

THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 686 of 2022
[Khalid Ahmed and others v. Province of Sindh and others]

Before:
Justice Arbab Ali Hakro
Justice Muhammad Osman Ali Hadi

Petitioners by : Muhammad Qayyum Arain, Advocate

Respondents by : Mr. Shahriyar Imdad Awan,
Assistant Advocate General Sindh

Date of Hearing : 19.08.2026

Date of Decision : 19.08.2026

ORDER

ARBAB ALI HAKRO, J. – The petitioners, through the instant Constitution Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, have called in question the action of the respondents whereby they have not been appointed as Police Constables despite having qualified the recruitment process conducted through Pakistan Testing Service (PTS). They seek directions to the respondents to conduct interviews of all candidates who qualified the tests conducted through PTS and to issue appointment orders in their favour besides any other appropriate relief.

2. Briefly stated, the case of the petitioners is that, pursuant to an advertisement issued by the Sindh Police Department for recruitment to the posts of Police Constables in the Sukkur Region, including District Ghotki, they applied, participated in the recruitment process, and successfully qualified the physical and written tests conducted by PTS. They contend that, despite fulfilling all requisite formalities and despite their names appearing among the candidates who had qualified the testing stage, the respondents failed to issue appointment orders to them. According to the petitioners, such action is discriminatory, arbitrary, and violative of Articles 4, 18, and 25 of the Constitution. Reliance has also been placed on certain judgments of this Court in which appointments were directed in favour of similarly situated candidates.

3. Comments were filed on behalf of respondent No. 6, stating that although the petitioners had successfully qualified the physical and written

tests, recruitment was not confined to those stages alone. According to the respondents, interviews/viva voce were conducted by a duly constituted Recruitment Committee, headed by the Additional Inspector General of Police, Internal Accountability Branch, Sindh, with other members of the Recruitment Board. It has been asserted that after completion of the entire selection process, 257 candidates were found successful and issued appointment orders, whereas the petitioners either failed in interview or remained below the merit position corresponding to the advertised vacancies.

4. Subsequently, in compliance with the directions of this Court, detailed reports were submitted by the office of the Inspector General of Police, Sindh, as well as the DIGP Sukkur Range. The said reports disclose that petitioner No.1 Khalid Ahmed obtained 46 marks in the written examination and 18 marks out of 50 in the interview, and was declared failed in the interview. Petitioner No.2 Ali Raza secured 48.75 marks in the written examination and 24 marks in the interview, and was likewise declared failed in the interview. Petitioner No.3 Zulfiqar obtained 47.25 marks in the written examination and 26 marks in the interview; however, he stood at Merit No.304 against 254 advertised posts and was, therefore, declared “Pass (Below Merit)”. Petitioner No.4 Nazar Muhammad secured 41 marks in the written examination and 25 marks in the interview for SSU recruitment, but stood at Merit No.139 against 55 available posts and was also categorised as “Pass (Below Merit)”. The respondents further stated that, under the applicable recruitment policy, a candidate was required to obtain at least 25 marks out of 50 in the interview to qualify for the viva voce stage.

5. Learned counsel for the petitioners argued that once the petitioners had successfully qualified the physical and written tests, the denial of appointment was unjustified and discriminatory. He placed heavy reliance on the order passed by a Division Bench of this Court in Constitutional Petition No. D-1648 of 2012, wherein appointment orders were directed to be issued after the respondents failed to produce the relevant recruitment record and failed to substantiate the plea that the petitioners therein had failed in viva voce. Learned counsel further submitted that similarly situated candidates had been appointed, while the present petitioners had been deprived without

lawful justification, thereby attracting the mandate of Article 25 of the Constitution.

6. Conversely, learned Assistant Advocate General Sindh opposed the petition and submitted that no vested right accrued to the petitioners merely because they had qualified the physical and written examinations. He contended that recruitment was carried out through a transparent process by a duly constituted Recruitment Committee, and that the petitioners either failed to secure the minimum qualifying marks in the interview or were placed far below the merit positions corresponding to the available vacancies. It was argued that neither mala fide, nor favouritism, nor manipulation of merit has been pleaded or established by any cogent material. He further submitted that the constitutional jurisdiction of this Court cannot be invoked for the re-appraisal of interview marks or for substituting the Court's opinion for that of the competent Recruitment Committee.

