

ORDER SHEET

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

Constitutional Petition No.D- 479 of 2024.

(Altaf Hussain v. P.O Sindh through Secretary Education Deptt: & Ors)

DATE OF HEARING ORDER WITH SIGNATURE OF HON'BLE JUDGE

1. For orders on office objection as flag A.
2. For hearing of main case.

Before:

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

Date of hearing and Order: 27.02.2025

Mr. Abdul Rehman Bhutto, advocate for the petitioner.

Mr. Liaquat Ali Shar, Addl. A.G. assisted by Mr. Aftab Ahmed Bhutto, Asstt. A.G a/w Gulbahar Magsi, DEO (Secondary) Larkana and Inayat Ali Chandio, DEO Primary Kamber.

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ORDER

ADNAN UL KARIM MEMON-J.:- The petitioner requests this court to rule that the failure to prepare and submit the FO-1 form is unlawful; order the Taluka Education Officer to immediately prepare and submit the FO-1 form and service book of the petitioner and compel the District Accounts Officer to calculate and pay all unpaid wages from July 2022.

2. This petition concerns a disabled individual who was successfully recruited as a Primary School Teacher (PST) in BPS-14. Learned counsel for the petitioner submits that the petitioner passed the required test, was selected as a disabled candidate, and received an offer letter. An initial offer letter had an incorrect address, which was corrected. All documents were verified, and an appointment order was issued. The petitioner joined duty and submitted their FO-1 form (for salary processing) and service book, but the Taluka Education Officer (respondent No. 8) failed to forward it to the District Accounts Officer (respondent No. 4). Consequently, the petitioner has not received any salary since joining in July 2022. The petitioner, being disabled, is facing severe hardship due to the non-payment of salary. He prayed for allowing the petition.

3. The Assistant Advocate General (AAG) argues that the petitioner's claim is baseless. The petitioner applied for a PST position in the general category and scored 34, failing the required 40-mark threshold set by this court order. He now claims he may be considered under the disabled quota, but he initially applied as a general candidate, as confirmed by his test results. The AAG contends that the petitioner's disability claim is a fabricated attempt to circumvent his failing score, as he obtained disability certificates only after his initial failure. The AAG requests the court to dismiss the petition with costs, citing the petitioner's misleading and false claims.

4. The petitioner's counsel countered the respondent's claims, arguing that the retrospective cancellation of the petitioner's appointment, based on alleged document verification issues, is invalid. He asserted that the cancellation letters were fabricated to conceal administrative errors. The petitioner maintains that his appointment under the disabled quota was legitimate, supported by verified documents and his consistent performance of duties since 2022, including the maintenance of a service book and attendance records. The petitioner's counsel argued that the petitioner should not be held responsible for any procedural flaws by the employer. He requested the court to mandate the release of the petitioner's salary and the establishment of his account, claiming he was unjustly deprived of his employment /salary due to the education department's negligence.

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

6. A claim and counterclaim generally cannot be decided in a writ petition because writ jurisdiction is primarily meant to address issues of legality and not factual disputes, so this court will not entertain a case where there are complex claims and counterclaims requiring detailed evidence and adjudication; essentially, a writ petition is not the appropriate forum to fully examine the merits of a contested claim and its corresponding counterclaim.

7. Article 199 provides swift remedies for clear, unlawful government actions, enforcing existing rights. It is not for complex fact-finding; civil suits handle those matters. Besides, "Adequate remedy" means effective and speedy. If a right is violated, Article 199 of the constitution can be used; if facts are disputed, a civil suit can be filed.

8. Following the discussion, this Petition is concluded. The Secretary of Education is directed to review the petitioner's grievances and issue a decision within one month after providing a meaningful hearing to the petitioner.

9. The petition stands disposed of in above terms.