

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

**Present:**

**Mr. Justice Muhammad Saleem Jessar**

**Mr. Justice Nisar Ahmed Bhanbhro**

**Constitution Petition No. D-131 of 2025**

*(Hafiz Moinuddin Chishti v. Federation of Pakistan and others)*

Petitioners : Through Mr. Umer Ilyas Khan, Advocate

Respondents : Through Mr. Khalil Dogar, Advocate  
No.1 & 2

Respondent No.3 : Through Mr. Naveed Khan and Muhabbat  
H. Awan and Ubaid-ur-Rehman , Advocates

Date of hearing : **03.03.2026**  
& Order

**ORDER**

**Nisar Ahmed Bhanbhro, J.** Through this petition, petitioner claims following relief:-

*“I. Declare that the Petitioner is entitled to appointment on the post of LDC at the office of the Collectorate of Customs (Appeals) as per appointment order / letter dated 29.10.2024 and joining report 30.10.2024;*

*II. Declare that the cancellation / withdrawal of the appointment of the Petitioner against the subject post is illegal and without jurisdiction;*

*III. Direct the Respondent No. 3 to produce the cancellation of the Petitioner and then as a consequence declare the cancellation illegal and of no legal effect;*

*IV. Direct the Respondent No. 4 to complete post joining process of the Petitioner in pursuance of the appointment and joining of the Petitioner;*

*V. Declare that the Respondent No. 5's appointment is ineligible on the subject post and as a consequence also declare the appointment of the Respondent No.5 on the subject post as illegal,*

*VI. Issue writ of Quo Warranto against the Respondent No. 5;*

*VII. Suspend the operation of the cancellation of appointment of the Petitioner;*

*VIII. Suspend the operation of the appointment of the Respondent No. 5;*

*IX. Restraint the Respondent No. 5 from working on the subject post in pursuance of her illegal appointment,*

*X. Grant any other relief deemed just and appropriate in the circumstances of the case, and;"*

2. It is contended by learned counsel for the petitioner that pursuant to an advertisement, petitioner applied for the post of Lower Division Clerk (LDC) (BPS-11) in Collectorate of Customs Appeal, Karachi. He appeared in the written and interview process and was declared successful and issued an offer letter for appointment dated 29.10.2024. Pursuant to the offer letter, the petitioner joined the service on 30.10.2024, but further appointment process was halted, therefore, petitioner approached the Federal Ombudsman, whereupon, on notice, respondents appeared and for the first time informed the petitioner that his appointment letter had been withdrawn/canceled vide office letter dated 30.10.2024 (**the impugned order**). The petitioner, therefore, having no alternate remedy, filed this petition and contended that the impugned order dated 30.10.2024 was colorful exercise of powers, non-speaking in nature, illegal and issued in violation of principles of natural justice

without giving petitioner an opportunity of hearing, as such entire proceedings were null and void. He, therefore, prayed to set aside the impugned order, and by allowing this petition, Respondents may be directed to implement the offer for appointment letter dated 29.10.2024.

3. Counsel for the respondents No.3 and 4 contended that the petitioner appeared in the written and interview process for the post of LDC (BPS-11). He secured 84 marks. He stood in 2<sup>nd</sup> position in merit, and he was issued an offer of appointment letter erroneously; therefore, it was canceled. Thereafter, fresh appointment letter was issued in favour of Respondent No.5, who stood at Sr. No.1 in the merit list. He next contended that per advertisement there was only one vacancy of LDC as such candidate who secured 86 marks and stood at Sr. No.1 in the merit was appointed. He contended that the offer letter of the petitioner was withdrawn by the authority in accordance with the law, as such did not require interference. He prayed to dismiss the petition.

4. Counsel for the respondents No.5 contended that in the recruitment process, Respondent No.5 secured 86 marks, whereas the petitioner secured 84 marks; therefore, she was entitled to appointment. He further submitted that the Respondent No. 5 was appointed in service on merits, the appointment of Respondent No. 5 cannot be canceled. He accordingly prayed for dismissal of the petition.

