Before:
Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Adnan-ul-Karim Memon

Constitutional Petition No. D –735 of 2021
Ahmed Ali
Versus
Province of Sindh and 02 others

Date of hearing
& order   : 29.01.2021

Mr. Mukesh Kumar G. Karara, advocate for the petitioner.

O R D E R

<u>ADNAN-UL-KARIM MEMON, J.</u> – Through this petition, the petitioner is seeking the following relief(s): -

a) *To declare that the classification in terms of qualification and experience in the impugned advertisement dated 11.10.2019, is based upon malafides, discrimination, biased, partial, unfair, a colorful exercise of favoritism and unconstitutional and without any consideration of merit.*

b) *To declare that the recommendations made by the respondents No.1 & 2 in favour of the respondent No.3 vide offer letter dated 20.08.2020, are illegal, unlawful and without any lawful authority.*

c) *To direct the respondents to act in accordance with law and terms of the judgment passed on 04.03.2016 in CP No. D-5251 of 2014 and others and allow the petitioner to apply for the position of Chairman BISE Larkana being the holder of Ph.D., having required qualification and experience and he may not be dislodged on the basis of minimum age limit of 50 years."*

2.   At the outset, we inquired from the learned counsel for the petitioner as to how the instant petition is maintainable in the light of qualification and experience of the position of the Chairman, Board of Intermediate and Secondary Education, Larkana, as prescribed through a public notice dated 11.10.2019 published in `Daily Dawn` Karachi.

3.   Mr. Mukesh Kumar G. Karara, learned counsel for the petitioner, has put forward a unique theory that the classification in terms of qualification and experience as outlined in the public notice 11.10.2019 was/is based on malafide intention. This reasoning is untenable on the premise that the Universities and

Boards Department, Government of Sindh, Karachi advertised the positions of Chairman of five Boards in Sindh including Board of Intermediate and Secondary Education Larkana; the all and sundry who met the qualification and experience for the post applied for and their respective interviews were conducted by the Members of Search Committee; and, subsequently recommended the panel of candidates to the competent authority for the aforesaid positions and subsequently the competent authority approved the recommendations of the Search Committee by issuing offer letter in favour of respondent No.3 whose case for his appointment is subjudice before this Court in C.P. No.D-6604/2020, as such we refrain to dilate upon the case of the petitioner in the aforesaid petition at this stage which shall be decided on its merit.

4.   The grounds agitated by the petitioner through the instant petition are not tenable under the law. It is well-established law that the Government is competent to prescribe and enhance the qualification for any post under their hierarchy and the Courts normally do not interfere in such policy decisions until and unless the policy is offending the fundamental rights of any individual. The rational of fixation of minimum age is 50 years and maximum age 60 years for the aforesaid position cannot be held, at this stage, to be violative of any provision of law and Constitution for the reason that the learned counsel has failed to cite any law to substantiate his submissions even he failed to point out any discrimination of any nature with anyone in terms of qualification and experience. Prima facie, the process of appointment was initiated by the competent authority and culminated into the appointment of suitable candidates, at this juncture, cannot be held to be termed as the colorful exercise of powers. We under the peculiar facts and circumstances of the case have no choice but to discard the version of the petitioner. Even, we do not see any merit in this case for our indulgence.

5.   This petition being misconceived is accordingly dismissed in *limine* along with the pending application(s) with no order as to costs.

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