

ORDER SHEET
IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANA
C.P No.D- 1362 of 2013

DATE	ORDER WITH SIGNATURE OF JUDGE
	1.For orders on office objection 'A' 2.For Katcha Peshi.

28.5.2014

Mr. Syed Fida Hussain Shah advocate for petitioner.
Mr. Abdul Hamid Bhurgri, Addl. A.G.

Through the instant constitution petition, petitioners have prayed for the following relief(s):-

- (a) That this Hon'ble Court may graciously be pleased to direct the respondent No.2 to condone deficiency in chest of ½ inch less and he has already granted condonation in age, chest as well as in height in various case.
- (b) That this Honourable Court may graciously be pleased to direct the respondent No.02 to 4 that petitioner is eligible being successful candidate for the appointment for the post of Police Constable in Tri junction Border Force, on the basis of test and interview and further be pleased to direct them to issue offer order in favour of the petitioner without any further delay.

2. Notices were issued to the respondents as well as A.A.G. Comments are filed on behalf of respondents. In the comments filed by respondent No.4 Senior Superintendent of Police, Kashmore @ Kandhkot in Para No.06, it is mentioned as under:-

"Reply of Contents of Para No:06 of the petition is that all successful candidates from S.No:1 to 101 were called through district Police Officer, Larkana, petitioner was appeared for codal formalities on 16.6.2006. DSP Head Quarter Kashmore at K.kot conducted his measurement as 5'-10' Height and 32'-34½. Hence he was declared unfit in chest. Hence he was not issued Medical letter and Character verification Form. In case unfit in codal formalities from Serial No: 1 to 101 next merit wise successful candidates were called for codal formalities etc. Finally, last candidate from merit list of serial No.127 Rasheed Ahmed S/o Mehar Ali Mangrio was appointed in said process.

3. From perusal of above, it is manifest that case of the petitioner was not considered on the plea that petitioner was having deficiency of one inch in chest measurement as prescribed for police constable. It is not disputed that petitioner's father was working in police department. At this juncture, it would be relevant to refer the standing order No.260/2011 wherein sub clause of eligibility, provides that son/daughter of serving and retired police employees, who otherwise meet the criteria of constable, junior Clerk and Naib Qasid shall be considered for employment through open merit. Clause (2) provides only one claim shall be given to a police employee. Moreover it is enshrined in the policy that Inspector General of Police may grant condonation in qualification and physical standards to son/daughter who has been recommended for appointment by the recruitment committee.

4. In view of the above it is clear that except police constable there are other posts of Junior Clerk and Naib Qasid, therefore, refusal of the respondents on the plea that petitioner has deficiency of one inch in chest measurement is not justified. Further, comments are silent that whether case of the petitioner for Junior Clerk and/or Naib Qasid, was reconsidered or not; consequently, prima facie case of the petitioner is required for reconsideration in view of the existing policy, rules as well as judgment passed by this Court in the case of Muhammad Aslam v. Government of Sindh reported in 2013 PLC (C.S) 1275 wherein, in similar circumstances, petition was allowed. It would be conclusive to refer the relevant para No.9 and 10 of the said dictum, which is reproduced as under:-

9. Having said so, now we would revert to the merits of the case in hand. The following facts are not disputed at all:--

(i) the petitioner No.1 has served more than 20 years in the police department.

(ii) the petitioner No.2 is the real son of the petitioner No.2.

Both the above undisputed facts leave nothing ambiguous that the case of the petitioners fall within the meaning and objective of the Standing Order therefore, the petitioner No.2 is legally entitled for extension of relief, so provided under the Standing Order in question.

10. Now we would further like to examine the condition of eligibility, as per the Standing Order, which is that "who otherwise meet the criteria of Constable, Junior Clerk and Naib Qasid". This puts only a condition that children of the employees shall be required to show that they fall within the "criteria" so required for such post. This no-where requires that such qualified candidate (per Standing Order) should also undergo all tests, as are to by a regular candidate. The word "criterion" is defined in the Oxford dictionary as "a principle a standard by which something may be judged or decided". This also makes it clear that it is the qualification/requirement for the job which are described at the time of inviting application(s) for such jobs. Such eligibility of the petitioner No.2 is no where disputed because he was found physically fit so was allowed to appear in written test and even he qualified such written test(s) twice which also proves that the petitioner No.2 was, at such times, falling within the "criterion" so required for the post of constable."

5. Thus, we direct the concerned respondents to reconsider and decide the case of the petitioner as fresh for police constable/Clerk or Naib Qasid within the parameters as laid down in above referred petition and Standing Order/policy, which was in existence at the time when petitioner passed written test, within a period of three months under intimation to this Court.

6. Constitution petition stands disposed of accordingly.

Judge

Judge