

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constitution Petition No. D-74 of 2024

(Tarique Mubeen Vs. Province of Sindh & others)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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Before;

*Adnan-ul-Karim Memon, J;
Muhammad Abdur Rahman, J;*

Date of hearing 07-05-2024

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Petitioner Tarique Mubeen in person.

Mr. Ali Raza Baloch, Assistant Advocate General, Sindh.

ORDER.

Adnan-ul-Karim Memon J:- Basically, this petition has arisen out of the advertisement No.09/2023 dated 07.11.2023, issued by the Sindh Public Service Commission (SPSC), Hyderabad and petitioner was a potential candidate, for appointment to the posts in BPS-17.

2. Petitioner is appearing in person vehemently contended that the he was/ is a proposed candidate for recruitment against vacant posts in BPS-17 in various Departments of the Government of Sindh. He further argued that the advertisement provides eligibility criteria, but no upper age relaxation was/is provided to enable him to avail the chance to take part in the competitive selection process. The petitioner further contended that the proviso to sub rule (2) of Rule 12 of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 provides 15 years relaxation in the upper age limit in respect of all vacancies falling vacant in the respective departments of Government of Sindh ; whereas, advertisement under reference issued by the Sindh Public Service Commission/the respondent No. 04 does not provide the said relaxation to the candidates who suffered during the Covid pandemic and the

petitioner, has crossed maximum age limit of 30 years prescribed in the advertisement, is not eligible to participate in the Combined Competitive Examination, 2023, whereas the same relaxation has been given to Government Servants, who rendered four years continuous service up to 1st September 2023, even the same relaxation has been given to schedule cast. The petitioner referred to his statement dated 24-01-2024 and submitted that the commission of other provinces have given the relaxation of upper age limit up to 35 to 37 years; whereas the petitioner has been left in the lurch. He further submitted that more than three years have been passed, but nothing has been done. He prayed for direction to the Sindh Public Service Commission that his age upto three years may be relaxed so that he may participate in the competitive examination as he was not at fault and it was the commission who failed and neglected to hold combined competitive examination for three years.

3. The learned AAG submitted that upper age limit cannot be relaxed in terms of Notification dated 23-01-2023 issued by Government of Sindh Services, General Administration and Co-ordination Department notwithstanding the contents of table given under Rule 12 (2) of the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974, as the relaxation up to maximum of 15 years in the upper age limit to the applicants applying for vacancies in the all the Department of Government of Sindh except Police Service and the posts to be filled through combined competitive examination by SPSC and during the period from 1st July 2022 to 30 June 2024.

4. We have heard the petitioner who is present in person and learned AAG and perused the material available on record.

5. The pivotal questions which need to be addressed in order to reach a just decision is as follows:-

Whether Rule 12 of Sindh Civil Servants (Appointment, Promotion and Transfer) Rules 1974 was amended vide Notification dated

23.1.2023 issued by the Chief Secretary Sindh, whereby relaxation up to maximum of fifteen (15) Years in the upper age limit to all the applicants applying for the vacancies in all the Departments of Government of Sindh were done away against the posts to be filled through Combined Competitive Examination by the Sindh Public Service Commission during the period from 1st July 2022 to 30th June 2024?

6. The petitioners' anxiety is that respondents are required to reconsider his age limit for contesting the combined competitive examination 2023. It is the case of the petitioner that respondents have caused inordinate delay in conducting the CCE 2023 for that petitioner cannot be held responsible as the respondents were/are required to hold the CCE examination on annual basis in terms of decision of the Supreme Court in *Suo-moto case No. 18 of 2016*.

7. The contention of the petitioner cannot be appreciated on the premise that it is for the Government of Sindh to relax the age of the petitioner as they have categorically denied such relaxation to the candidates appearing through combined competitive examination; therefore, we cannot substitute our view as the law on the subject is very clear, as this relaxation can be made applicable in the upper age limit to the applicants applying for the vacancies in all the department in Government of Sindh except Police, Service and the posts to be filled through combined competitive examination by the Sindh Public Service Commission.

8. It is well settled now that many deserving persons having promise and potential to serve the country in a befitting manner may have been deprived to take part in a competitive examination held for their selection by holding examination with an inordinate or excessive delay but this cannot be made a basis for relaxing the age unless of course something patent and palpable is brought on the record to show that the belated advertisement of the vacancies or holding of competitive examination was with design of ill-will. Even otherwise, this Court while exercising the powers of judicial review cannot substitute its own view for that the policy makers unless of

course it is shown arbitrary or unreasonable policy decision in terms of Notification dated 23-01-2023.

9. Since we do not see any design or ill-will behind belated holding of examination, we do not feel persuaded to interfere with the action of the respondent-Sindh Public Service Commission as the issue of age relaxation lies with the Government of Sindh for that they have already issued the Notification dated 23-01-2023, which is policy decision supported by the Rule 12 (2) of the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974.

10. For the reasons discussed above, this petition being without merit is dismissed along with pending applications.

Judge

Judge

Nasim/P.A