

**IN HIGH COURT OF SINDH, CIRCUIT COURT,  
HYDERABAD**

**CP No. D-2026 of 2025**

**PRESENT:**

MR. JUSTICE ARBAB ALI HAKRO

MR. JUSTICE RIAZAT ALI SAHAR

Petitioners : Through M/s. Bilawal Bajeer  
(represent petitioners No.1to6) and  
Muhammad Saleem Hashmi Qureshi  
(represent petitioners No.7to114),  
Advocates.

Respondents: Province of Sindh and others through  
Mr. Muhammad Ismail Bhutto,  
A.A.G. Sindh.

Date of Hearing : **26.02.2026.**

Date of Decision : **26.02.2026.**

**JUDGMENT**

**RIAZAT ALI SAHAR J:** -Through this Judgment, we intend to dispose of captioned petition filed by the petitioners with following prayers:-

- A. Declaration that recruitment process in question for post of driver-constable is within recruitment policy as well directives of Honourable Apex Court hence the same cannot be cancelled by respondents;*
- B. Declaration that petitioners, having been declared as successful, as well medically fit cannot be denied their entitlement to de given offer/ appointment order for post of driver constable;*
- C. Issue the writ of mandamus directing the respondents to issue the offer/appointment letters to the petitioners in line with the order dated 29.10.2025 passed by the Honourable High Court Sindh Mirpurkhas Circuit whereby requiring them to file fresh petition for the same relief.*
- D. The respondents be restrained from re-advertising the post of driver-constable of Badin District without first deciding the fate of petitioners (successful candidates)*

*of this districts in any manner directly or indirectly in any form or manifestation;*

*E. Costs of the petition may be saddled upon the respondents;*

*F. Any other relief(s) which this Honourable Court deems fit, just and proper in favour of the petitioners.*

2. The petitioners have invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking enforcement of their fundamental rights in respect of recruitment to the post of Driver Constable in District Badin within the Sindh Police. Pursuant to an advertisement issued by the competent authorities of the Sindh Police, applications were invited for Driver Constable through a transparent three-stage process comprising physical test, written test conducted by the National Testing Service (NTS) and interview. The petitioners applied, successfully qualified the physical test, appeared in the written examination after depositing the prescribed fee and subsequently underwent interview and medical examination. Upon completion of the process, their names were included in the final merit list for District Badin, thereby confirming their success. The petitioners stated that having fulfilled all prescribed criteria and having been declared successful and medically fit, they acquired a legitimate expectation and vested right to appointment, particularly as the recruitment process was conducted in accordance with policy and judicial directives mandating transparency through third-party testing. However, despite publication of the final merit list, appointment letters were not issued and the petitioners apprehend that the respondents intend to re-advertise the same posts without lawfully cancelling the earlier process. The petitioners stated that such inaction and proposed re-advertisement are arbitrary, *mala fide* and violative of their fundamental rights. They further stated that earlier similarly placed candidates had filed Constitutional Petition No.D-989 of 2024 before this Court here at Hyderabad Circuit, which was later transferred to the Mirpurkhas Circuit, where vide order dated 29.10.2025 liberty was granted to file a fresh petition, necessitating the present proceedings.

3. Pursuant to Court notice, respondent No. 3, DIGP Hyderabad Range, filed comments stating that upon scrutiny of the recruitment record for Driver Constables (2017-18), a committee constituted by the IGP Sindh found serious irregularities, including the inclusion of 313 candidates who had failed the physical measurement test but were allowed to proceed to written examination and interview, in violation of the Sindh Police Recruitment Policy. On the committee's recommendation, the IGP Sindh approved cancellation of the entire recruitment process for Hyderabad Range vide letters dated 18.05.2018 and 30.05.2018. It is further stated that some petitioners had initially failed in running test or chest measurement but were shown qualified in subsequent phases. Consequently, the entire process was declared defective and withdrawn and no fresh recruitment was initiated thereafter. Respondent No. 3, however, undertakes to comply with any order passed by this Honourable Court.

