

Order Sheet
IN THE HIGH COURT OF SINDH,
BENCH AT SUKKUR

Const. Petition No.D-1168 of 2011

Date of hearing	Order with signature of Judge.
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For Directions

For hearing of CMA 4027/2013(C/A)

20-11-2024

Mr. Sohail Ahmed Khoso, Advocate for applicants/petitioners.
Mr. Zulfiqar Ali Naich, Assistant A.G Sindh a/w Kashif Hussain Memon,
AEO (P), Ghotki and Dilyawar Soomro, Litigation Officer, DEO (P),
Ghotki.

The case of the applicants/petitioners is that pursuant to an advertisement, published in the year 2008, they applied for the post of PST in respondents-department, where basic qualification for the candidate was Intermediate at least in 2nd Division. It is case of the applicants that since they had also held higher degrees of B.A and B.Ed, hence requirements that candidates should at least be holding Intermediate in 2nd Division could have been realized and on the basis of higher education, applicants were to be offered jobs. The grievance of the applicants is further added on the point that petitioners were issued Offer Letters available at page-15 onward and they went to the process of appointment and eventually posted at several different places, however, when their record was verified, they were found to have passed Intermediate in 3rd Division, hence they were issued show-cause notices dated 14.03.2011, available at page-153 onwards, where after 2nd show-notices dated 03.09.2012 were also issued to the applicants and then final show-cause notices dated 15.09.2012 and then orders dated 25.09.2012 were issued, where petitioners having failed to submit their replies to show-cause notices were considered to have committed the act of misconduct and they were terminated, which resulted in filing of this petition with the prayer that

respondents should permit petitioners to perform their duties against the posts.

After admission of the case, comments were filed by respondents and then this petition was disposed of by order dated 15.08.2012 giving directions to the respondents to provide proper opportunity of hearing to the petitioners after issuing them further show-cause notices. Thereafter, final show-notices dated 15.09.2012 were again issued to the petitioners, as evident from the statement filed by respondent on 15.01.2016, which notices also remained unanswered. Thereafter, termination orders dated 25.09.2012 were issued to the petitioners. The matter is now being heard in contempt proceedings.

Contention of counsel for the applicants is that the applicants since had higher qualifications, therefore, basic ingredients of petitioners possessing Intermediate in 3rd Division could not have come in their way and he has placed reliance on the case reported as *Government of Khyber Pakhtunkhwa v. Bacha Alam Khan & another (2022 SCMR 718)*, where an individual who had 3rd Division was held to be competent for holding the post for which at least 2nd Division in Secondary School Certificate was required. Counsel states that similar treatment should be provided to the applicants.

We have heard counsel for applicants, learned AAG and perused the record as well as statements filed by various respondents. The emphasis placed by counsel for the applicants is on the case of Government of Khyber Pakhtunkhwa (**supra**), which in our opinion is not relevant, where the case of the petitioner was rejected by the Khyber Pakhtunkhwa Public Service Commission and dilating upon the requirements of Khyber Pakhtunkhwa Public Service Commission Regulations, 2017, the apex Court was pleased to hold that as per Regulation 19(f)(ii), it was within the domain of Khyber Pakhtunwa Public Service Commission to forward the recommendations of the candidate who possessed qualification higher than the prescribed qualification. While in the case in hand, the petitioners were neither

appointed by the Sindh Public Service Commission, nor any parallel provisions are available in Sindh Public Commission. In the given circumstances, we do not see any merit in the listed contempt application, which is **dismissed** accordingly.

JUDGE

JUDGE

Ahmad