

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

Constitutional Petition No.D- 622 of 2023.

Present:

Mr. Justice Muhammad Saleem Jessar.

Mr. Justice Zulfiqar Ali Sangi.

Petitioner                      Zahid Ali through Mr.Ali Raza Pathan, Advocate.

Respondents                  P.O Sindh and others through Mr.Liaquat Ali Shar, A.A.G.

Date of hearing:              13.12.2024

Date of order :                13.12.2024.

**ORDER.**

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

*“ (a) That this Hon’ble Court may be pleased to declare that act of respondents for appointing politically supported persons by adopting pick and choose policy by ignoring the petitioner (who has otherwise qualified for such post), is beyond the merits and is illegal, mala fide and without lawful authority and discriminatory thus is void.*

*(b) That this Hon’ble Court may further be pleased to direct respondents to consider the case of petitioner for his appointment as “Constable” in view of the fact that he has already passed written test and interview /viva-voce*

*(c) Grant any other equitable relief.”*

2. Case of the petitioner is that pursuant to advertisement the respondents invited applications from desiring candidates for appointment against posts of Police Constable and Lady Police Constable (BPS-5) in Special Police Force on which he applied for the post of Police Constable (BPS-5) and participated in the written test conducted by respondents through Pakistan Testing Service (P.T.S) Islamabad on 23.4.2023 and while securing

86 marks, besides he also undergone physical fitness test and was declared successful candidate by placing his name at Sr.No.3 of merit list. Subsequently, petitioner was called for interview/viva voce by Recruitment Committee in which he participated and answered correctly to the questions put to him by the interviewer and then he kept waiting for issuance of appointment order for the said post but respondents did not issued the same, therefore, he has maintained the instant petition.

3. In response to the notices issued by this Court, respondents No.2 to 4 have filed comments in which it is maintained that admittedly petitioner was declared as successful candidate in the written test as well as physical fitness test having secured 86 marks, hence he was called for interview by Recruitment Committee in which he participated but failed to qualify the same by securing only 16 marks, therefore, he was declared as failed in the interview as, per Police Recruitment Policy, minimum 50% marks (i.e. 25 Marks out of 50 marks) are required for passing the interview.

4. From above position, it appears that though petitioner, having secured 86 marks, passed the written test as well as physical fitness test but only obtained 16 marks in the interview/viva voce, thus he failed to meet the criteria set under Police Recruitment Policy whereby he was required to secure minimum 50% marks (i.e. 25 out of 50 marks) for passing interview, therefore, he was declared as failed by Recruitment Committee. The claim of petitioner to have qualified interview, and the respondents denied such a claim, creates a dispute which necessitates the recording of evidence, which can 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. In the case in hand, the petitioner was declared failed in the interview by the respondents, however, if the petitioner had 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 by Hon'ble Apex Court in the cases referred to hereinabove, we are persuaded with the stand taken by the respondents that the petitioner could not qualify in the interview, therefore, he was rightly declared as failed in the final merit issued by the Recruitment Committee. Resultantly, instant petition being misconceived is hereby dismissed with no order as to cost.

**JUDGE**

**JUDGE**

*Shabir/P.S*