

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C.P Nos.D-176, 142 & 455 of 2023, C.P No.D-1699 of 2018, C.P No.D-910 of 2020, C.P No.D-1123 of 2021, C.P No.D-1543 of 2021, C.P No. D-219 of 2022, C.P No.D-1273 , 211, 264 , 544 of 2023, C.P Nos.D-1256, 1399 , 1461 , 1471 , 1474 , 1479, 1480, 1485, 1487, 1488, 1489 of 2024, C.P No.D-2889 of 2014, C.P Nos.D-284, 1422 , 1437, 1492, 1493, 1499, 1502 , 1504 ,1505, 1510 ,1515, 1519, 1521, 1529, 1532, 1535, 1536, 1538, 1539, 1547, 1554, 1555, 1561, 1562, 1571, 1572, 1573, 1611, 1617, 1621, 1622, 1623, 1624, 1625, 1626, 1627, 1628, 1633, 1641, 1643, 1644, 1646, 1649, 1664, 1665, 1689, 1696, 1707, 1708, 1713, 1717, 1719, 1720, 1724, 1725, 1729, 1731, 1749, 1750, 1751, 1772, 1773, 1774, 1777, 1786, 1789, 1791, 1792, 1793, 1796, 1800, 1803, 1804, 1809, 1810, 1811, 1819, 1835, 1836, 1837, 1845, 1846, 1875, 1904, 1905, 1908, 1909, 1910, 1911, 1913, 1914, 1929, 1934, 1936, 1940, 1944, 1947, 1973, 1997, 2004, 1629, 1838, 1545, 1645, 1697, 1821, 1878, 1889, 1966, 1967, 1968, 1969, 1978, 1982, 1991 & 2000 of 2024

Date Order with signature of Judge

For hearing of CMA No.2789/2024.

19.11.2024

Mr. Mansoor Ali Panhwar, advocate for the Petitioners in C.P Nos. D-176, 142 & 455 of 2023

M/s. Shabbir Ali Bozdar, Mansoor Hussain Maitlo, Nusrat Hussain Memon, Nisar Ahmed Bozdar, Hafiz Abdul Ghaffar, Ghulam Ali Bozdar, Abdul Hafeez, Junaid Akram, Muhammad Hamzo Buriro, Alam Sher Bozdar, Muhammad Qayyum Arain, Mujahid Shah, Amjad Leghari, Riaz Ali Shaikh, Muhammad Raza Soomro, Abdul Naeem Pirzada, Abdul Hafeez Bhandhani, Imtiaz Ali Abbasi, Abdul Salam, Abdul Raheem Mahar, Shafique Ahmed Leghari, Muhammad Yaseen Khaskheli, Raja Iftikhar Hussain, Asif Ali Abbasi, Muhammad Nasir Maim, J. K Jarwar, Athar Hussain Abro and Zubair Ahmed Kalhoro, advocates for the Petitioners in connected petitions

Mr. Liaquat Ali Shar, Additional Advocate General

M/s. Ali Raza Balouch, AAG along with Mb Raja Dharejo, DC Sukkur, Zahid Ali Bhatti, ADC-II, West, Karachi, Dr. Naveed Ahmed Focal Person, DHO Ghotki, Riaz Ahmed Shaikh, ADC-I Tharparkar, Niaz Hussain Magnejo, Focal Person, DC Office Khairpur, Saifullah AD, ACE Sukkur, Khalil Ahmed on behalf of ACE Sukkur, Sohail Ahmed Shaikh, DC (East), Zahid Hussain Mughul, Executive Engineer, Barrage Division, Sukkur, Ahsan Ali Pathan, XEN, Workshop Division SCARP Khairpur, Munir Soomro, XEN Drainage Division Shikarpur, Muhammad Mustaqeem Qureshi, ADC-II N. Feroze, Aija Ali Halepoto, AC on behalf of DC Thatta, Dr. Abdul Fatah Rajpar, DHO N. Feroze, Fida Hussain, Divisional Director, Muhammad Bachal, Executive Engineer, East Division, Khairpur, Muhammad Iqbal, Assistant Engineer Tubewell Division Khairpur, Muhammad Yousif, DC Matiari, Muhammad Iqbal, Assistant Engineer, Tubewell Division, Khairpur, Zuhaib Zubair Odhano, ADC-I, Kamber @ Shahdaskot, Moula Dad Durrani, ADC-II, Sanghar, Amar Shikar Jajja, AC on behalf of DC Ghotki, Mohsin Dasti, AC K. N. Shah on behalf of DC Dadu, Zahid Wassan, AEN PHED N. Feroze, Kashif Hussain Memon, AEO (P) Ghokti, Aijaz Hussain Rajput, Assistant Director, STEVTA, Dano Mal, XEN Division Sukkur and Zohair Pitafi XEN Mirpur Division

