

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Const. Petition No.D-1382 of 2022
(*Muhammad Suleman Maitlo v. P.O. Sindh & others*)

Present:-

**Mr. Justice Muhammad Iqbal Kalhoro &
Mr. Justice Arbab Ali Hakro**

Mr. Parvez Ali Maitlo, Advocate for the petitioner.
Mr. Ali Raza Baloch, Assistant A.G-Sindh.

Date of Hearing & Order: **13-12-2023**

ORDER

MUHAMMAD IQBAL KALHORO, J:- Petitioner's case is that he was selected for a post of Prison Constable (BS-05) by the Selection Committee of Sindh Prisons Department and issued an offer letter by the office of DIG, Prisons, Region Sukkur dated 26.12.2012 with direction to submit acceptance of offer of job within 14 days of its receipt after getting a medical fitness certificate from M.S, Civil Hospital, Khairpur and a character certificate from concerned P.S. Petitioner, in compliance, obtained both the certificates respectively and approached concerned officer for submitting the same on 03.01.2013, but it was not received, nor he was allowed to join duty on the ground that all the vacancies had already been filled up.

2. The petitioner, nonetheless, kept on approaching the respondents for above purpose but in vain. On 09.01.2017, he also made a request in writing to IGP, Sindh seeking his indulgence to direct relevant authorities to let him join his duty pursuant to the offer letter, but therefrom ultimately his case was referred to DIG, Prisons, Sukkur for a consideration. He continuously went there for getting his posting order, but without a result. Meanwhile, he also moved various applications for the same purpose to the Secretary, Home Department, the Chief Secretary, Sindh etc. but when his efforts bore no fruit, he filed this petition.

3. In comments, respondent No.2 (*Inspector General of Sindh Prisons & Corrections Service, Karachi*), does not dispute selection of petitioner over the designated post and issuance of an offer letter to him.

Nonetheless, he has asserted that the petitioner had failed to submit his acceptance of offer within stipulated time i.e. 14 days, and after expiry of that period, the candidates who had qualified the test and fulfilled other formalities and submitted acceptance of offer of the job were issued appointment orders. Further, it has been iterated by him that the petitioner has filed this petition after ten years of recruitment process, which is time barred and petitioner is not entitled to any relief.

4. We have heard the parties and perused material available on record. Learned Assistant A.G in support of his arguments, opposing the petition not only on merit but also on the point of laches, has relied upon the cases reported as 2023 SCMR 1442, 2022 SCMR 2096, 2021 SCMR 1313, 1987 SCMR 1119, PLD 2013 SC 268, 2019 SCMR 1720 and 2005 SCMR 119.

5. The claim of the petitioner's counsel however is that petitioner whenever approached the relevant officer at the office of respondent No.3 for submitting his acceptance of offer of the job, he was not entertained and his acceptance was not considered. It seems, insofar as selection of the petitioner as a constable through a valid process of recruitment, it is not disputed. It is only on a point of submission of acceptance of offer of the job by petitioner within stipulated period of 14 days, the parties are at loggerheads. To us, this point appears to revolve around a disputed fact. The petitioner is claiming that he had approached the department within stipulated time after getting medical fitness and character certificates and tried to submit the same to uphold his acceptance of the job but he was not allowed to do so. *Prima facie*, he has not offered any evidence in this regard in the form of any application etc. written either within stipulated time or immediately after 14 days voicing his grievance qua respondents not letting him submit his acceptance of the job. The latest application for such purpose moved by petitioner was in January, 2017, after five years of the recruitment process and that too is addressed to IGP, Sindh, instead of IG Sindh Prisons. In this application, the reason given by the petitioner against respondents for not accepting his offer is quite different. In it, he has claimed that due to some (stay) order by C.M, Sindh, the process of recruitment was stalled and those who had

already joined duties were allowed to continue, and the ones who had failed to do so like the petitioner were denied joining.

6. All other applications by the petitioner addressed to the different government authorities for redressal of his grievance were after that application moved in the year 2017. Remaining silent for a long period of five years before moving such application has not been explained by the petitioner. It does not appeal to the common sense that the person who otherwise was selected over the subject post i.e. Prison Constable, but denied joining of duty, would stand immobilized for five years and not trying anything in writing to nudge the relevant authorities in accepting his right to appointment. The reason given by the petitioner that he was kept on hopes by the respondents is not sustainable in absence of any material indicating so and the burden to establish such fact indeed has not been properly discharged by him. In absence of any convincing and confidence inspiring evidence showing the petitioner had approached the respondents with acceptance of offer of appointment within stipulated time; we cannot hold the same as such and form an opinion positively in favour of the petitioner. What had actually happened after the petitioner was given the offer letter: whether or not he approached the department within 14 days to tender his acceptance of the job, and if yes, why it did not materialize is in a complete mystery and therefore it is not possible for us to puzzle it out.

7. Furthermore, this petition was filed on 02.11.2022 after almost ten years of the subject recruitment process and only after about five years of moving unsuccessful applications by the petitioner to various authorities. The delay in approaching this Court has not been explained by the petitioner either and therefore in the peculiar circumstances of the case, we find ourselves restrained from exercising discretionary jurisdiction in favour of the petitioner and direct the authorities to appoint him on the post, offer of which apparently he did not accept within stipulated period. Accordingly, this petition is **dismissed**.

JUDGE

JUDGE