5. Heard arguments of the parties and perused the material made available before us on record.

6. It is an admitted position that the petitioner was issued an appointment letter for the post of LDC (BPS-11). Counsel for the respondents No.2 to 4 has placed on record the minutes of the meeting of the Departmental Selection Committee (DSC). As per, the result submitted as Annexure-B Page 25 of the Respondents' reply, it transpired that the name of the petitioner stood at Sr. No.1

having secured 84 marks, whereas the name of the Respondent No.5 appears at Sr. No.08, having secured 86 marks. From the marginal hand-written note at the bottom of merit list, it appears that it was an amended result; however, the initial result, which was issued, has not been placed on record. This evidenced that initially the result of the recruitment test was issued, which was revised later on, wherein Respondent No 5 was shown to have secured maximum marks. It is not clear from the record, why the necessity arose to amend or revise the result. The marginal note available on the revised / amended result even did not describe the reason for revision of the result. For the sake of convenience, it will be conducive to reproduce the hand written marginal note available on the revised result, which reads as follows:

*“16. As per weightage, rectified/amended final result to be put up showing 1<sup>st</sup> position at Sr. No.1”*

7. The literal meaning of the above referred marginal note inferred that initial result of merit was a different one, which Respondents failed to produce before this Court for our perusal. It further transpired from the record that the amended result does not contain any date. The amended result was placed before the DSC in its meeting held on 29.10.2024, wherein the name of the Respondent No.5 was recommended for appointment and the petitioner along with another candidate Muhammad Junaid was placed on waiting list. It is strange to notice that in Para-5 of the minutes of meeting of DSC, it is mentioned that the offer letter has been issued in favour of the recommended candidate by the appointing authority. As a matter of record, when the meeting of DSC for recommendation of appointment was yet to conclude and its recommendations to be transmitted to the competent authority, how competent authority preemptively issued appointment letter in favour of Respondent No.5. To capture the scenario properly, it will be appropriate to reproduce Paras- 3,4 & 5 of the minutes of the meeting of DSC

signed by the Chairman and Members available at Pages 47 and 49 of the reply filed by Respondent No.2:

*“3. In the light of written result interview letters were issued to top five (05) candidates and the same was conducted on 28.10.2024 by Departmental Selection Committee.*

*4. After finalization of interview process following one (01) candidate was recommended by Departmental Selection Committee for appointment to Appointing Authority along with two covering candidates.*

**Recommended Candidate:**

*1) Name Kashaf Tirmizi*

*CNIC: 42201-5281131-8*

*Roll Number: 2738*

*Marks: 86*

*Address: House No. B-1. Block 15. Muahllah Gulistan-e-Jobar.  
Karachi*

**Two Covering Candidates:**

*1) Name: Hafiz Moin Uddin Chisthi*

*CNIC: 42201-0264927-1*

*Roll Number 109*

*Marks: 84*

*Address House No. 11. Street No. 10. Sector E. Manzoor  
Colony, Karachi.*

*2) Name Muhammad Junaid*

*CNIC No: 42401-5157084-9*

*Roll N 2632*

*Marks*

*Address House No. 1730/2080. Haji Qasim Colony, Cambel  
Porabad. Baldia Town Karachi*

*5. In view of the aforesaid offer letter has been issued to successful candidate by Appointing Authority (copy enclosed).”*

8. It appears from bare reading of the minutes of the meeting of the DSC that the appointment letter was issued much prior to recommendation. Moreover, the appointment letters in favour of the petitioner and Respondent No 5 was issued by Aiman Batool, Collector of the Collectorate of Customs Appeals on the same date. The appointment letter in favor Petitioner contained office outward register No.501 dated 29.10.2024, and the appointment letter in favour of the Respondent No.5 contained office outward register No.502 dated 29.10.2024. The first offer for appointment letter was issued in favor of Petitioner and second in favor of Respondent No 5. Per impugned cancellation letter dated 30.10.2024, the reason for withdrawal of appointment being that the same was issued erroneously due to a clerical error. For the sake of convenience, the impugned office order dated 30.10.2024 is reproduced below:

"GOVERNMENT OF PAKISTAN  
COLLECTORATE OF CUSTOMS (APPEALS)  
81-C. BLOCK-6. PECH.S  
KARACHI

No. 1(50) Appeals/2024-25 MC-N          Dated: 3010-2024

*Subject: **WITHDRAWAL OF OFFER OF APPOINTMENT**  
**LETTER NO. 1(50)/Appeals/2024-25/501 DATED**  
**29.10.2024***

