

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI
C. P. NO. D-4609 OF 2022

DATE

ORDER WITH SIGNATURE OF JUDGE(S)

FRESH CASE.

- 1) For orders on Misc. No. 19777/2022.
- 2) For orders on Misc. No. 19778/2022.
- 3) For orders on Misc. No. 19779/2022.
- 4) For hearing of main case.

12.08.2022

Mr. Usman Farooq, Advocate for Petitioner.

Mr. Usman Farooq has filed Vakalatnama on behalf of Petitioner which is taken on record.

- 1) Granted.
- 2) Granted subject to all just exceptions.
- 3 & 4) Through this Petition, the Petitioner has prayed for the following reliefs:-

- a. To call report / list of selected candidates from the Respondent's office Official E-Mail (must show the inbox of official outlook) of Respondent No. 03 namely Dr. Abdul Hafeez Shaikh.
- b. To call from Respondents Interview Summary / Minutes of interview of 3 panelists original as well as copy.
- c. To pass strict orders to the Respondents that all the vacant position of Liaison Officer must be fill immediately with STS IBA Sukkur written test qualified candidates list.
- d. To direct the Respondents to facilitate the Petitioner and provide him employment in their department for which he applied for appointment on the basis of above mentioned facts.
- e. Any other relief(s) which this honorable Court deems fit and proper in the circumstances of the case be also awarded to the Petitioner.

Learned Counsel has argued that despite best and excellent performance in the interview, the Respondents have failed the petitioner, whereas, he is entitled to the appointed due to his qualification; hence this

petition. We have heard the learned Counsel for the Petitioner and perused the record.

Insofar as the case of the Petitioner as to the result of the interview being illegal and subject to challenge in these proceeding is concerned, we have not been able to persuade ourselves as to how the relief being sought can be granted in respect of Viva-voce/Interview Examination of the Petitioner, in which, according to him, he ought to have been declared successful, whereas, the Respondents have failed him. Apparently the verbal response of the Petitioner in a Viva-voce Examination and Interview cannot be looked into by us in our Constitutional jurisdiction, as it is entirely dependent on the factual determination and the contention of the parties. Even otherwise, what answer is given by a candidate in an Interview/Viva-voce Examination, the same is a matter of verbal response and no record is apparently required to be maintained by the concerned appointing authority. In these circumstances, we are of the considered view that this Petition is not maintainable. There isn't any yard stick or mechanism to examine that as to what had happened during the interview. Reliance in this regard may be placed on the case reported as Muhammad Ashraf Sangri v. Federation of Pakistan (2014 SCMR 157), wherein the Hon'ble Supreme Court has been pleased to observe as under:

“Essentially an interview is a subjective test and it is not possible for a Court of law to substitute its own opinion for that of the Interview Board in order to give the petitioner relief. What transpired at the interview and what persuaded one member of the Board to award him only 50 marks in something which a Court of law is certainly not equipped to probe and to that extent we cannot substitute our own opinion with that of the Interview Board. Obviously if any mala fides or bias or for that matter error of judgment were floating on the surface of the record we would have certainly intervened as Courts of law are more familiar with such improprieties rather than dilating into question of fitness of any candidate for a particular post which as observed above is subjective matter and can best be assessed by the functionaries who are entrusted with this responsibility, in the present case, the Public Service Commission. For this proposition the case of Federation of Pakistan through Secretary Establishment Division v. Ghulam Shabbir Jiskani (2012 SCMR 1198) can be referred to.”

Further reliance can also be placed on the case of ***Arshad Ali Tabassum v The Registrar Lahore High Court [2015 SCMR 112]***; ***Miss Gulnaz Baloch v The Registrar Baluchistan High Court [2015 PLC (CS) 393]*** and ***Altaf Hussain v Federal Public Service Commission [2022 PLC (CS) 92]***.

In view of the above discussion, this petition being misconceived is hereby dismissed in *limine* with pending applications, if any.

J U D G E

J U D G E

Arshad/