

**IN HIGH COURT OF SINDH, CIRCUIT COURT
MIRPURKHAS**

C.P No.D-1815 of 2024

[Vishan Das v. Province of Sindh & Others]

Before:

Mr. Justice Arbab Ali Hakro

Mr. Justice Riazat Ali Sahar

Petitioner : Vishan Das through Mr. Kanji Mal Meghwar, Advocate.

Respondents: Through Mr. Ayaz Ali Rajper Assistant A.G. Sindh along with Muhammad Hussain Baloch, Director Food, Food Department, Government of Sindh Karachi.

Date of Hearing : **19.03.2025**

Date of Decision : **19.03.2025**

JUDGMENT

RIAZAT ALI SAHAR J: -Through this Judgment, we intend to dispose of captioned petition filed by the petitioners with prayers:-

- a. That this Honourable Court may be pleased to issue direction to the Respondent No.5&6 to open the I.D. of the petitioner and further to release the salary of the petitioner.*
- b. That to direct the Respondents No.5&6 to release the salary of the petitioner with all arrears with effect from his joining date i.e. 19.06.2023.*
- c. Any other relief(s).....*
- d. Cost of the petition.*

2. As per assertion of the petitioner in his petition, he is a permanently visually impaired individual due to keratoconus, has been recognized as differently-abled and holds a strong reputation in his community. Despite being eligible under the **differently-abled** quota, he has been deprived of his legal rights. He is

qualified at the intermediate level and suitable for appointment in BPS-1 to BPS-4. In compliance with the Honourable Supreme Court's order dated 24.07.2022 and this Court's order dated 31.10.2022, the petitioner was appointed as Chowkidar (BPS-1) by Respondent No.5 through order No.DHC/TPR/ESTI/2023/457 dated 06.06.2023. His appointment was recommended by the District Recruitment Committee (DRC) Tharparkar in its meeting on 11.05.2023. He accepted the offer, completed the necessary formalities, and underwent character verification by the Superintendent of Police, Tharparkar @ Mithi, receiving a positive report dated 08.06.2023. A Fitness Certificate issued by the Civil Surgeon Hospital Mithi confirmed his fitness except for his stated disability. The petitioner submitted his joining report on 19.06.2023, after which Respondent No.5 (District Food Controller) issued an office order, and he officially joined duty at PRC Mithi the same afternoon. However, despite fulfilling all formalities, his salary has not been disbursed. On 30.10.2024, Respondent No.4 requested the minutes of the DSC meeting held on 11.05.2023, confirming the petitioner's appointment. Although, he has been diligently performing his duties his salary remains unpaid despite repeated requests.

3. In response to the Court's notice, Respondents No.4 and No.7 submitted their comments. Respondent No.4, the Deputy Commissioner of Tharparkar, confirmed that the petitioner was recommended by the District Selection Committee (DSC) on 11.05.2023 and appointed by the District Food Controller Tharparkar. However, his salary has not been released by the Food Department as yet. Respondent No.4 further stated that the Deputy Director, Food Mirpurkhas Region, Mirpurkhas/District Food Controller, Tharparkar, was instructed via letter dated 22.01.2025 to resolve the issue immediately, but no response has been received. Respondent No.7, the Deputy Director, Food Mirpurkhas Region, Mirpurkhas, stated that Respondents No.4 and No.5 should justify their position regarding the matter.

4. In support of petitioner's case, learned counsel for the petitioner contends that the petitioner is a permanently visually impaired individual due to keratoconus and has been officially recognized as a differently-abled person, entitling him to benefits under the differently-abled quota. He contends that despite fulfilling all eligibility criteria and possessing the requisite intermediate qualification, the petitioner has been unjustly deprived of his legal and constitutional right to government employment. He further contends that the petitioner was lawfully appointed as **Chowkidar (BPS-1)** in compliance with the orders of the Honourable Supreme Court dated 14.07.2022 and this Court dated 31.10.2022. The District Recruitment Committee (DRC) Tharparkar, after due process, recommended his appointment in its meeting held on 11.05.2023. He further contends that the petitioner duly accepted the appointment, completed all formalities, and was issued an offer letter, demonstrating his commitment to the role. His character verification was conducted by the Superintendent of Police, Tharparkar @ Mithi, and a positive report dated 08.06.2023 confirmed his suitability for the post. Furthermore, a Fitness Certificate from the Civil Surgeon Hospital Mithi validated his medical fitness, except for his pre-existing disability. He further contends that after fulfilling all codal requirements, the petitioner submitted his joining report on 19.06.2023, following which Respondent No.5 issued an office order, and the petitioner formally assumed his duties at PRC Mithi in the afternoon of the same day. Despite serving continuously since then, he has not received his salary. He maintains that the non-payment of salary is a clear violation of the petitioner's fundamental rights and amounts to unjustified discrimination against a differently-abled individual who has complied with all necessary legal procedures. He points out that on 30.10.2024, Respondent No.4 sought verification of his appointment by requesting the minutes of meeting of the DSC, which confirmed his lawful selection. However, despite repeated requests, his salary remains unpaid without any legal justification. Finally, he contends that the arbitrary denial of the petitioner's salary warrants immediate intervention by this Court to ensure the

