

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Const. Petition No. D-85 of 2023
(*Muhammad Sadique Mangrio v. P.O. Sindh & others*)

Present:-

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

Mr. Khadim Hussain Malik, Advocate for the petitioner.
Mr. Ahmed Ali Shahani, Assistant A.G along with Muzaffar Ali Shah,
DEO (ES&HS), Ghotki.

Date of Hearing & Order: **20-09-2023**

ORDER

MUHAMMAD IQBAL KALHORO, J:- Petitioner appeared in a test held by the National Testing Service (NTS) for the posts of Primary School Teacher (PST) in BPS-09 and Junior School Teacher (JST) in BPS-14 in response to an advertisement in the year 2012 and was declared successful candidate for the post of JST, and his name was placed at serial No.2, having obtained 63 marks. Thereafter, he appeared in viva voce and in the final merit-list was also declared as a successful candidate for the post of JST from Union Council Lohi (at present Kadlo Taluka Khangarh district Ghotki).

2. As per announcement, there were two posts of JST vacant in the said U.C. The candidate, who obtained first position, was appointed against one post, but petitioner was not. When petitioner approached respondents No.2 (*The Director School Education (Secondary), Sukkur Region*) and respondent No.3 (*The DEO, Secondary (Male), Ghotki*), they initially undertook to appoint him in due course and finally refused. Hence, this petition.

3. We have heard learned counsel for petitioner and learned AAG. The latter has opposed petitioner's bid to get appointment through this petition. The former, however, relying upon the case law reported as *Government of Punjab and others v. Sameena Parveen and others* (**2009 SCMR 1**) and **2006 PLJ (CS) 1302** has prayed for grant of the prayer.

4. Comments filed by respondent No.3 (*The DEO (Elementary, Secondary and Higher Secondary), Ghotki at Mirpur Mathelo*) reveal that the petitioner, after obtaining 63 marks in JEST, U.C Lohi, stood at serial No.2 in the final merit-list, but there was only one need based vacancy available in the said U.C at the time of such appointment. The said post/seat was given to the candidate at serial No.1, who had obtained 65 marks. It has further been revealed that there were in fact two need based vacancies in the said U.C, but one seat was already allocated in Taluka Pool (10%), as per Recruitment Policy and the remaining one seat was filled on merit with a candidate, who stood at serial No.1. After such clear cut factual position, we are of a considered view that the petitioner has no case on merits. There was only one seat vacant in U.C. Lohi and it was given to the candidate, who deserved it most on the basis of his merit. The petitioner was at serial No.2 and could not have been given preference over the candidate at serial No.1. As far as allotment of one seat to Taluka Pool (10%) is concerned, it has not been questioned by the petitioner, therefore, we do not have any reason to comment upon it or give some declaration in regard thereof.

5. Irrespective of such factual position, heightened above, which does not work out in favour of the petitioner, there is a serious question of laches involved in this petition. The petitioner had appeared in the examination held in the year 2012 and has filed this petition on

18.01.2023 after almost 11 years. About which, he has not given any explanation in the entire petition except that he was kept on hopes and hence waited for such a long time, which does not appeal to common sense. As meanwhile recruitments in terms of other Recruitment Policies in the year 2015 etc. were pursued and the candidates were selected/appointed and the petitioner did not even apply for appointment.

6. Learned counsel has also drawn our attention to an order dated 26.01.2022, passed in C.P.No.1416 of 2020, filed at Circuit Court, Hyderabad, wherein the applicants, who like petitioners had appeared in the examination for the post of PST/JST in the year 2012 and were not appointed, were allowed to approach the Secretary, Education & Literacy Department, Government of Sindh who was obligated to refer their cases to the Grievance Redressal Committee for hearing and decision, and submits that same treatment may at least be given to the petitioner. Needless to say, the petitioner is always at liberty to approach the Secretary, Education & Literacy Department for redressal of his grievance, if any. However, as far as merits of this petition are concerned, as discussed above, it is found meritless and is accordingly **dismissed.**

7. The petition is accordingly **disposed of.**

JUDGE

JUDGE