

# HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

**Before:**

**Justice Arbab Ali Hakro**  
**Justice Riazat Ali Sahar**

**C.P No.D-171 of 2026**

[*Pardeep Kumar and 08 others v. Province of Sindh and 02 others*]

Petitioners by : Mr.Aayatullah Khuwaja, Advocate

Respondents by : Mr.Muhammad Ismail Bhutto, Additional Advocate General, Sindh along with Prem Chand ADC-I Tando Allahyar

Dates of Hearing : **10.03.2026**

Date of Decision : **10.03.2026**

## **ORDER**

**ARBAB ALI HAKRO J:-** The petitioners, invoking the constitutional jurisdiction of this Court under Article 199 of the Constitution, have approached this forum aggrieved by the alleged non-implementation of the statutory and policy-mandated five percent (05%) minority quota in public employment within District Tando Allahyar. The grievance is that, despite their eligibility, participation in the recruitment process, and the availability of quota-reserved vacancies, the respondents failed to extend to them the consideration guaranteed under the constitutional and legal framework, thereby infringing their fundamental rights and the binding directives of the Supreme Court.

2. The petitioners assert that they are permanent residents of District Tando Allahyar and belong to recognised minority communities, thereby falling squarely within the protective ambit of the five percent (5%) minority quota reserved in government service. The petition states that advertisements were published in *Daily Kawish* on 24.05.2021 and 23.06.2021 by the District Health Officer and the District Education Officer, respectively, inviting applications for minority-quota posts. The petitioners applied, participated in interviews and fulfilled all prescribed criteria. It is their

case that, notwithstanding the availability of posts and their compliance with eligibility requirements, the recruitment process culminated without extending quota-based consideration to them. The petitioners aver that the omission is not merely administrative but constitutes a direct violation of paragraph 37(VI) of the judgment rendered in *Suo Motu Case No. 1 of 2014*, in which the Hon'ble Supreme Court mandated the effective enforcement of the minority quota. The petition specifically quotes that the directions are binding under Article 189 of the Constitution. The petitioners further contend that the Government of Sindh, through the SGA&CD letter dated 15.12.2025, reiterated strict compliance with the Supreme Court's directives; however, the district authorities failed to operationalise the same. They also highlight that due to prolonged administrative inaction, some petitioners have approached or crossed the upper age limit, despite having applied within time. The petitioners place reliance on several judgments of this Court wherein analogous relief was granted to Differently-Abled Persons under the five percent disability quota, including *C.P. No. D-370/2025*, *C.P. No. D-1786/2024*, and *C.P. No. D-1240/2025*. They averred that the constitutional principles applied therein, particularly the obligation of the Deputy Commissioner, as Chairman of the District Recruitment Committee, to adjust eligible candidates without awaiting further approval, are equally applicable to minority-quota cases. The petitioners maintain that their repeated representations yielded no redress and that the respondents' inaction amounts to discrimination. They therefore seek declaratory and mandatory reliefs directing immediate consideration and appointment against minority-quota posts, protection against age-bar consequences and restraint against filling such posts without accommodating eligible minority candidates.

3. Respondent No. 3, in his para-wise comments, admits the petitioners' citizenship and residency but disputes that qualification alone confers a vested right to appointment. He submits that recruitment is contingent upon the availability of vacancies, adherence to recruitment rules and completion

of codal formalities. The respondent acknowledges the existence of the five percent minority quota and the issuance of relevant advertisements but asserts that implementation is subject to procedural requirements. He further states that recruitment had earlier remained suspended pursuant to an order dated 09.08.2023 passed in Suit No. 1564/2023 by the Hon'ble High Court of Sindh, Karachi, and that the embargo was lifted only after SGA&CD Notification dated 31.10.2025. The respondent denies any arbitrary exclusion and maintains that all actions were undertaken in accordance with the law. It is averred that any delay was attributable to administrative processes rather than deliberate inaction. It is also stated that compliance with government instructions is being observed and that recruitment must proceed in accordance with prevailing policy and availability of posts. With respect to earlier judgments cited by the petitioners, the respondent confirms that compliance reports have been submitted in those matters but contends that each case must be adjudged on its own factual matrix. He leaves the legal implications of parity and judicial consistency to the determination of this Court.

