

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Constitutional Petition No.D- 599 of 2018.

Present:

Mr. Justice Muhammad Saleem Jessar.
Mr. Justice Zulfiqar Ali Sangi.

Petitioner Farzand Ali Sawand through Mr.Rafique Ahmed K. Abro, Advocate.

Respondents Project Director and others through Mr.Liaquat Ali Shar, A.A.G a/w Rakesh Chandar Lal, M.O/Focal Person on behalf of respondent No.1 and 2.

Date of hearing: 12.12.2024

Date of order : 12.12.2024.

ORDER.

ZULFIQAR ALI SANGI-J.:- Through this petition, the petitioner prays as

under:

“ (a) That this Honourable Court may be pleased to direct respondents to issue offer/appointment order to the petitioner for the post of District Superintendent Vaccination BPS-16, he qualified for the same according to merit list wherein his name is at serial No.14 and vacant posts are 14.

(b) To award costs of this petition to the petitioner.

(c) Any other relief available under the circumstances may also be granted to the petitioner.”

2. It is claimed by the petitioner that through advertisement dated 28.9.2017 the respondent No.1 invited applications from desiring candidates for appointment against different posts, on which the petitioner having requisite qualification applied for three posts viz. District Superintendent Vaccination, Town/Taluka Superintendent Vaccination and District Surveillance Officer and participated in the written test conducted by respondents through National Testing Service (N.T.S) in which he obtained 48 marks for the post of District Superintendent Vaccination BPS-16 and his

name was placed at Sr.No.14 of merit list and he obtained 57 marks for the post of Town/Taluka Superintended Vaccination and his name was placed at Sr.No.2 of the merit list and as far as post of District Surveillance Officer, he obtained 33 marks and his name was placed at Sr.NO.39. Subsequently, petitioner was called for the interview on different dates in respect of above posts and he appeared for the interview before Recruitment Committee and then he kept waiting for his appointment orders for the said posts but respondents did not issue appointment order to the petitioner for the post of District Superintendent Vaccination (BPS-16) despite his name was placed at Sr.No.14 of merit list and number of vacant posts was also 14 and they only issued appointment order to the petitioner for the post of Town/Taluka Superintendent Vaccination (BPS-11), therefore, he has maintained the instant petition.

3. In response to the notices issued by this Court, respondents No.1 and 2 have filed comments in which it is maintained that in terms of requisite criteria appointment was to be based on marks obtained in the written test plus marks obtained in interview coupled with requisite experience and though the petitioner obtained 57 marks in written test for the post of District Superintendent Vaccination (BPS-16) but he was not having requisite experience and also failed to satisfy recruitment and selection committee during his interview; however, he was found fit for appointment against post of Town/Taluka Superintendent Vaccination (BPS-11) and such offer order/appointment order was issued to him accordingly.

4. From above position, it appears that though petitioner secured 57 marks in written test for the post of District Superintendent Vaccination (BPS-16) and his name was placed at Sr.No. 14 of merit list but he was not only lacking the requisite experience but also failed to qualify interview/viva voce therefore, he was declared fail. The claim of petitioner to have qualified interview, and the respondents denied such a claim, the dispute

would have necessitated the recording of evidence, which could not be undertaken under writ jurisdiction of this Court.

5. In the similar circumstances, the Hon'ble Supreme Court in the case of **Waheed Gul Khan and another v. Province of Sindh and orders (2024 SCMR 1701)** held as under:

“9. An interview is inherently a subjective evaluation, and a Court of law does not have jurisdiction to substitute its opinion with that of the Interview Board to provide relief to anyone. The role of the Interview Board is to evaluate candidates based on a variety of subjective criteria, which may include interpersonal skills, presentation, and other intangible qualities that are difficult to measure objectively. These assessments are inherently qualitative and depend on the opinion of interviewers, who are appointed for their expertise and ability to make such evaluations. However, this does not mean that the decisions of the Interview Board are beyond scrutiny. If there were any indications of *mala fides*, bias, or significant errors in opinion that are apparent from the records, the Court would certainly be compelled to intervene.

10. This court in the case of *Muhammad Ashraf Sangri v. Federation of Pakistan (2014 SCMR 157)*, has ruled that;-

“Essentially an interview is subjective test and it is not possible for a Court of law to substitute its own opinion for that of the Interview Board in order to give the petitioner relief. What transpired at the interview and what persuaded one member of the Board to award him only 50 marks is something which a Court of law is certainly not equipped to probe and to that extent we cannot substitute our own opinion with that of the interview Board. Obviously if any mala fides or bias or for that matter error of judgment were floating on the surface of the record we would have certainly intervened as Courts of law are more familiar with such improprieties rather than dilating into question of fitness of any candidate for a particular post which as observed above is subjective matter and can best be assessed by the functionaries who are entrusted with this responsibility.....”

11. It is an admitted position that petitioners passed the written examination but did not succeed in the interview, which was a mandatory requirement for the test. Written test measures a candidate's knowledge and expression skills but does not evaluate important personality traits like communication skills, leadership qualities, and decision-making abilities. These traits are assessed during the interview. The interview process allows evaluators to see how candidates interact and respond in real-time, offering a complete picture of their suitability for the job. In the instant case, however, the petitioners failed to pass the interview examination as they did not meet the necessary standards in the interview. Thus, learned High Court was correct in its view that constitutional jurisdiction cannot be invoked for challenging the interview process.”

6. The petitioner was declared failed in the interview by the respondents, so also does not possess requisite qualification, therefore, was not entitled for the post claimed through instant petition; however, had the petitioner qualified the same even then such qualification in the interview does not create any vested right for appointment to a specific post as was held by the Supreme Court in the case of **Secretary Finance and others v. Ghulam Safdar (2005 SCMR 534)** wherein the Supreme Court has held as under:

“10. Be that as it may, it is difficult to sustain the prayer of the respondents since mere selection in written examination and interview test would not, by itself, vest candidates with a Fundamental Right for enforcement as such in the exercise of Constitutional jurisdiction of the High Court. Admittedly, the appellants had not issued any offer of appointment to the respondents and their appointment was subject to clearance by the Establishment Division under the Centralised System of Recruitment till it was discontinued in November, 1996, which again coincided with the imposition of ban on fresh recruitments, which could not be safely ignored by the appellants...”

7. In view of above circumstances, coupled with the dicta laid down in the cases referred to hereinabove, we are persuaded to the stand taken by the respondents that the petitioner could not qualify the interview and he was lacking the requisite qualification for the post of District Superintendent Vaccination (BPS-16), therefore, he was rightly declared as failed in the final merit list. Resultantly, instant petition being misconceived is hereby dismissed with no order as to cost.

JUDGE

JUDGE

Shabir/P.S