*Offer of appointment letter No. 1(50)/Appeals/2024-25/501 dated 29.10.2024 in respect of Mr. Hafiz Moin Uddin Chishti is hereby withdrawn as the same was issued on erroneously due to clerical error.*

*Sd/-  
(Nyima Batool)  
Chairman DSC  
Appointing Authority"*

9. If the cancellation letter is read in juxtaposition with the appointment letter of two candidates, the question of clerical error

did not arise as both the appointment orders are issued separately, through different outward numbers, meaning thereby both the candidates were duly appointed by the authority. It further appears from record that while issuing the impugned order of cancellation of the appointment letter of the petitioner, he was not given an opportunity of hearing, thus he was not dealt with in accordance with law and utter disregard of the principles of natural and guaranteed fundamental rights as to fair trial. To be dealt with in accordance with the law is an inalienable right of every individual and to promote the social and economical well-being of individual being principle of policy under the Constitution of the Islamic Republic of Pakistan, of 1973 (the **Constitution**) binds the organs of the State to safeguard such rights and principles of policy in letter and spirit. The petitioner was denied such rights in violation of the constitutional mandate articulated under Articles 4 and 9 of the Constitution. Once appointment letter was issued in favour of the petitioner, a vested right accrued in his favour, as such, if the appointing authority was of the view that appointment letter was issued erroneously or otherwise, the petitioner ought to have been given an opportunity of hearing, before taking any adverse action against him. In essence, the dictates of justice, as to right to be dealt in accordance with law and as to the right of fair trial guaranteed under Articles 4 & 10-A of the Constitution were down trodden by the authority, which cannot be condoned on any pretext, specially that of clerical error, specially when the same is not borne out from the record.

10. Adverting to the issue that the petitioner having approached Ombudsman first, therefore, cannot file petition before this Court as agitated by the respondents in their written reply. From the record it transpires that the petitioner approached office of the Ombudsman seeking implementation of the appointment order dated 29.10.2024, where the petitioner for the first time came to know that order of offer for appointment was canceled. Petitioner, therefore, in the given circumstances, rightly withdrew his grievance

from Ombudsman and approached this Court for enforcement of his right as to induction in civil service on the merit and for issuance of a writ against the authority of a statutory body discharging duties in relation to the affairs of federation for compromising merit and transparency in the recruitment process. An ineluctable conclusion can be drawn that the withdrawal of the appointment of the petitioner through impugned order dated 30.10.2024 was an arbitrary and colorful exercise of the powers by the Respondents, which was unwarranted under the law, and violated the fundamental rights of the petitioner.

11. It has been time and again emphasized by the Superior Courts of the Country that the recruitment process was purely an administrative affair of the concerned department and while making recruitment, the department concerned is required to ensure that the process remained up to the mark, merit and transparency were not compromised in any manner, leaving no room for interference of the Courts in the process. The recruitment process in the present case has not remained up to the expected morals and merits, therefore a case for indulgence to exercise the powers of judicial review in terms of article 199 of the constitution is made out.

12. In the wake of above discussion, this petition is allowed and the impugned order dated 30.10.2024 is set aside. The respondents are directed to conduct further appointment process and allow petitioner join the duties for the subject post of LDC by completing all the codal formalities within a period of two months from the date of this order.

13. As far as the prayer of the Petitioner for issuance of writ of *quo warranto* against the appointment of Respondent No 5 is concerned, it evidenced from record made available before us, that on 29.10.2024 two separate appointment letters in favor of Petitioner and Respondent No 5 were issued. Undeniably, Respondent No.5 stood at serial No 1 of the merit list, therefore, no case seeking cancellation of her appointment is made out, the Petition to that

extent fails and stands dismissed accordingly. It is further clarified that in any case, the joining of the petitioner in service will not affect the right of the Respondent No.5. It is reiterated that appointment of Petitioner as LDS BS -11 was independent of the appointment of Respondent No 5 thus carrying no consequences thereto.

Office to send copy of this order to the Respondents for compliance.

**JUDGE**

**JUDGE**

**HEAD OF CONST. BENCHES**

Nadir /PS\*

*Approved for reporting*