4. Learned counsel for the petitioners contends that the respondents' conduct amounts to a blatant dereliction of constitutional duty. He submits that the minority quota is not a discretionary concession but a substantive right flowing from the Supreme Court's binding pronouncements. He argues that the petitioners' participation in the recruitment process, coupled with the admitted existence of quota-reserved vacancies, creates a legitimate expectation of consideration. Counsel emphasises that the District Recruitment Committee, headed by the Deputy Commissioner, is under a continuing obligation to adjust eligible minority candidates without awaiting further approvals, as consistently held in analogous disability-quota cases. He submits that the respondents' failure to act, despite explicit SGA&CD instructions dated 15.12.2025, constitutes non-compliance with Article 189 and violates the equality mandate of Articles 25 and 27. He further argues

that administrative delay cannot be used to prejudice the petitioners by pushing them over the age bar and that the Court must extend equitable protection to prevent the frustration of their rights. He prays for the issuance of mandatory directions akin to those granted in *C.P. No. D-370/2025* and connected matters.

5. Conversely, the learned Additional A.G. Sindh supports the stance of Respondent No.3 and submits that recruitment must proceed strictly in accordance with rules, availability of posts and government policy. He argues that the petitioners cannot claim automatic appointment merely on the basis of eligibility or quota reservation. He submits that the earlier suspension of recruitment, the need for procedural compliance and the requirement of departmental scrutiny justify the delay. He contends that the petitioners have alternate remedies under service law and that the extraordinary jurisdiction of this Court should not be invoked to bypass the recruitment mechanism. Learned Law Officer maintains that the respondents are already implementing government instructions and that no mala fide or discriminatory intent is attributable to them. He prays for dismissal of the petition.

6. We have heard the learned counsel for the petitioners and the learned Additional Advocate General Sindh at considerable length. We have also meticulously examined the material available on record.

7. The controversy pivots upon the alleged non-implementation of the five percent minority quota in District Tando Allahyar, a quota whose existence is not in dispute and whose enforceability flows both from provincial policy and the binding pronouncement of the Hon'ble Supreme Court in *Suo Motu Case No.1 of 2014*, wherein the Court mandated meaningful inclusion of minority communities in public employment.

8. The petitioners assert that they applied pursuant to advertisements issued by the District Health Officer and District Education Officer, Tando Allahyar, in *Daily Kawish* dated 24.05.2021 and 23.06.2021, respectively.

However, upon perusal of the entire record, it emerges that **only Petitioner No.8, Dadan**, has annexed applications addressed to the District Education Officer and District Health Officer, seeking appointment as Naib Qasid (BPS-01) under the minority quota. These applications disclose his minority status, domicile of District Tando Allahyar and matriculation qualification. The remaining petitioners, despite asserting that they applied, have not produced any contemporaneous documentary proof, no applications, receipts, acknowledgements, or interview call letters to substantiate their claim of having participated in the recruitment process.

9. This evidentiary distinction is material. While the constitutional obligation to implement the minority quota is overarching and not confined to any individual petitioner, the grant of individualised relief must rest upon demonstrable factual foundations. The absence of applications from Petitioners No.1 to 7 and 9 does not negate the systemic issue raised in the petition, but it does circumscribe the extent to which individualised consequential relief may be granted in their favour.

10. The respondents, through the para-wise comments of Respondent No.3 (Deputy Commissioner, Tando Allahyar), admit the existence of the five percent minority quota and the issuance of relevant advertisements. They also concede that recruitment remained suspended for a period pursuant to an order dated 09.08.2023, passed in Suit No. 1564/2023 by the High Court of Sindh, Karachi, and that the embargo was lifted only after the SGA&CD Notification dated 31.10.2025. However, the same respondents have, in compliance with judicial directions in disability quota cases, convened District Recruitment Committee (DRC) meetings on 18.12.2025 and 01.01.2026, scrutinised documents, conducted interviews, and recommended appointments for Persons with Disabilities (PWDs). This demonstrates that the recruitment machinery was fully capable of functioning when judicially directed to enforce a reserved quota.

11. The juxtaposition is jurisprudentially significant. The respondents cannot simultaneously plead administrative paralysis to justify non-implementation of the minority quota while demonstrating operational efficiency in implementing the disability quota under judicial mandate. The constitutional obligation to enforce reserved quotas is indivisible; it cannot be selectively honoured.