protection of his legal rights and the release of his pending remuneration.

5. On the other hand, learned Assistant Advocate General, Sindh contends that the delay to petitioner's salary is due to the ongoing verification process required for government appointments. He further contends that multiple authorities, including the police and Food Department, are involved, and the delay is procedural, not intentional. He contends that the respondents have sought clarification regarding the petitioner's appointment, and verification is still in process. He further contends that once the required formalities are completed, the petitioner's salary will be released.


6. We have heard the learned counsel for the petitioner, learned Assistant Advocate General, Sindh and perused the material available on record.


7. Meticulously scanning of the record and considering the submissions made by the learned counsel for the petitioner, learned A.A.G. Sindh, apparently reveals that the petitioner was duly appointed as Chowkidar (BPS-1) under the Disabled Quota after fulfilling all requisite legal and procedural formalities. The learned counsel for the petitioner has successfully demonstrated that the petitioner, a permanently visually impaired individual due to keratoconus was lawfully selected by the District Recruitment Committee (DRC) Tharparkar in its meeting held on 11.05.2023. Such recommendation are annexed by respondent No.4 in his comments, photo of which is reproduced as under:-


Annex "C"

LIST OF DIFFERENTLY ABLED PERSONS (DAPS) APPEARED BEFORE DRC FOR INTERVIEW & RECOMMENDED IN FOOD DEPARTMENT DISTRICT THARPARKAR
MEMBERS WITH THEIR RECOMMENDATION IN DRC THARPARKAR HELD ON 11.05.2023

S.No	Name	Father's Name	CNIC No.	Qualification	Village	Taluka	Disability Assessment	Recommendation
1	Vishan Das	Chatoon Mal	44303-8403329-7	Intermediate	Mithi Town	Mithi	Rt side eye blindness	Chowkidar (Food Deptt)
2	Muhammad Ameen	Mehmood	44301-4230264-9	Intermediate	Sejan Par	Chachro	Right Arm Weakness	Chowkidar (Food Deptt)


 (ABDUL SATTAAR MEMON)
 District Food Controller,
 Tharparkar


 (MUHAMMAD IBRAHIM KUNBHAR)
 Section Officer (ACR)
 SG&CD, Govt. of Sindh
 Karachi


 (LAL DINO MANSI)
 DEPUTY COMMISSIONER/CHAIRMAN
 District Recruitment Committee,
 Tharparkar

8. The appointment of the petitioner was in compliance with the orders of the Honourable Supreme Court dated 14.07.2022 and this Court dated 31.10.2022. For the sake of convenience, we would like to reproduce order dated 14.07.2022 passed by the Honourable Supreme Court in C.P. No.745-K to 750-K of 2022, which reads 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 have been filed.

2. 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 on 2021-22 applications are invited to fill 1572 available vacancies and many applications have already been received in different DRCs. He states that the Petitioners who have raised their grievances before the High Court or any other forum if have already filed 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.

3. In the circumstances, we would convert these petitions into appeals and would dispose them off 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.”

9. The record further substantiates that he was issued an offer letter, character verification certificate, and medical fitness certificate, thereby meeting all statutory and procedural requirements before formally assuming his duties on 19.06.2023.