7. We have heard learned counsel for the parties at considerable length and have examined the pleadings, comments, compliance reports, merit lists and the precedents cited at the bar.

8. The principal question for determination is whether the petitioners, having qualified at the physical and written stages of recruitment, acquired an enforceable right to appointment, notwithstanding their failure at interview or their placement below the prescribed merit.

9. The record now before the Court is materially different from the factual basis of Constitutional Petition No. D-1648 of 2012, on which the petitioners relied. In that case, the respondents failed to produce the relevant record despite repeated directions of the Court and also failed to furnish any proof that the petitioners had failed in viva voce. In those exceptional circumstances, the Court inferred discrimination and favouritism and granted relief. In the present matter, however, the respondents have placed before the Court the relevant merit lists, interview results, individual marks, and detailed compliance reports explaining the precise reasons for the non-selection of each petitioner. Consequently, the ratio of the aforesaid order is distinguishable on facts and does not advance the petitioners' case.

10. The record unequivocally demonstrates that petitioner No.1 secured only 18 marks out of 50 in the interview, whereas petitioner No.2 secured 24 marks out of 50, both falling below the prescribed qualifying threshold of 25

marks. Once the competent Recruitment Committee declared them unsuccessful in the viva voce on the basis of the marks awarded, this Court cannot sit as an appellate forum to reassess their performance in the interview in the absence of any allegation or proof of mala fide, bias, favouritism or patent illegality.

11. As regards petitioners No. 3 and 4, the position is even clearer. Both petitioners successfully passed the interview stage, yet their merit positions remained substantially below the number of advertised vacancies. Petitioner No. 3 stood at Merit No. 304 against 254 available posts, while petitioner No. 4 stood at Merit No. 139 against 55 advertised posts. Merely qualifying in the written examination and interview does not, by itself, confer a legal right to appointment when more meritorious candidates stand above them in the merit list. Public employment must be filled strictly in accordance with merit, transparency and equality guaranteed by law. Appointing candidates below the notified merit positions would itself amount to discrimination against candidates with superior merit.

12. The legal position is no longer *res integra*. In Waheed Gul Khan and another¹, the Supreme Court held that merely passing a written test and being called for interview does not create a vested right to appointment and that interview assessment is ordinarily not open to judicial review except where mala fide, bias or patent error is apparent on the face of the record. The Supreme Court, while relying upon Muhammad Ashraf Sangri², reiterated that the interview is inherently a subjective exercise and that courts cannot substitute their own assessment for that of the Selection Board. Likewise, in FPSC³, it was held that recruitment criteria prescribed by competent authorities enjoys a presumption of validity and that courts should refrain from interfering unless the policy itself or its implementation is shown to be unlawful. Similarly, in Province of Sindh⁴, the Supreme Court emphasized that appointments in public service must be based strictly on merit and equal opportunity. Therefore, even if any irregular appointment is assumed for the sake of argument, such circumstance would not create a corresponding legal entitlement in favour of the petitioners.

¹ Waheed Gul Khan and another v. Province of Sindh and others, Civil Petitions Nos.154-K/2022 and 166-K/2022, decided 26 July 2024.

² Muhammad Ashraf Sangri v. Federation of Pakistan (2014 SCMR 157)

³ FPSC v. Shiraz Manzoor (2023 SCMR 2087)

⁴ Province of Sindh v. Muhammad Taqi Shah (2018 SCMR 1607)

13. The petitioners have also failed to place on record the names of any specific candidates selected with lower merit than theirs, nor have such appointees been impleaded as parties. No material has been shown to demonstrate manipulation of merit, alteration of selection criteria, nepotism, favouritism or violation of any statutory provision governing recruitment. In the absence of such evidence, the constitutional jurisdiction of this Court cannot be invoked to unsettle a completed recruitment process conducted through a duly constituted Recruitment Committee.

14. For the foregoing reasons, we are of the considered view that the petitioners have failed to establish any violation of law, infringement of a vested right, or denial of constitutional protection that would warrant interference under Article 199 of the Constitution. The record sufficiently explains the non-selection of petitioners No. 1 and 2 on account of failure in the interview, and of petitioners No. 3 and 4 on account of their placement below merit. No case for the issuance of appointment orders is made out. Consequently, this Constitutional Petition is dismissed, along with all pending applications, if any. No order as to costs.

J U D G E

J U D G E

Naveed Ali