Zulfiqar Ahmad Khan, J: Through the captioned petitions, the petitioners, who are persons with disabilities, have sought appointments under the 5% quota reserved for individuals with disabilities.

2. Through various orders passed by this Court on different dates of hearing i.e. 29.08.2024, 18.09.2024, 03.10.2024, 10.10.2024 and 17.10.2024, directions were given to the Respondents to consider the cases of the petitioners before this Court as well as those before the Hon'ble Supreme Court in CPLA No.745-K to 750-K of 2022 and Civil Petitions No.966-K to 971-K of 2022 for their appointment on differently abled persons' quota reserved by the Government of Sindh in its all the departments.

3. Pursuant to order dated 10.10.2024, concerned Deputy Commissioners filed their respective compliance reports on 17.10.2024, which were taken on record, detailing the steps taken by concerned Deputy Commissioners for appointments of petitioners before this Court as well as before the Hon'ble Supreme Court and the matter was adjourned for today i.e. 19.11.2024. Today, also additional set of comprehensive reports has also been submitted by the concerned Deputy Commissioners.

4. First, we review the compliance report submitted by the Deputy Commissioner, Hyderabad. Upon examination, it appears that no further appointments have been made. As previously stated, 97 posts reserved for differently-abled persons remain vacant. In compliance with the earlier order, 38 differently-abled individuals/petitioners were recommended for appointment. It was also undertaken that the remaining vacancies would be filled within 15 days through advertisements for walk-in interviews, with a commitment to prioritize the appointment of all remaining petitioners before this Court and the Hon'ble Supreme Court. Since compliance of aforesaid orders has not been made, therefore Deputy Commissioner, Hyderabad is once again directed to conduct fresh DRC within a week and appointments be made as undertaken without fail. With regard to District Mirpurkhas, no any fresh report regarding appointments of petitioners / differently abled persons as it was stated in earlier report

that 39 lying vacant posts are available for differently abled persons and out of which 20 were recommended, however for remaining vacancies, petitioners before this Court as well as Hon'ble Supreme Court would be considered on priority basis. Let fresh compliance report be submitted forthwith.

5. Regarding District Sanghar, a report has been filed on the last date of hearing and it was informed that 20 vacant posts have been filled, however, it was undertaken that remaining 25 petitioners before Hon'ble Supreme Court would be considered within two weeks however, no further appointments have been made. Let a compliance report be filed in this regard forthwith, without fail.

6. A report has been submitted on behalf of Deputy Commissioner, Tando Muhammad Khan, which suggests that 63 candidates were recommended for appointment in terms of order dated 17.10.2024, however, total lying vacant posts are not mentioned. Deputy Commissioner Tando Muhammad Khan is directed to conduct walk-in-interview and remaining petitioners, if any, be considered on priority basis and submit compliance report accordingly.

7. From perusal of report submitted by Deputy Commissioner, Thatta, it appears that there are 12 number of seats for differently abled persons are lying vacant, however, they could not conduct DRC. Let DRC be conducted forthwith for appointment of petitioners before this Court as well as before Hon'ble Supreme Court and submit such compliance report accordingly without fail. In case of failure, delinquent officials would expose themselves for contempt proceedings. A compliance report has also been submitted on behalf of Deputy Commissioner, Kamber-Shahdadkot, which reflects that four petitioners before this Court as well as Hon'ble Supreme Court have been recommended. A perusal of report submitted on 17.10.2024, it has been revealed that there are 31 posts lying vacant for differently abled persons, hence advertisement for walk-in-

interview would be published in renowned newspapers and remaining posts would be filled in accordance with law within a week where priority should be given to those petitioners before this Court as well as Hon'ble Supreme Court and submit such compliance report before this Court without fail.

