

HIGH COURT OF SINDH, CIRCUIT COURT MIRPURKHAS

C.P No.D-1792 of 2024

[Manu Mal & Ors vs. Province of Sindh & Others]

Before:

Justice Arbab Ali Hakro

Justice Riazat Ali Sahar

Petitioners by : Mr. Kanji Mal Meghwar advocate

Respondents by : Mr. Muhammad Sharif Solangi
Assistant A.G Sindh a/w ADC-I
Tharparkar (**Riaz Ahmed**)

Date of Hearing : **07.05.2025**

Date of Decision : **07.05.2025**

J U D G M E N T

ARBAB ALI HAKRO J:- The petitioners, being persons with disabilities, seek directions against the respondents to appoint them to any suitable post(s) within District Mirpurkhas in accordance with their qualifications, by implementing the 5% quota reserved for persons with disabilities.

2. Learned counsel for the petitioners submits that the petitioners, as persons with disabilities, possess educational degrees and are thus entitled to induction into government service under the 5% quota reserved for persons with disabilities. Counsel further submits that the respondents had published advertisements inviting applications for appointments against certain posts under the disability quota, pursuant to which the petitioners, being eligible, applied for various posts based on their qualifications. Counsel maintains that interviews were conducted by the respondents under the chairmanship of the Deputy Commissioner, Tharparkar; however, the petitioners were not considered. Having no alternate remedy, they seek the indulgence of this Court with the prayer that the respondents be directed to consider their applications and appoint them to any suitable post.

3. Learned Assistant Advocate General (AAG), while referring to the comments filed by the Respondents, particularly the report

submitted by the Deputy Commissioner, Tharparkar, who heads the District Selection Committee (DSC), Tharparkar submits that, in compliance with the directions issued by the Supreme Court of Pakistan¹ and a Division Bench of this Court at Sukkur², applications were invited through public advertisements for appointments under the disability quota. Numerous persons with disabilities, including the petitioners, applied, and the DSC, along with the heads of other departments of District Tharparkar as its members, conducted interviews of eligible candidates. After proper scrutiny of documents, 218 candidates who met the merit criteria were appointed under the subject quota against available vacant posts at the relevant time, whereas the petitioners did not qualify and, therefore, were not considered. Learned AAG further submits that, since the petitioners did not qualify in the interviews, which is a prerequisite for appointment to government or public post, they are not entitled to the relief claimed, and the petition is liable to be dismissed as not maintainable. He further contends that the remaining persons with disabilities will be considered in the second phase of the appointment process. The petitioners may apply in the second phase upon its announcement, and if they qualify, they will be considered in accordance with the law.

4. We have heard the learned counsel for the petitioners, the learned Assistant A.G, and have perused the material available on record.

5. A perusal of the record reflects that, although the petitioners applied for various posts pursuant to the advertisements and public notices, they did not qualify in the interviews conducted under the chairmanship of the Deputy Commissioner, Tharparkar. The persons who did qualify in the said interviews have been inducted into various posts through implementation of the 5% quota reserved for persons with disabilities, as per the list attached to the comments/report filed by the Deputy Commissioner, Tharparkar. It is important to observe that every aspirant seeking appointment to a government/public post under any reserved quota must first meet the prerequisite mandatory requirements, namely participation in the test and/or

¹ Penned down in *C.Ps No.745-K to 750-K & 966-K to 971-K of 2022*.

² *Vide Order dated 10.10.2024 handed down in C.P No.D-176 of 2023 alongwith connected matters*

interview conducted after advertisement/public notice, and qualification therein.

6. While the petitioners are indeed persons with disabilities, and the relevant Act³ guarantees certain rights, including a 5% quota in government jobs, this right does not grant them the ability to bypass the mandatory prerequisites outlined above.

7. Since the petitioners did not qualify in the tests/interviews conducted by the respondents, they are not entitled to the reliefs prayed for. Accordingly, this petition is **dismissed** as not maintainable, leaving the petitioners at liberty to participate in the recruitment process in accordance with the law, as and when conducted by the respondents. If the petitioners participate in the recruitment process, their appointment under the 5% disability quota will be subject to fulfilling the mandatory prerequisite requirements.

8. Before parting with this order, the Deputy Commissioner, Tharparkar, being the head/chairman of the DSC, is directed to seek vacancy reports from all departments of District Tharparkar, and in case the vacancies are still available, to be filled under the subject quota, then he is directed to initiate second phase of recruitment process through public notice. This exercise shall be completed within 90 days from the date of this order, subject to compliance with all prescribed legal and codal formalities.

Let a copy of this order be communicated to the Chief Secretary, Sindh, as well as the Secretary, Services, General Administration & Coordination Department, Government of Sindh, for information and compliance.

JUDGE

JUDGE

Saijad Ali Jessar

³ Sindh Empowerment of Persons with Disabilities Act 2018.