

**IN THE HIGH COURT OF SINDH AT KARACHI.**

Constitutional Petition No.D-5026 of 2015.

**Present.**

Mr. Justice Irfan Saadat Khan  
Mr. Justice Adnan-ul-Karim Memon

Sajid Hussain ..... Petitioner

Versus

The Province of Sindh and others ..... Respondents.

Date of Hearing: **14.11.2018**

Sajid Hussain, Petitioner present in person.  
Mr. Shehryar Mehar, Assistant Advocate General Sindh.

**ORDER**

**ADNAN-UL-KARIM MEMON, J:-** In the above captioned petition, Petitioner is seeking appointment as police constable (BPS-5) in Sindh Police. He has submitted that he had applied for the aforesaid post in the year 2008-2009. Petitioner asserted that after passing of the written test and interview the Respondents declined to entertain the Petitioner on the premise that he mentioned incorrect CNIC number on his medical fitness certificate. Petitioner further claims that he has successfully qualified the written test and interview and had legitimate expectation of appointment for the post of Police Constable in BS-05. The Petitioner has asserted that he has been singled out in the recruitment process for the post of Police Constable. Petitioner has submitted that the act of the Respondent-Police department tantamount to circumvent the law and to sabotage the merit on their own whims, which has no sanctity in law and the same is without lawful justification; Petitioner further added that he approached the Respondent-Police department for further process of his case, but to no avail as he was informed by the officials of the

Respondent-Police department that there is no room for the Petitioner for the post of Police Constable as he did not meet the criteria/threshold as set forth in the recruitment process initiated in the year 2008-2009. Per Petitioners, he was surprised rather shocked to know that certain conditions were imposed by the Respondent-police department just to knock out the Petitioner from obtaining the post of Police Constable in BS-05 after qualifying written test and interview. Petitioner further added that he had forwarded a complaint regarding injustice made with him by the Respondent-Police department in the recruitment process conducted in Karachi region. Petitioner further added that the Respondents are under legal obligation to complete the process by recruiting the successful candidates; thus the Respondents have failed to recruit/ consider the Petitioner without any lawful justification or reason. He added that he has been constantly approaching the Respondents for the aforesaid relief but to no avail, he therefore solicited our intervention in the matter to resolve his problem. Petitioner added that he moved an application to the learned Ombudsman, who dismissed his application vide order dated 14.5.2015. Petitioner who is present in person has submitted that he has been persistently pursuing the police hierarchy for his appointment as constable as he had appeared and qualified all the tests but he being an eligible candidate for the post of constable was not considered for his appointment; that Respondents are discriminating him in violation of Police Rules and the fundamental law of the land; that he is entitled to be appointed to the post of constable since he has been declared successful in all the tests conducted by the Respondents from time to time; that he has been seriously prejudiced and not treated equally therefore he is entitled to be treated equally in accordance with law, as provided under Articles 4 & 25 of the Constitution of the Islamic Republic of

Pakistan, 1973; that he has been denied his fundamental right; that grave injustice has been done with him with no fault on his part by depriving him to be appointed on the post of constable, for which he qualified all the pre-requisite tests; that due to such acts and deeds of the Respondents, he has suffered mental torture, agonies and by such situation he is facing problems too; that the denial in this regard by the Respondents amounts to invade upon and infringement of his fundamental legal rights, as safeguarded under the Constitution of the Islamic Republic of Pakistan 1973 that are enforceable by this Court in exercise of its Constitutional jurisdiction.

2. During the course of arguments, we asked from the Petitioner as to how he is claiming appointment for the post of Constable without fulfillment all codal formalities as required under the Recruitment Rules for the aforesaid post. He in reply to the query has submitted that as per Respondents, he mentioned incorrect CNIC number on his medical fitness certificate. In our view this is not a justification to claim appointment in police service, for the simple reason that he did not produce such medical certificate to prove his assertion.

3. Learned AAG has refuted the claim of the Petitioner and submitted that the instant petition is not maintainable. He further added that the Petitioner failed in the recruitment process initiated in the year 2008-2009, therefore he is not entitled for appointment as Police constable.

4. We have heard the Petitioner, who is present in person and learned AAG and have perused the material available on record.

5. First of all we take up the issue of maintainability of the instant Petition under Article 199 of the Constitution. We are of the view that the grievance of the Petitioner does not relate to the terms

and conditions of service, but he has sought relief of appointment, therefore the Petition is not barred by Article 212 of the Constitution and is maintainable to be heard and decided on merits.

6. The primordial question raised in the present proceedings is as under:-

**i) Whether the Petitioner qualified the written test and interview for the post of police Constable BS-05, in Sindh Police in the recruitment process, initiated in the year 2008-2009 as per recruitment Rules/thresh hold set forth by this Court in different petitions filed by the candidates before this Court and maintained by the Honorable Supreme Court?**

7. To address the aforesaid proposition, we have to look at the matter in its entirety. Perusal of the record reflects that the Respondent-Police department initiated the process of recruitment of vacancies of Police Constables in BS-05 to be filled on merit on the regional quota basis, particularly for Karachi Range.

8. Record reflects that in the list of failed candidates, prepared by the Respondents, Petitioner's name appeared at S.No.54 and was declared failed candidate for the post of Police Constable. Respondents in their comments have denied that the Petitioner succeeded in the test and interview for the post applied for, that's why he was declared ineligible for the post of police constable in BS-05, therefore there is no need to further dilate upon the aforesaid issue, which had already been settled by the order dated 14.5.2015 passed by the learned Provincial Ombudsman. Prima-facie Petitioner did not avail the appropriate remedy available to him at the relevant time under the law.

9. We, on the basis of contentions of the parties with the material produced before us, have reached to the conclusion that the name of the Petitioner does not appear in the list of successful candidates. Petitioner has failed to place on record the copy of call letter for the

test and interview and medical letter against the aforesaid post. Prima-facie, in absence of the aforesaid material, Petitioner is not entitled to seek appointment against the said post.

10. We therefore in the light of what has been noted above are not satisfied with the assertion of the Petitioner and for the aforesaid reasons, in our view Petitioner has failed to make out his case for indulgence of this Court. The instant Petition is devoid of merit, thus stands dismissed along with the pending application(s).

Karachi

JUDGE

Dated: 14.11.2018

JUDGE

*S.Soomro/P.A*