

*Order Sheet*  
**HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD**

**C.P No.D-1950 of 2021**

*[Karam Chand v. The Province of Sindh & others]*

BEFORE:

Mr. Justice Muhammad Shafi Siddiqui  
Mr. Justice Arshad Hussain Khan

Petitioner : Through Mr. Mumtaz Alam Laghari, Advocate.  
Province of Sindh : Through Mr. Rafique Ahmed Dahri, Assistant A.G  
Date of hearing : 26.09.2023  
Date of order : 26.09.2023

ORDER

**ARSHAD HUSSAIN KHAN, J.-** By means of this constitutional petition, the petitioner seeks direction for his appointment to the post of Primary School Teacher (Male) in BPS-09 according to the merit list issued by the respondent in respect of the NTS test conducted pursuant to an advertisement published in the year 2012.

2. Precisely, the case of the petitioner is that pursuant to the advertisement published in the year 2012, he applied for the post of PST (Male) in BPS-09. Subsequently, he appeared in the test from U.C. Atta Muhammad Pali, and was successful by obtaining 66 marks in said NTS. However, when his name did not appear in the DRC list, he approached to the respondents but they initially kept him on false hope, however, later on refused to put the name of the petitioner in the DRC list on the ground that he had obtained less than 45% marks in the Intermediate, which was not in line with eligibility criteria as mentioned in the advertisement, as such, the name of the petitioner was not considered. When the petitioner's request was not acceded to by the respondents, he filed the present petition on 11.12.2021.

3. Upon notice the respondent No.7-District Education officer Umerkot filed para-wise comments wherein, *inter alia*, while denying the allegations levelled in the memo of petition, it has been mentioned that case of the petitioner was placed before DRC, however, he was not considered mainly due to his less percentage in the Intermediate as well as Graduation as the same were below 45%. Further, the successful candidates were offered and appointed on purely merit basis on the recommendation of the then DRC.

4. Learned AAG while reiterating the contents of the para-wise comments also raised question of maintainability of the petition on the ground of laches.

5. Admittedly, the petitioner applied against the post of PST in response to the advertisement published in Newspaper in the year 2012 and according to him he passed the written NTS test, while the petition was filed in this Court after about delay of 08(eight) years. No plausible reason has been given in the memo of petition as to who prevented the petitioner not to approach this Court immediately and why he was waiting for such a long time. Learned Counsel for the petitioner was also confronted with this aspect during the course of arguments but he failed to advance any justification for such delay to approach this Court. It is well settled that Question of delay/laches in filing constitutional petition has to be given serious consideration and unless a satisfactory and plausible explanation is forthcoming for delay in filing constitutional petition, the same cannot be overlooked or ignored subject to facts and circumstances of each case. In this respect, reliance can be placed upon the case of *Jawad Mir Muhammadi & others v. Haroon Mirza & others* [PLD2007 SC 472], *Khursheed Latif v. Federation of Pakistan* [2010 SCMR 1081] and *Ahmed and 25 others v. GHAMA and 5 others*[2005 SCMR 119],

6. Besides above, the Hon'ble Supreme Court of Pakistan in the case of *Secretary Finance v. Ghulam Safdar* [2005 SCMR 534], inter alia, held that mere selection in written examination and interview test would not, by itself, vest the candidate with a Fundamental Right for enforcement as such in the exercise of Constitutional jurisdiction of the High Court. Authorities admittedly had not issued any offer of appointment to the petitioner. In the present case also it is hard to accept whether the candidate has a vested legal right for enforcement under Article 199 of the Constitution on the date when they file this petition.

7. For the reasons stated above, this writ petition being devoid of substance is therefore dismissed with no order as to costs.

**JUDGE**

**JUDGE**