

Order Sheet  
IN THE HIGH COURT OF SINDH AT KARACHI  
Constitutional Petition No. D – 6070 of 2020

Date	Order with Signature of Judge
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For orders as to maintainability of instant petition :

**24.12.2020:**

Petitioner Ms. Sana Jabeen Khan present in person.  
Mr. Ali Safdar Debar, Assistant A.G.  
Yousuf Alvi, Law Officer, SPSC.

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**NADEEM AKHTAR, J.** – It is the case of the petitioner that in response to the advertisement dated 15.02.2019 (page 21) published by Sindh Public Service Commission (SPSC), she applied for the post of Assistant District Public Prosecutor in BPS-17 ; after passing the written test for the above post, she was entitled to be called for an interview, but she was never called ; and, upon inquiry, she was informed by the respondent / Sindh Public Service Commission (SPSC) that she was not eligible for the subject post as she did not have the requisite standing of five years at the bar. It is contended by her that she had four years of experience and was also holding the Masters degree i.e. LLM when she had applied for the subject post. It is urged by her that the minimum educational qualification for the subject post was a Bachelors degree in law and not Masters as per the advertisement, therefore, the requirement of five years standing at the bar ought to have been relaxed by SPSC by giving her credit of one year in lieu of her Masters degree. She points out that out of 75 advertised posts, 74 applicants have been recommended and one vacancy is still available.

A copy of press release dated 09.12.2020 has been placed on record on behalf of SPSC showing that 74 applicants have already been recommended for the subject post. Regarding the petitioner, the Law Officer of SPSC states that she was not eligible for the subject post when she had applied for the same and the law does not permit SPSC to relax the eligibility criteria merely on the ground of additional educational qualification(s). He submits that the petitioner may apply afresh as the subject post will be advertised soon for further appointments.

Record shows that in addition to a Bachelors degree in law, the standing of five years at the bar was a condition precedent for the candidates to participate in the competitive process of the subject post. It is well-settled that the conditions / requirements relating to qualification, experience, age, domicile, etc. specified in the advertisement for any post cannot be subsequently changed, modified, altered or

relaxed ; and, if the applicant participating in such competitive process does not possess the eligibility criteria specified in the advertisement, he / she is not entitled to be considered for such post. It is an admitted position that the petitioner did not have the above standing at the bar when she had applied for the subject post. Therefore, she cannot claim the subject post as a matter of right despite being successful in the written test. We are of the view that the requirement of five years standing at the bar specified in the advertisement by SPSC appears to be reasonable as standing at the bar is one of the key factors for appointment of an Assistant District Public Prosecutor in BPS-17.

On our query, the petitioner has stated that now she has more than five years of standing at the bar and she is willing to apply for the subject post afresh as and when advertisement in this behalf is published by SPSC. Needless to say if she participates in the competitive process for the subject post in future, her application / case will be considered by SPSC strictly on merits, in accordance with law and without being prejudiced with these proceedings initiated by her and/or any of the observations made in this order relating to her.

Before parting with this case, it may be observed that in order to avoid unnecessary complications and litigation as well as hardship and embracement to the applicants, such applicants should not be allowed by SPSC to participate in any competitive process who do not fulfill the eligibility criteria specified in the advertisement. The application forms of such candidates should be rejected in the first instance so that the question of their written test etc. does not arise at all. Such vigilance on the part of SPSC shall ensure participation of only eligible candidates in the competitive process. Let notice be issued to the Chairman SPSC for compliance.

The petition stands disposed of in terms of the above observations and direction with no order as to costs.

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