4. Learned counsel for the petitioners contend that the entire recruitment process for the post of Driver Constable was conducted strictly in accordance with the prescribed policy and through an independent testing agency, the National Testing Service (NTS), ensuring transparency and merit. They contend that the petitioners successfully cleared all mandatory stages, including physical test, written examination, interview and medical examination and their names were duly reflected in the final merit list for District Badin. According to learned counsel, once declared successful, the petitioners acquired a vested right and legitimate expectation to appointment, which cannot be defeated without lawful cancellation of the process. They also contend that no specific show-cause notice or adverse finding was ever communicated to the petitioners, nor was the recruitment process formally annulled in accordance with law. The proposed re-advertisement of the same posts, without addressing the status of already selected candidates, is arbitrary, *mala fide* and violative of Articles 4 and 25 of the Constitution. They, therefore, pray for issuance of a writ of

mandamus directing the Respondents to issue appointment letters forthwith.

5. Learned Additional Advocate General, Sindh, controverts the submissions and maintains that the recruitment process of 2017–18 was vitiated by serious irregularities, as identified by a scrutiny committee constituted by the IGP Sindh. He submits that a substantial number of candidates who had failed in physical measurement were unlawfully permitted to proceed to subsequent stages, rendering the entire process defective and contrary to the Sindh Police Recruitment Policy. On the recommendation of the committee, the competent authority lawfully cancelled the whole recruitment process for Hyderabad Range, including District Badin. He contends that mere inclusion in a merit list does not confer an indefeasible right to appointment, particularly when the process itself has been declared void. He, therefore, prays for dismissal of instant petition.

6. Heard and perused the record.

7. It is an admitted position that the recruitment in question pertains to the post of Driver Police Constables in Hyderabad Range for the year 2017–18. The material placed before the Court, particularly the official communication dated 30.05.2018 issued from the Office of the Inspector General of Police, Sindh, Karachi, addressed to the Deputy Inspector General of Police, Hyderabad Range, conclusively establishes that a duly constituted scrutiny committee examined the entire recruitment record/process. The said committee categorically found that as many as 313 candidates who had failed in physical measurement were nevertheless allowed to participate in the subsequent stages of written examination and interview, which constituted a “highly serious and clear-cut violation” of the Sindh Police Recruitment Policy and rendered the whole recruitment process defective. Considering such findings, the IGP Sindh approved the committee’s recommendations vide order dated 18.05.2018 and through letter dated 30.05.2018, formally conveyed cancellation/withdrawal of the

entire recruitment process with directions to initiate a fresh process after elections.

8. As far as the approval accorded by the competent authority, i.e., the IGP Sindh, being the head of the police establishment in the province, cannot be termed arbitrary or without jurisdiction. The decision was preceded by scrutiny through a committee specifically constituted to examine the legality and transparency of the recruitment. Once it was found that the mandatory eligibility criteria, particularly physical measurement, had been compromised by permitting failed candidates to proceed further, the sanctity of the entire selection stood irreparably tainted. Recruitment to public office must not only be fair but must also appear to be fair and where the foundational stage of eligibility is vitiated, the subsequent stages cannot cure such illegality. The defect identified was not minor or procedural in nature; rather, it struck at the root of merit and transparency, thereby justifying cancellation of the whole process instead of selective rectification. The contention of the petitioners that inclusion in the final merit list conferred upon them a vested right to appointment is misconceived. It is a settled principle of service jurisprudence that mere selection or inclusion in a merit list does not create a legally enforceable right to appointment, particularly where the recruitment process itself is lawfully annulled before issuance of appointment letters. At best, a candidate acquires an expectation subject to the outcome and validity of the process. Where the competent authority, upon objective scrutiny, cancels the recruitment due to material irregularities affecting the entire process, no enforceable right survives in favour of the candidates, even if they were otherwise successful. Legitimate expectation cannot override statutory policy nor can it validate a process declared defective by the lawful authority.

9. It is also significant that the cancellation was not targeted against the petitioners individually, nor was it actuated by *mala fides* specifically pleaded and proved against any functionary. Rather, it was a general decision affecting all districts of Hyderabad

Range after completion of the recruitment exercise. The letter dated 30.05.2018 clearly reflects application of mind and due approval by the competent authority. We find no material suggesting that the decision was whimsical, colorable or taken in bad faith. On the contrary, allowing a recruitment process tainted by admitted violations of policy to culminate in appointments would itself amount to perpetuating illegality and compromising institutional integrity.

