

IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No.D- 3249 of 2016

Present

Mr. Justice Muhammad Shafi Siddiqui

Mr. Justice Adnan-ul-Karim Memon

Iqbal Ahmed

Petitioner

Vs.

Province of Sindh & others

Respondents

Date of hearing: 19.08.2019

Date of order: 19.08.2019

Mr. Liaquat Ali Hamid Meyo advocate for the petitioner.

Mr. Shahriyar Mahar AAG along with Mr. Raza Mian, DSP Legal, I.G Office.

ORDER

ADNAN-UL-KARIM MEMON J.: The instant Constitution Petition, under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, has been filed by the Petitioner, seeking direction to the Respondent-Police Department for issuance of offer letter for the post of Police Constable (BPS-05) in Sindh Police. Per petitioner he had qualified the physical test, written test and interview and his name has appeared in the final merit list of the successful candidates for the appointment on the aforesaid post. Petitioner has submitted that after lapse of considerable time, the Respondents did not issue him offer letter, therefore he approached Respondents and came to know that the Respondents have already issued appointment letter to their blue eyed candidates after finalization of merit list and approval of high-ups, whereas the Petitioner has been left in the lurch. Petitioner raised his voice of concern against the Respondents, who informed him that he would be considered in the next recruitment process 2015-2016. Petitioner being aggrieved by and dissatisfied with the aforesaid action of the police department has filed the instant petition on 28.05.2016.

2. We queried from the learned Counsel for the Petitioner as to how he is claiming appointment against the post of Police Constable when he was not issued an offer letter for appointment for the post of Police Constable.

3. Mr. Liaquat Ali Hamid Meyo, learned Counsel for the Petitioner in reply to said query has submitted that the Respondent-Senior Superintendent of Police, Thatta has admitted in his para-wise comments that the Petitioner was issued letters regarding Medical Fitness, Character and Education Certificates verification on 30.06.2014. He next added that the only plea taken by the Respondent-police department is that after

issuance of the aforesaid letters Petitioner did not turn up to their office to seek appointment. Per learned Counsel this is hardly a ground to non-suit the Petitioner, when he has completed all the codal formalities as required under the law and it was duty of the Respondent-Department to issue offer letter to the Petitioner for the post of Police Constable; that the Police Department has acted discriminately by appointing other candidates in violation of Article 25 of the Constitution. He next added that the Petitioner is entitled to be considered for the post applied for; that after successfully clearing the examination and interview, the Petitioner has acquired the vested right and interest to be appointed on the post of Police Constable in BPS-05, which cannot be nullified / denied by whimsical and arbitrary action of the Respondents; that the action of the Respondents is in violation of the Fundamental rights of the Petitioner as guaranteed under Article 18, 24, 25 and 27 r/w Articles 4 and 8 of the Constitution. In support of his contention he relied upon the Order dated 23.05.2018 passed by this Court in C.P No.D-1703/2017 and argued that similar relief may be given to the Petitioner. He lastly prayed for allowing the instant petition.

4. Conversely, Mr. Shahriyar Mahar, learned AAG representing the Respondents has pointed out that in compliance of the order dated 25.03.2019 passed by this Court, a report was called from DIGP, Hyderabad Range and AIGP Establishment Sindh Karachi. In this regard Senior Superintendent of Police Thatta has furnished Report vide letter dated 03.04.2019, which reveals that after perusal of record it has been observed that office file of General Recruitment of Police Constable finalized during the year 2012-2014 and original / attested documents were seized by the Investigating Officer / Deputy Assistant Director NAB Karachi in connection with the Inquiry against Muhammad Ali Wasan Ex-SSP Thatta, Abdul Sattar Solangi Ex Service Sheet Clerk in the office SSP Thatta and others regarding illegal appointments in District Thatta on 27.02.2019. Learned AAG in support of his contention has relied upon the aforesaid Report. However, he conceded that this Court has already directed examination/scrutiny of case of a Petitioner in an identical Constitution Petition bearing No.D-1703/2017. Learned AAG prayed for sending the case of the present Petitioner to the Deputy Inspector General of Police, Hyderabad Range for consideration afresh.

5. We have heard the learned Counsel for the parties at length, considered their submissions and perused the record.

6. On merits we have noted that the Respondents have admitted the claim of the Petitioner in their para-wise comments on the premise that the Petitioner was issued letters regarding Medical Fitness, Character and Education Certificate verification on 30.06.2014. However, they have claimed that the Petitioner thereafter did not pursue

his matter, therefore, the office was left with no option but to finalize the recruitment process of Police Constables 2013-2014 vide advertisement dated 15.08.2013.

7. We have further noticed that for the selection of the successful candidates for the post of Police Constables in the District of Hyderabad Range, a formal approval of Inspector General of Police Office was given to D.I.G.P Hyderabad Range for issuance of offer letters to the successful candidates vide letter dated 13.06.2014. However, learned AAG has not been able to controvert the allegations leveled against the Respondent-Police Department. The only plea taken by him is that original / attested documents were seized by the Investigating Officer / Deputy Assistant Director NAB Karachi in connection with the Inquiry against Muhammad Ali Wasan Ex-SSP Thatta, Abdul Sattar Solangi Ex Service Sheet Clerk in the office SSP Thatta and others regarding illegal appointments in District Thatta on 27.02.2019. In our view this is hardly a ground to refuse offer letter to the Petitioner, when he has qualified for the aforesaid post on merit.

8. In view of the aforesaid facts and circumstances of the case, we hereby infer that the case of the Petitioner be re-examined afresh by the Deputy Inspector General of Police Hyderabad Range. The Petitioner is directed to furnish necessary documents to the office of Deputy Inspector General of Police Hyderabad Range, who subsequently is directed to consider the candidature of the Petitioner as to whether the Petitioner fulfills the criteria prescribed under the law for appointment on the post of police constable. The aforesaid exercise shall be completed strictly in accordance with law within a period of two months from the date of receipt of this order. Let a copy of this Order be sent to Deputy Inspector General of Police Hyderabad Range, for information and compliance.

9. The petition stands disposed of in the above terms.

JUDGE

JUDGE