10. Despite clear and undeniable facts, the petitioner has been unlawfully denied his salary, violating his fundamental right to livelihood under Article 9 of the Constitution of Pakistan, 1973. The respondents' defense, citing an ongoing verification process for government appointments, lacks merit, as official records, including the statement of Respondent No.6, the District Accounts Officer Tharparkar before this Court on 07.01.2025 confirm that the petitioner was recommended for appointment under the **Disabled Quota**. Further, the record reflects that the Director Food Sindh, though he is not a respondent in the instant petition, submitted a statement dated 24.01.2025, wherein he stated that Respondent No.4 had not confirmed whether the petitioner's name was cleared by the District Selection Committee (DSC). The Director Food Sindh referred to the minutes of the meeting as whether the same contain the petitioner's name and left the justification of his recruitment to Respondents No.5 and 7. However, respondent No.4, through his comments, verified the petitioner's selection through a letter dated 30.10.2024, addressed to Respondent No.5, enclosing the minutes of the District Selection Committee. This letter, which is available in the record along with the comments, further substantiates the petitioner's claim. For reference, a photograph of the said letter is provided below:

Mithi, Dated 30.10.2024

TO: The District Food Controller, Tharparkar

SUBJECT: MINUTES OF THE MEETING OF DISTRICT SELECTION COMMITTEE (DSC) HELD ON 11.05.2023 AT 8:00 AM UNDER THE CHAIRMANSHIP OF DEPUTY COMMISSIONER THARPARKAR REGARDING APPOINTMENT AGAINST THE POST OF (DAP) IN THE OFFICE OF DEPUTY COMMISSIONER THARPARKAR

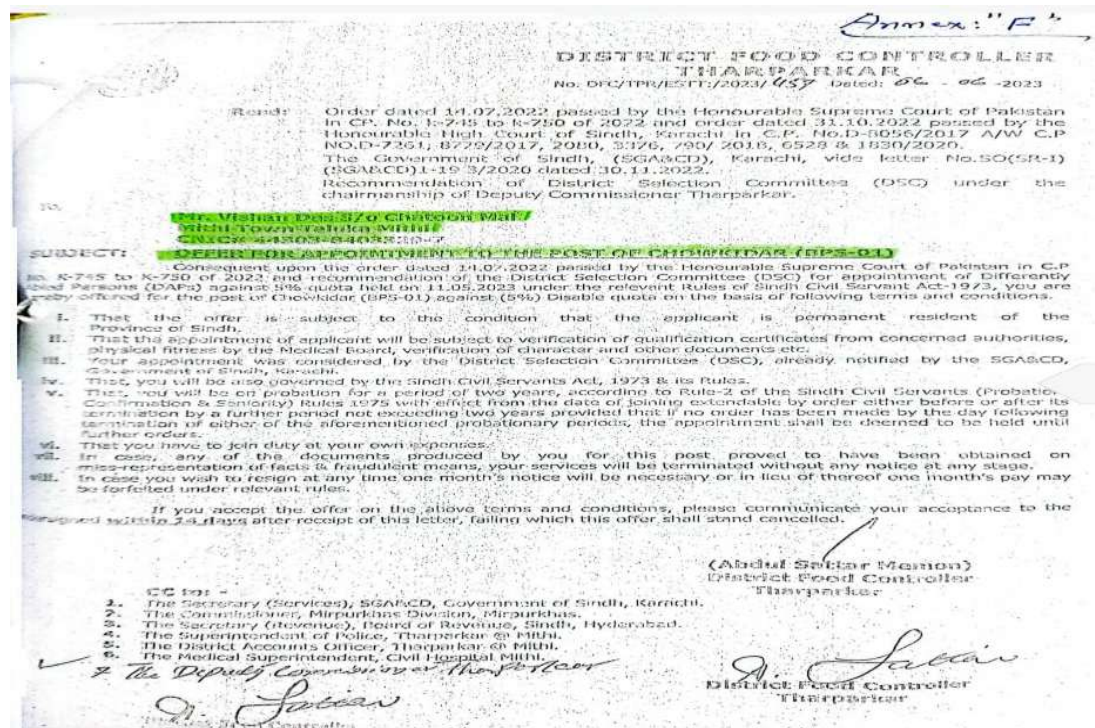
Reference: Your office letter No.DFC/TPR/DIS./2024/265 dated 10.10.2024 on the subject.

