

Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petitions No. D-790/2018, D-8056/2017, D-8779/2017, D-7261/2017, D-7090/2017, D-7359/2017, D-3376/2018, D-2080/2018, D-6209/2019, D-1737/2020, D-1830/2020, D-3978/2020 & D-6528/2020

Date	Order with signature of the Judge
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20.01.2021

Mr. Nadeem A. Shaikh, advocate and Mr. Saleem Michelle, advocate for the petitioners in C.P. Nos.D-790/2018 and D-7090/2017.

Syed Shoa-un-Nabi, advocate for the interveners.

M/S Mansoor Ali Panhwar and Ali Mohsin, advocates for the petitioners in C.P. Nos.D-7261/2017, D-8056/2017, D-2080/2018, D-3376/2018 & D-1830/2020.

Mr. Muhammad Ashraf Chohan, advocate for the petitioners in C.P. No.D-3978/20.

Mr. Usman Farooq, advocate for the petitioner in C.P. No.D-7090/2017.

Mr. Rafiq Ahmed Kalwar, advocate for the petitioners in C.P. No.D-6528/2020.

Mr. Muhammad Ashraf Chauhan, advocate for the petitioner in C.P. No.D-3978/2020

Mr. Ali Safdar Depar, Assistant AG along with Tahir Mahmood, Deputy Director, Social Welfare Department, Najabuddin Sahito, Additional Secretary (Admn.), P&D Department, Syed Mehboob Ali, Deputy Secretary, P&D Department, Government of Sindh.

Farman Ali Tanwari, Director, Department of Empowerment of Persons with Disabilities (PCRDP).

Mr. Zahoor Shah, Deputy Prosecutor General, Sindh.

Mr. Muzafar Ali, advocate.

Compliance report in pursuance of order dated 18.12.2020, filed on behalf of respondent No.2 along with several documents and written statements of respondents No.3 and 4 are taken on record.

We have been informed by the learned AAG that in pursuance of an order dated 18.12.2020, the District Recruitment Committees have probed the different applications of the individuals wherein they have mentioned about their disabilities in terms of the law and their appointments supported by valid certificates. We have been informed that out of the bunch, 189 petitioners have been considered for the appointment after considering their disabilities and rest of the two bunches of individuals i.e. a bunch having 66 candidates and another bunch of 40 candidates total 106 are being probed by different District Recruitment Committees and the result of that shall be submitted in due course of time. We may point out on account of the deliberation of the learned counsel that this 5% quota is to be filled on the sanctioned strength of the department and even the 5% quota of differently abled persons ought to be competed on the basis of their "own" merit as there are more applications than the number of seats / posts on differently abled quota available. It does not automatically

becomes absolute right of those differently abled persons to have a vested right of the employment since they are also competing on a limited quota of 5% and hence consideration of merit within them is inevitable.

These petitions apparently were filed on account of an advertisement in 2017 although there was a cutoff date prescribed in the advertisement, but the Provincial Government thought it is wise to consider the subsequent applications filed beyond the cutoff date.

Be that as it may, from now on we may observe that no more individual applications be entertained by the Provincial Government for the consideration unless an advertisement is published for the availability of the vacancies. In case, such advertisement is made, it must highlight the sanctioned post and the number of vacancies for differently abled persons available on the basis of the sanctioned post as highlighted in the judgment passed in Civil Petition No.140-L of 2015. Such other conditions as highlighted in the aforesaid judgment may also be followed.

Let a report in respect of 106 applications of differently abled persons be filed within six (06) weeks' time. To come up **after six (06) weeks**.

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