

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D-5076 of 2023
(Sajid Ali v Federation of Pakistan & others)

Date	Order with signature of Judge(s)
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Before:

Mr. Justice Muhammad Karim Khan Agha
Mr. Justice Adnan-ul-Karim Memon

Date of hearing and order:- 14.10.2025

Petitioner present in person
Ms. Wajiha Mehdi, Assistant Attorney General

ORDER

Muhammad Karim Khan Agha, J: The petitioner prayed that
this Court may be pleased to:

1. *Direct the Respondents Federal Public Service Commission to prepare inclusive policy/rules of disabled persons and their quota in all Pakistan Services taking into consideration the judgment of Supreme Court of Pakistan in the case of Mubarak Ali Babar v Punjab Public Service Commission passed in Civil Petition No. 2045/2019 in the case of Muhammad Yusuf and others v Chairman Federal Public Service Commission and others of Lahore High Court Lahore passed in Writ Petition No. 7572/2016;*
2. *Direct the respondents to consider the case of the petitioner on the disabled quota and allow him to appear for the vacant post in Sindh of the Federal Government departments.*

2. The petitioner who is present in person submitted that the respondent No.3, Federal Public Service Commission (FPSC), published an advertisement dated 02.11.2016 for various posts, including 50 on merit, 46 open merit, six on women quota, and three on minorities/non-Muslim quota, but no quota was provided for disabled persons. He applied for the post of Inspector, having the required qualification and experience, and submitted a disability certificate issued by the Provincial Coordinator, Social Welfare Department, Government of Sindh, dated 08.12.2009, showing poliomyelitis, requiring the use of a walking stick, and was serving as Junior Clerk on contractual basis with Provincial Disaster Management Authority. He submitted that after scrutiny, the petitioner was issued Roll No.27823 for the written test held on 11.01.2017, which he successfully passed (Annex-C & D). The petitioner complied with all document submission requirements. He further submitted that the FPSC scheduled interviews for 27.09.2017 but failed to inform the petitioner in a timely manner. Being a disabled person residing in Larkana, he could not reach Karachi the same day and requested rescheduling on 28.09.2017, which was declined. Further applications for personal hearing on 18.10.2017 and 03.11.2017 were also ignored. Meanwhile, leftover/restored candidates were allowed to appear for interview. He submitted that he filed C.P. No.D-166/2018 in the this Court seeking rescheduling of his interview. This Court directed that one seat remain

vacant, but the petition was later dismissed on 15.05.2019 and subsequent CPLA No.390-K/2019 before the Supreme court filed by him was also disposed on 01.03.2020, directing respondents to consider the petitioner for future vacancies without acknowledging his disability. He submitted that persons with disabilities face systemic barriers in competitive examinations and public service appointments. He relied upon the case of Muhammad Yousuf & others vs. FPSC vide judgment dated 11.01.2017, which emphasized the constitutional and international obligations of Pakistan to ensure equality, dignity, and non-discrimination for persons with disabilities. Similarly, he put reliance upon the case of Mubarak Ali Babar vs. Punjab PSC & others (Civil Petition No.2045/2019), whereby the Supreme Court directed the FPSC to adopt inclusive policies and offer reasonable accommodation for persons with disabilities in all occupational services. He submitted that he, being a disabled person, applied for a merit-based post of Inspector but was discriminated against by the FPSC, which provided quotas for women, minorities, and non-Muslims, while ignoring differently-abled persons. This violates the petitioner's constitutional rights under Articles 9, 14, and 25 of the Constitution of Pakistan and the principles established by the apex Court.

3. The learned AAG opposed the petition on the analogy that he has already lost the case up to the Supreme Court therefore, his case cannot be reopened based on the quota reserved for differently-abled persons as such, the petitioner is not entitled to the relief.

4. We have heard the petitioner who is present in person as well as learned AAG on the subject issue and perused the record with their assistance.

5. It appears from the record that after dismissal of his CPLA No 390-K of 2019 vide order dated 1.1.2020, and subsequent order dated 21.12.2021 based on contempt application, the petitioner filed another contempt application 12-K of 2022 before the Supreme Court. The Supreme Court, vide order dated 08.09.2023, noted the compliance report submitted by the Learned Deputy Attorney General stating that the petitioner was called for an interview on 18.04.2022, secured 130 marks in the interview and 66 in the written test, totaling 196 marks. The last candidate from Sindh (Rural) open merit quota, Mr. Sheeraz Ahmed (Roll No.84553), had 215 marks and stood at merit No.412, whereas the petitioner was at merit No.794. As he fell lower in order of merit, he was not recommended for appointment. The petitioner did not deny this, and the Supreme Court, finding no violation of its earlier order, dismissed the contempt petition accordingly.

6. We are cognizant of the fact that in Mubarak Ali Babar v. Punjab Public Service Commission & others (C.P. No.2045/2019), the Supreme Court directed the FPSC to ensure inclusive policies and to avoid discrimination against persons with disabilities. Similarly, in Muhammad Yousaf & others v. FPSC (PLD 2017 Lahore 594), the Lahore High Court struck down discriminatory rules and mandated formulation of inclusive recruitment policies. However in the present circumstances, the case of the petitioner cannot ordinarily be reopened on the same cause of action after the dismissal of his CPLA and subsequent contempt application unless a fresh and distinct legal right arises, such as the enforcement of a newly recognized quota or policy for persons with disabilities, which is not the case in hand at this stage. Since the petitioner did not raise the plea of disability quota before the Supreme Court, the principle of finality of litigation under Article 189 of the Constitution of Pakistan, 1973 and the doctrine of res judicata under Section 11 of the Code of Civil Procedure, 1908 which generally bar reopening of the same dispute. Once the Supreme Court has adjudicated a matter or dismissed a CPLA, its order attains finality and cannot be revisited through another constitutional or writ petition on the same facts.

7. It is well settled that once the Supreme Court decides or dismisses a case, it attains finality **PLD 2002 SC 84**, Abdul Majid Khan v. Tawseen Abdul Haleem). The same matter cannot be re-agitated under another guise (**1991 SCMR 2063**, **Muhammad Yousaf v. Azad Government**). Accordingly, the petitioner cannot reopen his previous case on the same grounds, as the Supreme Court has already adjudicated the matter and confirmed compliance. However, the petitioner may seek relief afresh not as a review of the old case but as a new claim for enforcement of the disabled persons' quota or inclusive policy, if such policy now exists or if the FPSC has failed to implement the Supreme Court's directions in later recruitment cycles. Resultantly this petition fails and is accordingly dismissed with pending application(s).

Head of the Constitution Benches

JUDGE