The point wise reply in the subject matter are as under:

S#	Para	Reply
1	The name of Mr. Vishan Das S/o Chatoon Mal has not been recommended in the minutes, but why his name has been shown in the list received with minutes, inspite of fact his name is also not available in the list of petitioners, who filed C.Ps in the Honourable Supreme Court of Pakistan/ High Court of Sindh, Karachi.	It is stated that Mr. Vishan Das was not filed petition, but the Honourable Supreme Court of Pakistan vide order dated 14.07.2022 passed in C.P No.745-K to 750-K of 2022 was ordered that the process of appointment against vacant posts reserved for DAPs may be filled within a period of 90 days. The said order of the Honourable Supreme Court received from Additional Secretary (Servic. SGA&CD, Government of Sindh, Karachi, under letter No.SO(SR-1)1-193/2020 dated 26 th July, 2022. As such process for appointment was conducted and finalized through the District Selection Committee (DSC) in accordance with the laws/rules. The candidate Mr. Vishan Das put an application and appeared in the interviews during the process.
2	Complete copy of minutes of DSC held on 11.05.2023, containing signature of all Members/Chairman.	Copy of the minutes of District Selection Committee (DSC) is enclosed.
3	Copy of list of participants (Annexure-"A") of minutes.	Copy enclosed.
4	Copy of Annexure "H" of the minutes of DSC.	Copy of Annexure-"C" duly signed by all the members is enclosed.

For Deputy Commissioner
Tharparkar

11. It is noteworthy that upon perusal of the offer order dated 06.06.2023, issued by Respondent No.5 to the petitioner, it is evident that after the subject of the order in the first paragraph, the details appears that: *“Consequent upon the order dated 14.07.2022 passed by the Honourable Supreme Court of Pakistan in C.P. No.K-745 to K-750 of 2022 and recommendation of the District Selection Committee (DSC) for appointment of Differently Abled Persons (DAPs) against 5% quota held on 11.05.2023 under the relevant Rules of Sindh Civil Servant Act, 1973, you are hereby offered for the post of Chowkidar (BPS-01) against (5%) Disable quota on the basis of following terms and conditions.”* For convenience, a photograph of the said offer letter is displayed below:



12. Even the Food Department’s claim that they were seeking verification of the petitioner’s appointment is unjustifiable, given that the offer order issued by Respondent No.5 explicitly references the Order of the Honourable Supreme Court of Pakistan and the recommendation of the District Selection Committee.

13. Furthermore, the delay in releasing the salary constitutes unjust discrimination against a **differently-abled person**, contravening Article 25 of the Constitution, which ensures equal treatment under the law. The Honourable Supreme Court in **GOVERNMENT OF THE PUNJAB through Chief Secretary**

and others v. AAMIR JUNAID and others [2015 S C M R 74] has categorically held that a lawfully appointed employee cannot be deprived of salary due to administrative inefficiencies. It is also pertinent to note that Respondent No.4 sought verification of the petitioner's appointment on 30.10.2024, which confirmed the authenticity of his selection. Yet, his salary remains unpaid due to administrative delays, reflecting a gross violation of principles of fair governance and the rule of law. The doctrine of legitimate expectation also applies here, as the petitioner, having fulfilled all formalities and assumed his duties, had a reasonable expectation to receive his salary.

14. In view of the above facts, circumstances and discussion, we allow the instant petition and direct the respondents as under:

- (a) Immediately release the petitioner's salary on a regular basis, without any further delay.
- (b) Deposit all arrears of the petitioner's salary from 19.06.2023 until realization of a regular salary with the Additional Registrar of this Court within 30 days.
- (c) The Additional Registrar shall, upon deposit, disburse the arrears to the petitioner through a cross-cheque under valid receipt.
- (d) In case of non-compliance, this Court shall initiate contempt proceedings against the concerned officials.

15. Before concluding, we emphasize that the District Selection Committee's recommendation for the petitioner's appointment was based on his status as a permanently visually impaired person due to keratoconus, making him eligible under the Disabled Quota. However, despite his condition, the question remains whether his appointment as Chowkidar was appropriate or if he should have been considered for a more suitable post. Certainly, this aspect requires due consideration by the District Selection Committee for future recommendations of the persons having same status.

Let a copy of this Judgment be forwarded to the respondents as well as learned A.A.G. Sindh for compliance.

JUDGE

JUDGE

Shahid