

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

Constitutional Petition No. D –2978 of 2015

Khalid Hussain and others

Versus

Province of Sindh and 03 others

Date of hearing
& order : 29.10.2020

Mr. Zahid Ali Maitlo, advocate for the petitioners.

Mr. Ali Safdar Depar, Assistant A.G Sindh along with Jawed Ali Khawaja, Law Officer (SELD).

ORDER

ADNAN-UL-KARIM MEMON, J. Through the instant petition, the petitioners are seeking the directions to the respondent-Education Department, Government of Sindh, to issue the appointment letters for the post of Primary School Teacher (PST) BPS-9 on the premise that they have secured the highest marks in the recruitment test conducted by the University of Sindh.

2. The facts leading to the case, as per pleadings of the petitioners are that under the advertisement dated 24.09.2008 published in Daily "Kawish", whereby the petitioners had applied for the post of Primary School Teacher (PST) and had obtained 132, 124, and 108 marks, respectively, from Taluka Tangwani Union Council Suhliyani District Kashmore. Petitioner's case is that they qualified for the appointment on the aforesaid post as their names appeared in the final result of successful candidates conducted by Sindh University Testing Centre (SUTC), but Respondents have refused to issue them offer letters for the post of PST on contract basis for three (03) years.

3. We asked the learned counsel to satisfy this Court about the maintainability of the instant petition on the premise that all the candidates who were selected for the subject part had admittedly obtained higher marks than the petitioners, and not a single candidate had been appointed who had secured less marks than the petitioners.

4. It is contended by the learned counsel for the petitioners that several appointments for the post of Primary School Teacher have been made by the respondent-department in favour of such persons who had secured lower marks than the petitioners ; that the aforesaid action of the respondents was / is illegal and void; that the petitioners had obtained considerable marks and had succeeded in the test and interview, therefore, they should not be penalized ; that the petitioners approached to the respondent-department and lodged their protest but unfortunately no positive response was given to the petitioners, subsequently they moved another application to the Competent Authority but of no result ; that the malafide intention and negligence of the respondents was / is apparent on the face of the record as they failed and neglected to evaluate the final merit list of successful candidates, wherein the names of the Petitioners were appearing in Union Council Suhliyani, which fell in the area of Taluka Tangwani District Kashmore. He lastly prayed for allowing the instant petition.

5. We have scrutinized the record and found that the petitioners applied for the post of PST (General) seat from UC Suhliyani and obtained 132, 124, and 108 marks respectively. In our view, merely passing the written test does not culminate in the appointment of candidates ; besides that under the Teachers Recruitment Policy, 2012, and upon fulfilling such requisite qualifications and all other terms and conditions, a candidate could only be declared as a successful candidate by the respective District Recruitment Committee (DRC). We have noticed that the last three candidates who secured higher marks than the petitioners were declared successful candidates and were given offer letters for the subject posts. The report of DRC is available on page 23 of the Memo of Petition which affirms the factual position of the case.

6. In the light of the above facts and circumstances of the case, we have reached the conclusion that the petitioners have failed to make out their case for appointment for the post of Primary School Teacher on the premise that they had failed to succeed in the recruitment process for the subject post. We do not find any merit in the instant petition, therefore, the captioned petition is dismissed along with the listed application(s) with no order as to costs.

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