8. Deputy Commissioner, Sukkur is present and reiterates his earlier stance that there were 80 vacant posts, which have been filled, and for remaining petitioners, he undertakes that same would be considered in upcoming DRC, which will be published soon and such report in this regard would be submitted. Learned Counsel for the petitioners in C. P. No. D-1786/2024 through his statement has placed on record an application dated 07.11.2024 submitted by the petitioners of Sukkur District, which has not yet been responded. Deputy Commissioner, Sukkur is directed to call all the remaining petitioners and redress their grievance by appointing them against the differently abled persons' quota. Let such compliance report be submitted without fail.

9. Regarding District Ghotki, no fresh report has been submitted as in earlier compliance report it has been mentioned that all 34 petitioners before this Court have been appointed. Official present however assures that the remaining petitioners before this Court as well as Hon'ble Supreme Court would be considered on priority basis and in this regard a fresh DRC would be convened forthwith. Let needful be done accordingly.

10. Learned AAG has filed report on behalf of DC Tando Allahyar, which suggests that there are 21 posts lying vacant and it is assured that said posts would be filled forthwith and priority would be given to those candidates, who are petitioners before the Hon'ble Supreme Court as well as this Court. Similar report as filed earlier has been submitted on behalf of Deputy Commissioner, Mithi @ Tharparkar, which reflects that there are 26 lying vacant posts, out of which 24

petitioners before the Hon'ble Supreme Court have been appointed. With regard to remaining petitioners, official present undertakes that they would be considered on priority basis in upcoming DRC. Learned AAG seeks time to file compliance report on behalf of Deputy Commissioner Jacobabad and submits that there were 08 remaining lying vacant posts, which would be filled forthwith by considering the petitioners before the Hon'ble Supreme Court and this Court on priority basis in upcoming DRC, which would be convened soon.

11. A report has been submitted on behalf of Deputy Commissioner Karachi (East), which suggests that all seven petitioners have been recommended. Since there were 21 posts lying vacant there, therefore, for considering remaining petitioners, a fresh DRC be called for appointments of Differently abled persons / petitioners on priority basis. Let a fresh compliance report be submitted in this regard without fail. No report has been submitted on behalf of Deputy Commissioner, Karachi (Central) as on the last date, it was appraised that there are 21 lying vacant posts, out of which 18 petitioners have been appointed, however for remaining, it was undertaken that same would be appointed forthwith. Let the needful be done as per SOPs/DRCs and submit compliance report in this regard without fail.

12. With regard to District Karachi (South), a compliance report has been filed, which suggests that appointment letters to all eight (08) petitioners have been issued. On the last date, it has been revealed through compliance report that there are 310 posts lying vacant for differently abled persons in District Karachi (South). Let a fresh DRC be convened forthwith and remaining petitioners, if any, would be considered and submit such report without fail.

13. A request for granting two weeks' time has been made on behalf of Deputy Commissioner Jamshoro through a compliance report, which suggests that a DRC has been conveyed on 12.11.2024 wherein interviews of petitioners before this Court as well as Hon'ble

Supreme Court were conducted. Let all the vacant posts be filled forthwith as undertaken on the last date of hearing. Similar report has been filed as of last date on behalf of Deputy Commissioner, Matiari. No fresh appointment as undertaken has been made nor efforts have been taken in this regard. Once again, it is directed that a fresh DRC be convened in compliance of order dated 10.10.2024 and submit compliance report before this Court in this regard without fail.

14. Learned AAG has also filed a compliance report on behalf of Deputy Commissioner, Shaheed Benazirabad, which suggests that 21 petitioners before this Court as well as those before the Supreme Court have been recommended, however, for remaining petitioners, it has been undertaken that same would be considered on priority basis through conducting a fresh DRC in this record. Let a fresh DRC be conducted forthwith and submit such compliance report before this Court without fail. With regard to District Korangi, a report has been submitted, which suggests that there are 26 vacant posts, out of which four petitioners have been recommended, however, for remaining vacant posts, same would be filled forthwith by giving priority to petitioners before this Court as well as Hon'ble Supreme Court, if remained to be appointed. Let needful be done and compliance report in this regard be also submitted without fail.

