HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P No.D-364 of 2013

[Abdul Ghaffar & another v. Government of Sindh and others]

BEFORE:
Justice Adnan-ul-Karim Memon.
Justice Muhammad Jaffer Raza.

Petitioners	:	By Mr. Pervez Tarique Tagar advocate
Respondents	:	By Mr. Rafique Ahmed Dahri Additional A.G Sindh
Date of Hearing & Decision	:	26.10.2026.

O R D E R

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ADNAN-UL-KARIM MEMON J:- The petitioners filed the instant constitutional petition seeking cancellation of appointment orders dated 05.10.2011 and 26.12.2011 issued in favour of respondents No.5 and 6 for the posts of Assistant Sub-Inspector (ASI), BPS-09, in the Anti-Corruption Establishment, and a direction for their own appointment against the said posts.

2. Learned counsel for the petitioners contended that petitioner No.1 had been serving in the Anti-Corruption Establishment since 1993, while petitioner No.2 had been serving in Sindh Police since 2002; that pursuant to an advertisement dated 10/11.02.2010, they applied for the posts, appeared in the physical and written tests, and were interviewed; however, the result was never announced. They alleged that respondents 5 & 6, along with other candidates, were appointed through political influence and without undergoing the prescribed selection process, thereby depriving the petitioners of their legitimate rights. They sought production of the relevant recruitment record and appointment of the petitioners on merit.

3. Learned AAG opposed the petition, contending that the petitioners had failed to qualify the interview and, therefore, had no cause of action or entitlement to appointment. They admitted that the vacancies were advertised and that the petitioners appeared in the physical and written tests; however, he denied that the list relied upon by the petitioners established their success in the written examination. He maintained that respondents 5 & 6 had appeared in the physical and written tests at Police Headquarters, Karachi, and were appointed strictly on merit after qualifying the prescribed tests and interview; that petitioner No.1 had faced several complaints, show-cause notices and disciplinary proceedings and had not approached this Court with clean hands. Regarding production of the recruitment record, he submitted that the original record had already been placed before this Court in C.P. No. D-3414/2011, filed by Khalid Hussain Siyal and others. Accordingly, he prayed for dismissal of the petition as not maintainable.

4. We have heard learned counsel for the petitioners, learned AAG and have examined the available record.

5. The principal grievance of the petitioners is that, despite their participation in the recruitment process for the posts of ASI (BPS-09), the result of their interviews was not announced, whereas respondents 5 & 6 were appointed allegedly through political influence and without undergoing the prescribed selection process. However, mere participation in the recruitment process, or even qualification in the physical and written tests, does not confer an indefeasible right to appointment. The petitioners were required to establish that they had fulfilled all prescribed eligibility and selection criteria and that the impugned appointments were made in violation of the applicable recruitment rules or principles of merit. The respondents, on the contrary, categorically asserted that the petitioners had failed to qualify the interview and that respondents 5 & 6 had undergone the prescribed tests and interview and were appointed on merit. The list relied upon by the petitioners, according to the respondents, merely reflected the candidates who appeared in the written test and did not establish their success therein. No cogent material has been brought to our notice to substantiate the allegations of political interference, favouritism or manipulation of the selection process. Furthermore, the complaints and disciplinary proceedings referred to against petitioner No.1, even if relevant to his service record, cannot by themselves determine the legality of the recruitment process or substitute for an assessment of the petitioners' eligibility and merit.

5. It is a settled principle that the constitutional jurisdiction under Article 199 of the Constitution is exercised to correct illegality, arbitrariness and actions taken without lawful authority; it is not intended to substitute the Court's assessment for that of the competent selection authority in the absence of established illegality.

6. In the present case, the petitioners have failed to establish, through reliable material, either that they had completed the entire selection process or that respondents 5 & 6 were appointed in disregard of the prescribed procedure.

7. In these circumstances, the relief sought for cancellation of the impugned appointment orders and a consequential direction for appointment of the petitioners cannot be granted merely based on unsubstantiated allegations.

8. Consequently, the constitutional petition, being devoid of sufficient legal and factual grounds, is dismissed. There shall be no order as to costs.

JUDGE

JUDGE

Karar_Hussain/PS*