

**IN THE HIGH COURT OF SINDH, KARACHI**

**Constitutional Petition No.D-1277 of 2023**

*(Waqar Ali and another versus Federation of Pakistan & others )*

Before:

**Justice Muhammad Karim Khan Agha**

**Justice Adnan-ul-Karim Memon**

**Date of hearing & JOrder: 15.10.2025**

Mr. Chaudhry Sajjad Ali advocate for the petitioners.

Ms. Wajiha Mehdi, Assistant Attorney General.

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**ORDER**

**Muhammad Karim Khan Agha J.** Through this petition, the petitioners seek the following relief(s):-

- a) *“That, this Honorable Court may be pleased to issue direction to the respondents to Issue fresh notification of vacant posts by engaging third party testing services as per departmental policy to give proper and fair remedy to all the candidates including Petitioners*
- b) *To direct the respondent No 3 to issue the letter regarding written test to the petitioners above name*
- c) *To restrain the respondents for further procedure of appointment i e interview/offer letter etc. till the decision of this petition.”*

2. The case of the petitioners is that Respondent No. 2 issued Office Memorandum No. 22/5/2019-SP dated 19-09-2022, referring to earlier memorandum No. F.53/1/2008-SP dated 22-10-2014 and 03-03-2015, which lifted the ban on recruitment and granted NOC to Respondent No. 3 for filling vacant posts. Accordingly, Respondent No. 3 advertised 25 vacancies in national newspapers. The petitioner, upon learning of these openings, applied for the posts of Assistant Inspector (BPS-07), Lab Assistant, UDC (BPS-11), and Dispatch Rider. The applications were duly received on 16-01-2023, and acknowledgment was issued. Subsequently, Respondent No. 3 issued office orders dated 17-02-2023 (Ref: F.6/99-2022-Estt/08 & 16/99-2022-Estt/21) for conducting written tests on 18–19 February and 25–26 February 2023. However, contrary to the recruitment policies outlined in the Establishment Division’s memorandum 2014 & 2015, which mandate hiring a third-party testing agency to ensure transparency and fairness, Respondent No. 3 conducted the tests internally. Out of over 100,000 applications, only a limited number of candidates were shortlisted for the written test, allegedly through favoritism and in violation of the rule requiring five candidates per post to be called for interviews. Moreover, the NOC issued to Respondent No. 3 was valid for six months, but the department delayed the process to conduct recruitment on its own terms. By ignoring the prescribed procedure and bypassing the third-party testing requirement, Respondent No. 3 acted in violation of government recruitment policies and deprived the petitioners

of a fair opportunity, prompting them to approach this Court under Article 199 of the constitution seeking the relief as disclosed in the prayer clauses.

3. Learned counsel for the petitioners argued that the petitioners duly followed all required procedures, but the respondents failed to consider their case for appointment on the subject posts. He submitted that, under constitutional rights, the petitioners are entitled to equal opportunity and merit-based assessment. Finding no other remedy, the petitioners approached this Court seeking redress and prayed for allowing the petition.

4. Learned Assistant Attorney General submitted that petitioner Waqar Ali applied for the posts of Assistant Inspector (BPS-07) and Laboratory Assistant (BPS-05), while petitioner Nizam Ali applied for UDC (BPS-11) and Dispatch Rider (BPS-04). Both petitioners hold Sindh (Rural) domicile and were eligible only for UDC (BPS-11) and Assistant Inspector (BPS-07), whereas the posts of Laboratory Assistant and Dispatch Rider were reserved for candidates with Ordinary Local (Karachi) domicile. She stated that test call letters were duly issued, and the petitioners' father, an employee of Respondent No. 3, had personally submitted their applications and was aware of the test and interview schedule. Hence, the petition has been filed with mala fide intent to obstruct the recruitment process, which concluded in July 2023, with selected candidates already serving. She further pointed out that similar petitions No. D-1603/2023 and D-1604/2023 were earlier dismissed by this Court, and the petitioners' father has a history of repeatedly litigating against Respondent No. 3, having filed six previous petitions and appeals before this Court and Federal Service Tribunal. She therefore prayed for dismissal of the instant petition.

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

6. The questions involved in the present case for determination are as:  
Whether the recruitment process conducted by Respondent No. 3 was in accordance with the prescribed government recruitment policies and Office Memorandums issued by the Establishment Division 2014 & 2015.

*Whether the failure to engage a third-party testing agency rendered the recruitment process biased, non-transparent, or contrary to law.*

*Whether the petitioners were deprived of their constitutional right to equality of opportunity in public employment under Article 27 of the Constitution of Pakistan, 1973.*

*Whether the petition is maintainable in light of the fact that the recruitment process has been completed and appointments have already been made.*

*Whether the petition suffers from mala fide intention or personal interest, as alleged by the respondents.*

7. The record shows that the Establishment Division's policies of 2014 and 2015 require recruitment tests for public posts to be conducted through third-party testing agencies to ensure transparency and equal opportunity. However, in this case, Respondent No. 3 conducted the tests internally. As the recruitment process has already concluded and appointments have been made, and since the selected candidates, who are not party to these proceedings, are serving without fault of their own, this Court is not inclined to disturb their appointments at this belated stage. The petitioners have also failed to establish any violation of their legal or constitutional rights. Nevertheless, this Court notes the guidance of the Supreme Court in Muhammad Zafar Iqbal v. Government of Punjab (2021 SCMR 811), Ali Azhar Khan Baloch v. Government of Sindh (2015 SCMR 456), Syed Mehmood Akhtar Naqvi v. Federation of Pakistan (PLD 2012 SC 1089), Federation of Pakistan v. Muhammad Azam Chattha (2013 SCMR 120), and Province of Punjab v. Zia-ur-Rehman (2012 SCMR 686), which stress transparency, merit, and adherence to prescribed procedure in public employment. The respondents are, therefore, directed to ensure that all future recruitments strictly comply with Establishment Division policies and that tests are conducted through authorized third-party agencies, if such policy remains in force.

8. In view of the above and in line with the principles laid down by the Supreme Court, this Court holds that transparency and adherence to prescribed recruitment procedures are essential in public employment. Although procedural deviations from the Establishment Division's policy regarding third-party testing are evident, however, the recruitment process has concluded and appointments have been made. As the appointees who are not parties to this petition have been serving without any proven mala fide, this Court is not inclined to disturb their appointments. The respondents are, however, directed to ensure that all future recruitments strictly follow the Establishment Division's policies and are conducted through independent third-party testing agencies to maintain transparency and merit.

9. Accordingly, the petition stands disposed of in the above terms.

HEAD OF CONST. BENCHES

JUDGE