12. The minutes of the Departmental Selection Committee (DSC) for the District Education Officer (Primary), Hyderabad, though pertaining to a different district, provide a revealing illustration of how quota-based recruitment is often treated perfunctorily. The vacancy chart explicitly allocates “5% Minority” posts, yet the long list of recommended candidates is uniformly marked “Gen,” with no separate identification of minority-quota appointees. This pattern, when read with the petitioners’ grievance, lends credence to the contention that the minority quota has been treated as a decorative appendage rather than a binding allocation.

13. The jurisprudence emanating from *Suo Motu Case No.1 of 2014* underscores that constitutional guarantees for minorities must be interpreted purposively, to secure substantive inclusion rather than a merely formal acknowledgement. The Supreme Court's directions, under Article 189 of the Constitution, bind all executive authorities, including district-level recruitment committees. The Government of Sindh, through an SGA&CD letter dated 15.12.2025, has reiterated its strict compliance with paragraph 37(VI) of the said judgment.

14. The respondents have not produced any material to show that Petitioner No.8 was considered under the minority quota and found unsuitable. There is no speaking order, no comparative assessment and no record of any structured exercise to fill minority-quota posts in District Tando Allahyar. As for the remaining petitioners, the absence of applications precludes a finding that they were denied consideration after having applied;

however, it does not absolve the respondents of their overarching duty to operationalise the quota.

15. The petitioners' apprehension regarding the age-bar is well-founded. Where a candidate applies within time and administrative delay prevents timely recruitment, the law does not permit the State to take advantage of its own inaction to defeat the candidate's right of consideration. Age must therefore be reckoned with reference to the date of advertisement or application, as the case may be.

16. Learned Additional A.G. has argued that the petitioners have alternate remedies under service law. This contention is untenable. The grievance here is not an individual service dispute but a structural failure to implement a constitutionally mandated quota. Such systemic non-implementation falls squarely within the constitutional jurisdiction of this Court.

17. On a holistic appraisal of the record, we find that the respondents have failed to operationalise the five percent minority quota in District Tando Allahyar in a manner consistent with constitutional and judicial mandates. Petitioner No.8 has demonstrated that he applied under the minority quota and is entitled to immediate consideration. The remaining petitioners may also be entitled to quota-based consideration, but only upon producing credible proof that they applied pursuant to the relevant advertisements.

18. The appropriate course, therefore, is to grant individualised relief to Petitioner No.8 and conditional relief to the remaining petitioners, while directing the respondents to undertake a structured, time-bound exercise to enforce the minority quota in District Tando Allahyar.

19. In view of the foregoing findings, the petition is **disposed of** in the following terms:

- a) It is hereby declared that the respondents are under a continuing constitutional and legal obligation to implement the five percent minority quota in public employment within District Tando Allahyar, in

accordance with the binding directions of the Hon'ble Supreme Court in *Suo Motu Case No.1 of 2014*.

- b) **Petitioner No.8, Dadan**, having produced documentary proof of having applied under the minority quota, shall be accorded immediate, meaningful and lawful consideration for appointment against minority-quota posts in District Tando Allahyar. His case shall be scrutinised by the District Recruitment Committee (DRC) within **sixty (60) days**, and if found eligible, appointment orders shall be issued within **four (04) weeks** thereafter.
- c) As regards Petitioners Nos. 1 to 7 and 9, the DRC shall afford them an opportunity to produce credible proof of having applied in accordance with the relevant advertisements within **thirty (30) days**. Upon such proof being furnished, their cases shall be processed under the minority quota in the same manner and within the same timelines as prescribed for Petitioner No.8.
- d) For all petitioners, the age shall be reckoned with reference to the date of the original advertisements and the date of their applications, and any age-related impediment arising solely from administrative delay shall stand waived.
- e) The respondents shall not fill any minority quota posts in District Tando Allahyar until the cases of Petitioner No. 8 and any other petitioners who furnish proof of application are fully processed in terms of this order. If the number of available minority-quota vacancies is insufficient, the competent authority shall create supernumerary posts to ensure full compliance with the quota without unsettling existing appointments.

The petition stands **disposed of** in the above terms. No order as to costs.

**JUDGE**

**JUDGE**