obtained 93 marks; for Taluka Pool, the merit closed at 99 marks. Therefore, she was not selected.
- **Petitioner No.4 (Abdul Malik):** Secured 68 marks in JST General test from UC Khadero. The last selected mixed candidate in the UC secured 83 marks; Taluka Pool closed at 94 marks. He too failed to qualify.
- **Petitioner No.5 (Imtiaz Ali):** Secured 71 marks in JST General test from UC Bhudho Qambrani. The last selected mixed candidate in the UC scored 72 marks; Taluka Pool merit closed at 93 marks. He did not meet the required merit threshold.

12. Respondent No.3 reaffirmed that all appointments were made strictly in accordance with the Teachers' Recruitment Policy and that the petitioners were not aggrieved persons in law, having failed to meet the merit criteria for their respective UCs and for the Taluka Pool.

13. Learned counsel for the petitioners contended that the petitioners, having qualified the NTS test with meritorious marks, were unjustly deprived of appointment to the posts of Junior School Teachers (JST) under the Teachers' Recruitment Policy 2012. They further contended that the District Recruitment Committee misapplied the Union Council-based allocation criteria by accommodating candidates who did not belong to the relevant UCs, thereby usurping the rights of the petitioners. They further contended that the Teachers' Recruitment Policy 2012 mandates UC-wise distribution of posts, with 90% of the seats to be filled strictly from qualified candidates of the concerned UC, while the remaining 10% may be allocated to the Taluka Pool only in the event of non-availability of eligible UC candidates. The learned counsel have further contended that petitioner No.1 was unfairly pushed out of UC merit despite securing first position in UC Kandhro due to arbitrary award of 20 grace marks to female candidates, and that one

JST seat was unlawfully shifted to the Taluka Pool despite ten qualified candidates being available in the UC. They further contended that respondents No.5 to 9 were appointed against seats belonging to UCs to which they did not belong, in clear violation of the policy and merit and that the DRC failed to conduct a proper verification of UC-wise domicile, PRC and CNIC records. They have alleged that that the respondents' conduct was arbitrary, discriminatory, and *mala fide*, violating Articles 25 and 27 of the Constitution.

14. Conversely, learned A.A.G. appearing on behalf of the official respondents contended that while it is not denied that the petitioners had qualified the NTS test, mere qualification does not create a vested right to appointment when they failed to secure selection on the basis of merit within their respective UCs and also did not qualify under the Taluka Pool, where higher cut-off marks were applied. He further pointed out that the Teachers' Recruitment Policy 2012 was strictly followed, whereby the DRC determined the UC of each candidate based on verifiable documents including CNIC, PRC Form-D and domicile certificates. He elaborated that respondents No.5 to 9 were residents of the Union Councils under which they applied, as confirmed by official records including CNICs, PRC Form-Ds and domicile certificates; that petitioner No.1 secured 64 marks while the last selected candidate in his UC obtained 65 marks and similarly, the other petitioners failed to meet the merit thresholds in their respective UCs or the Taluka Pool; and that, in accordance with the Teachers' Recruitment Policy 2012, seats were shifted to the Taluka Pool only where no eligible candidates were available in a given UC, which was done in compliance with the prescribed criteria. Learned A.A.G. Sindh has prayed for dismissal of the petition by contending that no illegality or breach of policy occurred and that the petitioners have failed to establish any enforceable right.

15. Learned counsel for respondents No.8 and 9 has contended that his clients have no role in the administrative process

of appointments and were merely applicants who secured their selection on merit after undergoing the same competitive procedure as other candidates. He contended that the respondents fulfilled all eligibility criteria and were evaluated by the competent District Recruitment Committee, which, after verifying their CNICs, PRC Form-Ds, and domicile, placed them appropriately in the final merit list. Counsel contended that the petitioners are attempting to malign private candidates only because they failed to attain the required merit, which amounts to harassment of duly selected individuals. He further contended that no allegation of fraud, misrepresentation, or forgery has been brought against these respondents and any challenge to their selection should have been directed before the DRC, not through a writ petition. He further contended that unsettling the appointments of meritorious candidates without concrete proof would amount to unjust deprivation of their lawful employment, hence, he prayed for dismissal of the petition.

