

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Constitution Petition No. D- 1417 of 2012

(Atiq-ur-Rehman & others Vs. Province of Sindh & others)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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Disposed of case.

For hearing of M.A No 2184 of 2017.

Mr. Sohail Ahmed Khoso, advocate for the petitioners.
 Mr. Zulfiquar Ali Naich, Assistant Advocate General, Sindh.

Date of hearing and order: 14-05-2024.

ORDER.

The petitioners are seeking declaration to the effect that act of the respondents not issuing the merit list and fill the posts of Primary School Teacher (PST) is illegal, they also seek directions to the respondents to appoint them to the posts of PST as they had already qualified the written test conducted by the Sindh University and obtained more than 60 marks as per Teachers Recruitment Policy 2008.

Learned counsel submitted that under Teachers Recruitment Policy 2008 has been declared to be based on reasonable criteria by the order of this Court, therefore the merit list prepared upon such criteria, whereby the petitioners were found to be successful candidates is valid, enforceable and is to be implemented. Per learned counsel the petitioners who have passed the written test held by University of Sindh and their names are listed on the merit list after applying the above mentioned recruitment policy shall be recruited as per merit list and they are required to be appointed. They are required to be appointed on the basis of vacancy occurring in their union council. He instead that the official respondents have not filed the comments as this petition which was dismissed on account for non-prosecutions needs to be restored as the petitioner have shown the

reasonable cause for restoration of the lis to be decided on merits. He prayed for allowing the listed application.

We have heard the learned counsel for the parties on the listed application and perused the record with their assistance.

This petition was dismissed on account of non-prosecution vide order dated 03-10-2016 and restoration application was filed on 27.2.2017, after considerable period of time.

The petitioners seeks restoration of the main petition inter-alia on the ground that their counsel did not receive the notice of fixation of the matter on 15-08-2016; that the matters should be decided on merits rather than dismissal on technical grounds. At this stage, we put query to learned counsel for the petitioners that since no appointment orders had been issued, how vested right has accrued in favour of the petitioners. He in reply submitted that the Respondents are bound to follow the acceptance of result whereby the petitioners had been declared successful candidates therefore; denial of such appointment orders is illegal, which amounts to depriving the petitioners from their vested right as guaranteed under the Constitution. We are of the considered view that even a successful candidate does not acquire indefeasible right to be appointed and that it could be legitimately denied. The notification inviting application for appointment has been held only to be an invitation to the qualified candidates to apply for recruitment. On their mere applying or selection they do not acquire any right to the post. In our view that the mere fact that petitioners were selected for appointment to vacancies, pursuant to an advertisement did not confer any right to be appointed to the posts in question to entitle the selectees to a writ of mandamus or any other writ compelling the authority to make the appointment.

Coming to the point of limitation in filing the application for restoration of this petition, suffice it to say that the object of law of limitation is to help vigilant and not the indolent. The law of limitation is required to be construed strictly and the delay of each day has to be explained, for which the petitioners have failed to satisfy as to why they took several months to file restoration application.

Perusal of record reveals that the petitioner's counsel had failed to put his appearance before this Court, despite being provided opportunity of hearing to assist this court on the issue involved in the matter. The grounds raised by the petitioners' counsel are not tenable.

In view of the above, this Court is left with no option, but to dismiss the listed application being time barred.

Judge

Judge

Nasim/P.A