

Order Sheet

IN THE HIGH COURT OF SINDH KARACHI
Constitutional Petition No. D – 5481 of 2019

Before:

Mr. Justice Nadeem Akhtar

Mr. Justice Adnan-ul-Karim Memon

Sher Muhammad

Versus

Province of Sindh and 02 others

Date of hearing & order : 29.10.2020.

Ms. Nousheen Khan Tajjammul, advocate for the petitioner.

Mr. Ali Safdar Depar, Assistant A.G Sindh along with Raza Mian, DSP (Legal).

ORDER

ADNAN-UL-KARIM MEMON, J. The grievance of the petitioner is that his candidature for the post of Police Constable (BPS-05) has been rejected on the ground of deficiency in height i.e. 5'-4¾" instead of 5'-5" and he has been declared unfit solely on such alleged ground. He claims that vide letter dated 25.02.2016, the respondent-Police Department had declared his height 5'-5" and declared him fit for the aforesaid post, however, they were reluctant to issue the offer letter compelling him to move an application to the Deputy Inspector General of Police, Larkana Range, for re-measurement of his height, which application was forwarded to the competent authority vide letter dated 03.01.2017. Per petitioner, he appeared before the Deputy Inspector General of Police, Larkana Range, who ordered re-measurement of his height whereafter his height was declared 5.5" and resultantly he was qualified for the aforesaid post vide letter dated 22.04.2019. In spite of the above, his case was rejected by the respondents on the ground that the result of his height cannot be accepted as it was re-measured.

2. We have heard learned counsel for the parties and also perused the decision dated 02.06.2020 taken by the Recruitment Board in the following manner :

Sr. #	Name	Range/ Unit	Recommendation of SPRB
12	Sher Muhammad S/o SIP	Larkana Range	As reported by the Addl. IGP Sukkur Region the Candidate has applied for the post of Police Constable

	Imam Dino Lund		<p>in District Shikarpur in General Recruitment-2016 and passed the physical process.</p> <p>He appeared in viva-voce / Interview before Range Recruitment Committee held in Aug-2016 under the Chairmanship of DIGP Larkana Range. His height was re-measured by the Committee and he was found deficient in height (i.e. 5-4.75") and he was declared failed.</p> <p>Afterward, on the request of the Candidate, the Additional IGP Sukkur Region directed the DIGP Larkana Range for measuring the height of said Candidate. Accordingly, his height was re-measured by the DIGP Larkana Range which was found 5x5".</p> <p>The Board after the deep discussion has recommended that since the height of Candidate was got re-measured by the Competent forum i.e. Recruitment Committee of Larkana Range and he was disqualified in the recruitment Process by the said Committee, therefore, his case regarding appointment as Police Constable in District Shikarpur General Recruitment -2016 may be rejected.</p>
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3. In the above context, we would like to refer to Clause No. 4.1.6 of Recruitment of Constables in Sindh Police – 2016, which reads as under :

“Candidates who meet following eligibility criteria will be considered for the recruitment as Constable in any of the executive establishment of Sindh Police”

Age	Educational qualification	Height (minimum)	Chest (male candidate only)
		Male / Female	
18-25	Matriculation	5-5" / 5	33-Min with 1.5" expansion

4. In view of the foregoing legal position, we are of the considered view that the Government has the sole authority to frame the policy of appointment and to decide the requisite qualification for appointment against a particular post. Thus, appointment against such post through initial appointment cannot be denied if all the codal and legal formalities are successfully met by the applicant / candidate as per the Policy / Recruitment Rules as discussed supra. Regarding the present petitioner, suffice it to say that he had already been declared successful candidate in written test and interview for the post of Police Constable in Sindh Police vide letter dated 25.02.2016, but his candidature was subsequently rejected on the premise that he did not qualify for the aforesaid post due to deficiency in height, which factum has been admittedly corrected by the competent authority i.e. DIGP, Larkana Range, by re-measuring his height.

5. Confronted with the above position, learned AAG has candidly conceded that on re-measurement of height, the petitioner became eligible and his case may be referred to the competent authority for appropriate order.

6. It may be observed that only the aspect of the height of the petitioner was the subject matter of the present petition and the observations have been made herein only in this context. Therefore, the Inspector General of Police, Sindh, is directed to scrutinize the candidature of the Petitioner in all respects for the post of Police Constable in BS-05, and if he is found fit to be admitted as a police constable in Sindh Police, his case may be processed strictly under the Recruitment Rules for the aforesaid post within one (01) month from the date of communication of this order and compliance report be submitted through MIT-II of this Court.

The instant petition along with the listed application(s) stand disposed of in the above terms with no order as to costs.

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Nadir*