16. Upon hearing the learned counsel for the petitioners, the learned A.A.G. Sindh for official respondents, learned counsel for the respondents and perusal of the available record, including the applicable Instructions Manual for Appointment Process (Reference Document: Teachers' Recruitment Policy 2012 – Round III), we find that the recruitment process has been carried out in accordance with the prescribed rules and instructions and that the petitioners have not established any illegality, *mala fide*, or violation of their constitutional rights.

17. The main grievance of the petitioners is that, despite qualifying the NTS test for the post of Junior School Teacher (JST), they were denied appointment, while other candidates were allegedly accommodated through improper transfer of UC-based seats to the Taluka Pool. However, under General Instruction No.5(b) of the Instructions Manual, the recruitment procedure for JSTs is clearly laid out, providing that:

- (i) First UC wise merit shall be determined based for each UC of Taluka;

- (ii) When merit of all UCs completed then remaining candidates shall complete for 10% seats allocated at Taluka;
- (iii) The UCs where no candidate could pass NTS test and need base seat is vacant, that seat also will be added/shifted at Taluka pool;
- (iv) The stream-wise categories (Science/General) will be maintained, Male seat will fall in male category, Female seat in female category, Mix seat in Mix category with stream wise of Science and General;
- (v) DRC will prepare Separate final merit list of the candidates stand eligible for appointment strictly observe the Taluka/Tehsil/quota.

18. Furthermore, the Instructions Manual makes it clear that merely qualifying the NTS test (i.e., securing at least 60% marks) does not confer an automatic right to appointment; rather, selection is subject to comparative merit within the applicable quota. In this regard, the comparative merit chart submitted by respondent No.3 demonstrates that none of the petitioners met the merit cut-off either within their respective Union Councils or in the Taluka Pool. Specifically:

- Petitioner No.1 Muhammad Hanif secured 64 marks; UC cut-off: 65; Taluka Pool: 80;
- Petitioner No.2 Muhammad Imran secured 70 marks; UC cut-off: 82; Taluka Pool: 86;
- Petitioner No.3 Meenasecured 86 marks; UC cut-off: 93; Taluka Pool: 99;
- Petitioner No.4 Abdul Malik secured 68 marks; UC cut-off: 83; Taluka Pool: 94;
- Petitioner No.5 Imtiaz Ali secured 71 marks; UC cut-off: 72; Taluka Pool: 93

19. The position as is above, clearly depicts that, despite passing the test, none of the petitioners were eligible for selection based on merit. The Instructions Manual and the primary Policy recognize merit as the governing criterion and no enforceable right to

appointment exists on the basis of qualification alone. Regarding the petitioners' objection to the transfer of UC-based seats to the Taluka Pool, the record reflects that such transfers were carried out strictly in accordance with Instruction 5(b) (iii), i.e., only when no qualified candidate was available in a particular UC. Hence, the seat transfer mechanism was lawful and policy-compliant. As to the allegation that respondents No.5 to 9 were non-residents of the UCs under which they were appointed, the respondents placed on record verifiable documents, including CNICs, PRC Form-Ds, and domiciles, which were duly assessed by the DRC. Under Instruction 5 and Clause 2(ii) of the Policy, the DRC is the competent authority to verify such credentials and we have not found evidence of any irregularity or falsification.

20. It is worthwhile to observe that the issues raised involving disputed questions of fact relating to verification of documents, merit lists and quota distribution matters, the same fall within the exclusive domain of the DRC and not ordinarily subject to judicial review under Article 199 of the Constitution, unless tainted with illegality, *mala fide*, or arbitrariness; however, none of which have been established in the present case.

21. For what has been discussed above and upon a reading of the relevant Instructions Manual for Appointment Process and the Teachers' Recruitment Policy 2012 (Round III), we are of the considered opinion that the recruitment process was conducted in accordance with the law and applicable policy instructions. The petitioners did not meet the merit thresholds required for selection under UC or Taluka quotas. The transfer of seats to the Taluka Pool was validly executed per Instruction 5(b)(iii). No violation of law, policy or fundamental rights has been shown. Accordingly, the petition along with pending application(s), if any, stands **dismissed** being devoid of merit. However, there shall be no order as to costs.

JUDGE

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