

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
LARKANA

Constitution Petition No.D-722 of 2025

Before;
Mr. Justice Amjad Ali Bohio;
Mr. Justice Ali Haider 'Ada'.

Petitioner:

Mst. Khursheed Niaz w/o Niaz Ali, *through* Mr. Jam Zuhaib Ahmed, Advocate.

Respondents:

Province of Sindh and others, through Mr. Abdul Waris Bhutto, Assistant Advocate General Sindh along with Anees Rehman Jalbani, District Education Officer (E & HS), Larkana and Shazim Hussain, Focal Person of Director (E,S&HS) Larkana.

Date of Hearing : 01.10.2026.

Date of Order : 01.10.2026.

ORDER

Ali Haider 'Ada', J.- The petitioner applied for appointment to the post of Primary School Teacher pursuant to an advertisement issued by the School Education and Literacy Department, Government of Sindh, through SIBA Testing Services, whereby posts of Joint Elementary School Teacher and Primary School Teacher were advertised. The last date for submission of applications was 26.03.2021.

2. The petitioner admittedly applied under the General Merit category. On 20.09.2021, the result of the recruitment test was announced, wherein the petitioner secured 37 marks. Subsequently, on 30.04.2025, she obtained a Disability Assessment Certificate from the Sindh Persons with Disabilities Protection Authority, Department of Empowerment of Persons with Disabilities, Government of Sindh. Thereafter, after a lapse of almost three years from the

date of announcement of the result, the petitioner submitted an application before the Secretary, School Education and Literacy Department, Karachi, seeking consideration of her candidature under the disabled category instead of the General Merit category.

3. Learned counsel for the petitioner mainly contends that the petitioner was wrongly considered under the General Merit category and that, upon production of her disability certificate, her candidature ought to have been considered under the disabled category. It is submitted that the qualifying marks prescribed for candidates falling within the disabled category were 33, whereas the petitioner had secured 37 marks. Learned counsel, therefore, seeks a direction for consideration of the petitioner's candidature for appointment to the post of Primary School Teacher under the disabled category.

4. On the other hand, written statements/comments have been filed by the District Education Officer, Elementary, Secondary and Higher Secondary, Larkana, as well as by the Director General (HR&T), School Education and Literacy Department, and the Director, School Education, Elementary, Secondary and Higher Secondary, Larkana. Their consistent stance is that the recruitment process was initiated under the Teacher Recruitment Policy, 2021, and that the result of the petitioner was announced on 20.09.2021, as is also admitted by the petitioner. It is further stated that the petitioner had applied under the General Merit category, for which the qualifying marks were 40, whereas she secured only 37 marks and was accordingly declared unsuccessful.

5. The respondents further contend that the petitioner did not claim any benefit under the disabled category during the recruitment process and did not produce any disability certificate at the relevant time. No fresh advertisement or

recruitment process was initiated thereafter, whereas the last date for submission of applications was 26.03.2021. The disability certificate relied upon by the petitioner was issued only on 30.04.2025, almost more than three years after the recruitment test and result. It is, therefore, contended that the recruitment process, having already been undertaken and concluded in accordance with the applicable policy, cannot be reopened merely on the basis of a subsequent disability certificate and at the instance of the petitioner.

6. Learned Assistant Advocate General, Sindh, has also opposed the petition on the ground that the petitioner's claim is founded upon a disability certificate issued subsequent to the completion of the recruitment process. It is further pointed out that the petitioner herself, in the application submitted before the Secretary, School Education and Literacy Department, Karachi, admitted that she had applied under the General Merit category. It is, therefore, contended that, after having been declared unsuccessful in the recruitment process, the petitioner cannot seek alteration of her category retrospectively on the basis of a disability certificate obtained subsequently, particularly when candidates have already been appointed pursuant to the concluded recruitment process. It is submitted that reopening the entire process at this stage would adversely affect the rights and interests of the candidates already appointed.

7. Heard and perused.

8. It is a settled principle of law that formulation and implementation of recruitment policies and determination of eligibility criteria ordinarily fall within the domain of the Executive and are not to be interfered with by this Court in its constitutional jurisdiction unless shown to be arbitrary, discriminatory, mala fide, or in violation of any statutory or constitutional provision.

9. In the present case, the petitioner was declared unsuccessful under the category in which she had admittedly applied. Her subsequent claim for consideration under the disabled category is founded upon a disability certificate issued almost more than three years after the recruitment process had been completed. No material has been placed on record to establish that the respondents acted in violation of the applicable recruitment policy or any statutory or constitutional provision. Reliance in this regard may be placed upon ***Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar and others v. Latif Ullah Khan (2021 PLC (C.S.) 1120)***, wherein the Honourable Supreme Court held that any preference contemplated under a recruitment policy can only be extended where candidates stand on equal footing in terms of merit, while merit remains the governing consideration in matters of public employment. Further guidance may be drawn from ***Secretary Finance and others v. Ghulam Safdar (2005 SCMR 534)***.

10. Perusal of the record clearly reflects that the petitioner's result was announced on 20.09.2021, whereas she obtained the Disability Assessment Certificate only on 30.04.2025, after a lapse of almost three years. Despite having admittedly applied under the General Merit category, the petitioner now seeks retrospective consideration of her candidature under the disabled category on the basis of a certificate issued subsequently. Such contention cannot be accepted, as the eligibility and category of a candidate are to be determined with reference to the relevant recruitment process and the applicable criteria at the material time.

11. Furthermore, the petitioner admittedly applied for the post of Primary School Teacher under the General Merit category and did not disclose or claim any disability benefit

during the recruitment process. In such circumstances, no fault can be attributed to the respondents in having processed her candidature in the category under which she had applied, nor can their decision be termed arbitrary or capricious.

12. In view of the foregoing facts and circumstances, the instant petition, being misconceived and devoid of any lawful basis, is hereby dismissed.

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