

# HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Before:

Justice Arbab Ali Hakro  
Justice Riazat Ali Sahar

**C.P No.D-166 of 2026**

*[Abdul Moarij Hayat v. Province of Sindh and 03 others]*

Petitioner by : Mr.Jehanzeb Ali Dahri, Advocate

Respondents by : Nemo.

Dates of Hearing : **05.3.2026**

Date of Decision : **05.3.2026**

## **ORDER**

**ARBAB ALI HAKRO J:-** Through this petition under Article 199 of the Constitution, the petitioner seeks directions to declare him successful in the recruitment process for the post of Assistant Sub-Inspector (BPS-09) in the Home Department, to order his appointment or re-conduct of his interview, to compel the respondents to produce the USB containing the audio-video recording of his interview and to accommodate him against any vacancy arising due to relinquishment by selected candidates.

2. The petitioner applied for the post of Assistant Sub-Inspector pursuant to Advertisement No.06/2024 dated 19.07.2024 issued by the Sindh Public Service Commission (SPSC). He appeared in the written test and secured 61 marks out of 100, as reflected in the marksheet which states: Total 61... Status: Pass. He was called for an interview on 01.07.2025, his roll number appearing in the interview schedule. The petitioner asserts that he performed well in the interview and answered all questions satisfactorily. However, upon publication of the

final result on 28.07.2025, his name did not appear among the recommended candidates. He claims that several candidates with lower written marks were recommended because they were awarded disproportionately higher viva voce marks. The petitioner invoked Regulation 161 of the SPSC (Recruitment Management) Regulations, 2023 and his representation was heard by the nominated Member. The Member (Appeals), through an order dated 02.10.2025, recorded that the Controller of Examinations had confirmed that the petitioner had been awarded 43 marks by the Interview Committee and rejected the representation on the ground that the interview assessment is subjective and not open to interference.

3. Learned counsel submits that the petitioner's written marks were higher than those of many recommended candidates. Yet he was declared unsuccessful solely on the basis of the interview marks, which, according to him, were arbitrary and discriminatory. It is argued that the interview process lacked transparency and that the petitioner is entitled to the production of the USB containing the audio-video recording of his interview, particularly when this Court, in another matter, directed SPSC to produce such material. Counsel further contends that the rejection of representation under Regulation 161 was mechanical and failed to consider the petitioner's grievance of unequal treatment. It is argued that the Commission's discretion is not unfettered and must conform to constitutional guarantees of fairness, transparency, and non-discrimination.

4. We have heard the learned counsel for the petitioner as well as examined the material available on record.

5. Regulation 161 provides a two-tier statutory mechanism for redressal of grievances arising from decisions of the Commission. The

first tier is a representation before a nominated Member, who must issue a speaking order. The second tier is an appeal to the Chairperson, who must constitute a Committee of at least two Members to hear the appeal. The Regulation expressly states that the decision of the Appellate Committee shall be final and binding on the parties.

6. The petitioner availed only of the first tier. He did not file an appeal within ten days of the Member's order. The statutory remedy was therefore not exhausted. While the existence of an alternative remedy bars jurisdiction under Article 199, the Supreme Court has consistently held that, where the legislature has provided a complete mechanism, the High Court ordinarily refrains from exercising its constitutional jurisdiction unless exceptional circumstances exist.

7. The petitioner has not pleaded any exceptional circumstance, nor has he shown that the appellate remedy was illusory, ineffective or unavailable. The omission to invoke the second tier of Regulation 161 is therefore a relevant factor in determining whether this Court should interfere.

8. The Member (Appeals) recorded that the petitioner was awarded 43 marks in the interview. The petitioner does not allege mala fides against any specific member of the interview committee, nor does he plead violation of any statutory rule governing the marking criteria.

9. The petitioner has not placed any material to show that the interview committee acted with bias, hostility or extraneous considerations. The mere fact that other candidates with lower written marks obtained higher viva voce marks does not, by itself, establish arbitrariness. Written marks and interview marks are distinct evaluative components.

10. The petitioner seeks production of the USB containing the audio-video recording of his interview. He relies on an order passed in another petition. However, each case must be examined on its own

facts. The petitioner has not pleaded any specific irregularity in the conduct of his interview that would necessitate such production.

11. Moreover, Regulation 161 proceedings have already confirmed the marks awarded, and the Member (Appeals) has issued a speaking order after hearing the petitioner. The petitioner did not pursue the statutory appeal, even though such material could have been sought.

12. The prayer for directing the respondents to declare the petitioner successful or to appoint him is beyond the scope of Article 199. The Court cannot assume the role of a selection authority, nor can it direct appointment in disregard of the Commission's assessment.

13. The Supreme Court has consistently held that no candidate acquires a vested right to appointment merely by passing the written test. Appointment to a public post must strictly follow merit and the prescribed selection process.

14. The prayer for accommodating the petitioner against any vacancy arising due to relinquishment is also untenable. No candidate can be placed on a waiting list or accommodated de hors the rules unless the recruitment policy expressly provides for it.

15. For the reasons recorded above, this petition is dismissed in **limine** along with pending miscellaneous application (s).

**JUDGE**

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