15. A compliance report has been submitted on behalf of Karachi (West), which suggests that out of 54 lying vacant posts, all the petitioners including nine other individuals / differently abled persons have been recommended for appointment. Efforts taken by DC Karachi (West) are appreciated. However, for remaining posts, a fresh DRC would be convened forthwith and priority be given to those individuals, if any, before this Court. Let such exercise be completed forthwith and submit compliance report accordingly.

16. With regard to report submitted on behalf of Deputy Commissioner, Dadu, learned AAG submits that out of 23 posts for

differently abled persons, all the four petitioners before this Court have been appointed. With regard to remaining vacant posts, it has been stated that a DRC has been convened on 27.11.2024 where all the petitioners before this Court as well as Hon'ble Supreme Court would be appointed on priority basis and a compliance report in this regard be submitted accordingly.

17. Learned AAG has filed a statement on behalf of Deputy Commissioner Larkana, which suggests that no compliance as undertaken has been made as it was stated earlier that there are 70 vacant posts are available for differently abled persons but none of the petitioners have been appointed. Learned Counsel for the petitioners in C. P. No. D-1786/2024 has filed a statement along with a photostat copy of an application submitted by the petitioners of Larkana District duly received in the office of Deputy Commissioner, Larkana on 07.11.2024, but no response is received by the petitioners yet. A perusal of the application shows that it was submitted by almost 23 petitioners only. When the Deputy Commissioner has already admitted that 70 vacant posts are currently available with him, and the petitioners as per directions through order dated 10.10.2024 contacted with him, why he did not bother to respond the petitioners by issuing them appointment orders. This Court has time and again directed, particularly, in the order dated 10.10.2024 that Deputy Commissioner concerned to appoint all the remaining petitioners. Let Deputy Commissioner call all the petitioners of Larkana appearing before this Court as well as Hon'ble Supreme Court and issue appointment orders against the 70 admitted vacant posts. A fresh compliance report be submitted by Deputy Commissioner, Larkana. In case of failure, appropriate order would be passed against the delinquent officials.

18. No any fresh compliance report has also been submitted on behalf of Deputy Commissioner, Shikarpur, however learned AAG

submits that a fresh DRC have been convened on 25.11.2024 where all the petitioners before this Court as well as before Hon'ble Supreme Court would be appointed on priority basis. Let such exercise be completed within two weeks and compliance report in this regard be submitted accordingly. A report on behalf of Deputy Commissioner, Khairpur has been submitted, which suggests that 21 petitioners have been recommended for appointment. For remaining petitioners, it has been assured that they would be considered in upcoming DRC, which would be convened soon. Let a fresh DRC be conducted where remaining petitioners be considered on priority basis and a compliance report in this regard be submitted accordingly.

19. Similar reports, as submitted earlier by Deputy Commissioner, Naushahro Feroze, has been filed however, no further efforts have been taken to accommodate the remaining petitioners. The Court has been informed on the last date that there are more than 200 petitioners before this Court as well as Hon'ble Supreme Court are remaining to be appointed. Learned AAG, who sought time to communicate with Secretary, SGA&CD for appointment of the petitioners on priority basis, is once again directed to make all efforts in this regard and ensure that all the remaining petitioners are appointed forthwith. Let a compliance report in this regard be furnished without fail.

20. Also, none of the petitioners have been appointed in District Badin and a similar report has been submitted. Let needful be done so that remaining petitioners would be accommodated and submit a compliance report reflecting efforts taken in this regard. No fresh reports on behalf of Deputy Commissioners, Malir and Kashmore @ Kandhkot have also been filed. Let a fresh compliance report as undertaken on the last date be submitted accordingly.

21. With regard to District Umerkot, a report has been filed reflecting that a DRC has been convened on 17.10.2024 where

petitioners / differently abled persons called for interview, however, further 15 days' time has been sought for submission of compliance report. Let a report be submitted in this regard without fail and all the vacant posts would be filled, however, preference would be given to those petitioners before this Court and those before the Hon'ble Supreme Court.

