

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.
Constitutional Petition No.D- 651 of 2023.
(Re. Saddam Hussain & Ors v. Addl.S.S.G.A & C.D Karachi & Ors)

DATE OF HEARING ORDER WITH SIGNATURE OF HON'BLE JUDGE

Before:

Mr. Justice Muhammad Saleem Jessar.
Mr. Justice Adnan-ul-Karim Memon.

Date of hearing & Order: 20.02.2025.

Mr. Wajid Ali Gaad, advocate a/w the petitioners.

Mr. Liaquat Ali Shar, Addl. A.G. a/w Abdul Basit Morio,
Mukhtiarkar on behalf of DC Larkana.

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ADNAN-UL-KARIM MEMON-J.:- The petitioners request this court to direct the respondents to appoint the petitioners to relevant BPS-01 to BPS-04 positions within the differently abled quota. They also seek direction to the respondents to provide the merit list from the walk-in interviews. They seek further direction for the implementation of the order dated 14.07.2022 passed by the Supreme Court in CPLA No.745-K to 750-K.

2. Petitioners claim that in 2022, the Sindh government announced Revenue Department vacancies, including a quota for disabled individuals. The petitioners, who are disabled and unemployed, applied for these positions, specifically within the disabled quota. Afterward, the petitioners participated in walk-in interviews and were placed on the interview list, awaiting the final results. However, they later learned that the Revenue Department's promise of 25 disabled quota appointments was allegedly insincere. The petitioners believe that they are entitled to appointments within the differently abled quota on the premise that they applied for BPS-01 to BPS-04 positions advertised on November 28, 2022, in the Daily Kawish newspaper and attended walk-in interviews with the Deputy Commissioner from November 28th to December 2nd, 2022.

3. Learned counsel for the petitioners submitted that the Supreme Court order (dated July 14, 2022, passed in CP No. K745 to K750 of 2022) addressed the disabled quota, setting it at 497 positions for 2021-22. This order stipulated that petitioners, and others, could apply through the Deputy Commissioner's office in Larkana. As per petitioners they have repeatedly contacted the Larkana Deputy Commissioner regarding

these appointments but have consistently received only vague assurances. He added that to date, the petitioners remain unappointed and feel deprived of their right to be considered within the disabled quota. They fear that the respondents may be engaging in unfair practices like favoritism and nepotism in filling these positions. They also allege that the respondents are unwilling to disclose whether the positions have been filled and, if so, by whom. The petitioners are concerned that if the disabled quota positions have been filled, they may have been given to non-disabled individuals.

4. The respondents have submitted a statement explaining the status of the petitioners' applications. They reference this court's order dated February 6, 2025, in Constitutional Petition No. D-651 of 2023 (Saddam Hussain Chandio & others v. Additional Secretary Services, SGA&CD, Govt. of Sindh & others). The respondents attempted to clarify that this Court (Sukkur Bench) issued an order on November 19, 2024, in several constitutional petitions, directing the appointment of petitioners to the 5% quota reserved for differently-abled persons (DAPs) in BPS-01 to BPS-04. In response, the respondents convened Departmental Selection Committee/District Recruitment Committee meetings on November 15 and 29, 2024, to review the petitioners' cases for DAP quota appointments. Minutes from these meetings, along with related correspondence, were sent to the Section Officer (SR-I), Services, General Administration and Coordination Department (SGA&CD), Government of Sindh, Karachi, via letter No. DC/ESTT/2024/8359 dated December 9, 2024 (Annexure-A). The matter was further escalated to the Secretary (Services), SGA&CD Sindh, Karachi, via letter No. DC/ESTT/2025/388 dated January 22, 2025 (Annexure-B), concerning the meeting minutes. The respondents also point out that the Section Officer (SR-I), SGA&CD, through letter No. SO(SR-I)(SGA&CD)1-295/2023 dated December 16, 2024 (Annexure-C), referenced letter No. DC/ESTT/2024/8359 (dated December 9, 2024) and addressed it to the Advocate General Sindh, to assail the order before the Supreme Court.

5. We have heard the learned counsel for the parties and perused the record with their assistance.

6. The petitioners claimed that the provincial government had failed to grant jobs to People with Disabilities (PWDs) on quotas reserved for them despite obtaining disability certificates from the Director General Sindh Persons with Disabilities Protection Authority (SPDPA), Karachi as well as from Provincial Coordinator Social Welfare Department. In this regard, the Supreme Court in CPLA No.745-K to 750-K strictly ordered the Sindh government to comply with recruitment quotas for PWDs.

However, they have been deprived of their fundamental rights which are clear violations of law and rules hence, they maintained these petitions.

7. The petitioner's counsel informed the Court today that special quotas had been allocated in all departments of the province. Nonetheless, he stated, the Sindh government was not giving government jobs to PWDs, praying to take notice and order the government to comply. Additional Advocate General (AAG) Sindh submitted that there were/are vacancies in government offices, assuring this Court that the seats would be filled as per policy.

8. Perusal of record shows that petitioners have obtained disability certificate(s) issued to them by the concerned authorities. The Supreme Court has held that the fundamental postulate is based on the principle of equality and nondiscrimination. The obligation on the government to ensure that persons with disabilities enjoy (i) the right to equality; (ii) a life with dignity; and (iii) respect for their integrity. The fundamental postulate of equality and non-discrimination is made available to persons with disabilities without constraining it with the notion of a benchmark disability. There is a critical qualitative difference between the barriers faced by persons with disabilities and other marginalized groups. To enable persons with disabilities to lead a life of equal dignity and worth, it is not enough to mandate that discrimination against them is impermissible. That is necessary, but not sufficient. It is further stated that we must equally ensure, as a society, that we provide them the additional support and facilities that are necessary for them to offset the impact of their disability. The dicta laid down by the Supreme Court is binding upon this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973.

9. Accordingly, the Supreme Court of Pakistan in CPLA No.745-K to 750-K while disposing of appeals of the Government of Sindh has observed as under;

“The proceedings were initiated by differently abled persons, projected their grievance that despite availability of specific quota meant for them, they have not been considered or appointed. The High Court consequently passed an order and thereafter initiated contempt proceedings from which the instant petition seeking leave of this Court against the order of the High Court has been filed.

Learned Additional Advocate General along with Mr. Sohail Rajput the Chief Secretary, Sindh states that at present 1572 vacancies of differently-abled persons are available and in consequent to the advertisement made in 2021-22 applications are invited to fill available vacancies, and many applications have

already been received different DRCs. He states that the petitioners who have raised the grievances before the High Court or any other forum if already for their applications before the DRCs would be considered in accordance with law or if they have not filed, they may file their applications in the office of the Additional Secretary, S&GAD within 15 days. It is further categorically stated that these 1572 vacancies will be filled within a period of 90 days. In the circumstances, we would convert these petitions into appeals and would dispose of them by suspending the contempt proceedings for a period of 90 days allowing the provincial government to complete the process of appointment and issuance of appointment letters to 1572 differently-abled persons within that period after completion of process in accordance with law and then to file compliance report before the High Court.”

10. Prima facie, the case of the petitioners is required to be duly considered by the competent authority of respondents in the light of the judgment of the Supreme Court stated supra.

11. This petition is disposed of in terms of an order dated 14.07.2022 passed by the Supreme Court in CPLA No.745-K to 750-K. The aforesaid exercise shall be completed within two weeks. The Chief Secretary Sindh and Secretary of the concerned department to comply the order as stated above.