**10.** The stance that the process was conducted through a third-party testing agency does not advance the petitioners' case. The irregularity identified by the scrutiny committee related to the inclusion of ineligible candidates at the threshold physical measurement stage, which preceded the written test. If the foundational eligibility filter was breached, the involvement of an external testing service at a later stage does not clean the process. Public interest and maintenance of merit in disciplined forces such as the police demand strict adherence to prescribed standards, particularly in physical qualifications. In constitutional jurisdiction under Article 199 of the Constitution, this Court does not sit as an appellate forum over administrative decisions unless such decisions are shown to be without lawful authority, tainted by *mala fides* or suffering from patent illegality. The decision to cancel the recruitment was taken by the competent authority on the basis of a committee report highlighting serious violations. The petitioners have failed to demonstrate that the cancellation order was without jurisdiction or in contravention of any statutory provision. In these circumstances, issuance of a writ of mandamus directing appointment would amount to compelling the authorities to act upon a process already declared void and defective, which is impermissible in law.

**11.** Nevertheless, the instant petition is also hit by the doctrine of **laches**. The recruitment process in question was admittedly cancelled pursuant to approval accorded by the competent authority vide order dated 18.05.2018 and formally communicated on 30.05.2018. The petitioners, despite being aware or at least deemed to be aware of such cancellation affecting the entire

Hyderabad Range, did not promptly challenge the said decision before a competent forum. Instead, they approached this Court after an inordinate and unexplained delay in the year 2025, allowing considerable time to lapse from the date of cancellation to the filing of the present petition. It is a settled principle governing constitutional jurisdiction under Article 199 of the Constitution that relief is discretionary and equitable in nature; a litigant who sleeps over his rights cannot invoke extraordinary writ jurisdiction as a matter of course. The petitioners have not furnished any satisfactory explanation for the prolonged inaction, nor have they demonstrated that the cause of action subsisted continuously in a manner justifying delayed recourse. The doctrine of laches squarely applies to the present case. The Honourable Supreme Court of Pakistan in the case of **State Bank of Pakistan through Governor and another v. Imtiaz Ali Khan and others (PLJ 2012 SC 289)** has held that:-

*“Laches was a doctrine where under a party which may have a right, which was otherwise enforceable, loses such right to the extent of its endorsement, if it was found by the Court of law that its case was hit by the doctrine of laches/limitation--- Right remains with the party, but he cannot enforce it-- Limitation is examined by the Limitation Act, 1908 or by special laws which have inbuilt provisions for seeking relief against any grievance within the time specified under the law and if party aggrieved does not approach the appropriate forum within the stipulated period/time, the grievance though remains, but it cannot be redressed because if on the one hand there was a right with a party which he could have enforced against the other, but because of principle of Limitation/laches, same right then vests/accrues in favour of the opposite party.”*

12. Similarly, a Division Bench of this Court in in the case of **Asghar Khan and 5 others v. Province of Sindh through Home Secretary, Government of Sindh and others (2014 PLC (C.S) 1292)** observed:

*“We feel no hesitation in our mind to hold that the petition is hit by laches. The consideration upon which the court refuses to exercise its discretion where the petition is delayed is not limitation but matters relating to the conduct of parties and change in the situation. Laches in simplest form mean failure of a person to do something which should have been done by him within a reasonable time if remedy of constitutional petition is not availed within reasonable time the interference can be refused on the ground of laches. Even*

*otherwise, grant of relief in writ jurisdiction is discretionary, which is required to be exercised judiciously. No hard and fast rule can be laid down for the exercise of discretion by the Court for grant of refusal for the relief in the exercise of extraordinary jurisdiction.”*

**13.** For what has been discussed above, we hold that no vested or enforceable right accrued to the petitioners in consequence of the impugned recruitment. The cancellation of the recruitment process for Driver Police Constables (2017–18) in Hyderabad Range was lawfully approved and communicated vide letter dated 30.05.2018 and that the respondents were within their authority to withdraw the defective process and to contemplate fresh recruitment in accordance with law. The petition, being devoid of merit, is hereby **dismissed**, with no order as to costs.

JUDGE

JUDGE

\*Abdullahchanna/PS\*