22. Mr. Mansoor Ali Panhwar, advocate representing the petitioners in C.P No.D-176, 142 and 455 of 2023 has filed objections stating therein that the petitioners, who were recommended, are still not joined their duties as the concerned Departments have not issued them their appointment orders. He further contends that, as per the order dated 17.10.2024, the representatives of the Deputy Commissioners undertook to conduct fresh District Recruitment Committees (DRCs) to recommend the remaining petitioners before this Court and the Hon'ble Supreme Court. However, the concerned Deputy Commissioners have yet to submit compliance reports with regard to their undertakings. He further adds that there are 52 departments where Deputy Commissioner is the Chairman, however, vacant posts as mentioned by Deputy Commissioners in their reports submitted in compliance of earlier order dated 17.10.2024 have been drawn from available vacant posts from 10 to 15 departments. He, therefore, requests that the Deputy Commissioners be directed to obtain details of vacant posts from the remaining departments so that grievance of remaining petitioners may be redressed accordingly. In addition, learned Counsel submits that C. P. No. D-819/2024 has already been disposed of by this Court and a contempt application is pending therein, hence, similar directions as given may be applied mutatis mutandis to this petition. Ordered accordingly.

23. In light of these circumstances, it is imperative that the joining reports of the appointed differently-abled persons be submitted without delay. Furthermore, all Deputy Commissioners are directed to

promptly obtain details of vacant posts from the remaining departments to ensure that the complete and accurate number of vacancies is identified and submit such vacancies before this Court so that remaining petitioners be appointed forthwith. The Additional Registrar of this Court is directed to collect the latest vacancy position of differently abled persons quota falling in all departments where the Deputy Commissioners are the Chairmen of the Recruitment / Selection Committees.

24. At this juncture, Counsel representing the petitioners in C.P. No. D-1535 & 1536 of 2024 submits that the appointments reported by the Deputy Commissioners appear to have been made on a political basis. He expresses concern that the individuals appointed may not actually be the persons with disabilities. Therefore, he requests that their disability certificates be called for verification to ascertain the authenticity of these appointments. Let details of individuals, to whom appointment orders have been issued on disable quota, be submitted along with their disability certificates issued under PEDP Department. Let all these reports as mentioned above should be submitted before Additional Registrar of this Court fortnightly for perusal in chamber.

25. Employment of persons with disabilities (PWDs) is not an act of charity but a fundamental right. Our constitutional values of equality and social justice, as well as the fundamental rights to life, to work, and to freedom from discrimination, extend to PWDs without any distinction between them and others. Therefore, any law or policy related to PWDs is grounded in their rights and should not be viewed through the lens of charity, pity, or mercy. The universality, indivisibility, interdependence, and interrelatedness of constitutional values and fundamental rights fully encompass persons with disabilities, guaranteeing them comprehensive protection and equality without discrimination.

26. Under these circumstances, we hereby **dispose of** the captioned petitions and all pending applications with the directions that all Deputy Commissioners should conduct regular District Recruitment Committees (DRCs) and ensure immediate appointment of all remaining petitioners. Furthermore, compliance reports of the separate directions given to each and every Deputy Commissioner in the above paragraphs be submitted fortnightly to the Additional Registrar of this Court, who will place the same before the Bench for review in chambers. All the learned Counsel representing the petitioners are directed to submit list of petitioners / differently abled persons, who are still not recommended, before the office of Additional Registrar of this Court so that compliance be made in letter and spirit. Office to send copies of memos of captioned petitions to concerned Deputy Commissioners concerned, who have not yet been supplied the same. **The Deputy Commissioners are hereby cautioned that any appointment made without the inclusion of the Petitioners, who are differently-abled persons, shall not be accepted, and will be subject to legal scrutiny and action.** Additional Registrar of this Court to ensure compliance of directions contained in this order in letter and spirit till remaining petitioners are accommodated.

26. Let a copy of this order be also communicated to learned AAG, Secretary S&GAD as well as Deputy Commissioners for information and compliance. Office to place a signed copy of this order in captioned connected matters.

JUDGE

Faisal Mumtaz/PS

JUDGE