

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.D-3379 of 2022

(Shayan Qureshi Vs. PO Sindh & others)

Present

Mr. Justice Muhammad Saleem Jessar
Mr. Justice Nisar Ahmed Bhanbhro

Petitioner

Shayan Qureshi

Petitioner present in person.

Respondents

Province of Sindh & Others

Through Mr. Muhammad Ismail Bhutto,
Additional Advocate General, Sindh.

Dated of hearing: 14.10.2025.

Dated of judgment: 14.10.2025.

J U D G M E N T

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Nisar Ahmed Bhanbhro, J: - Through the instant petition, the petitioner has claimed the following reliefs:

"i) To direct the respondents to re-instate the petitioner into the service as Police Constable at par with the later re-examined 234 police constables OR all the 234 persons / constables who were allowed joining within one day of report may be ordered to be removed from service;

ii) To direct the respondents to in compliance to the orders of the Honourable Supreme Court of Pakistan, to pay salaries to the petitioner for the period he duly served as police constable as has been given to Kashif and 300 others."

2. Petitioner Shayan Qureshi heard in person. Petitioner contends that he along with 685 other candidates was appointed as Police Constable in Sindh Reserve Police (SRP) vide appointment letter dated 01.11.2013. Petitioner was allotted buckle No. 9180 and directed to join Jam Nawaz Ali Training Centre, Sanghar, for training. Petitioner submits that he continued to draw monthly salary until April 2016, when a show cause notice dated 08.04.2016 was served upon him, he replied to show cause notice, however it was found unsatisfactory consequently, Petitioner was removed from service vide order dated 06.05.2016. Petitioner's departmental appeal was declined, he filed service appeal No 1288 of 2016 before the Sindh Service Tribunal, which was allowed vide order 30.11.2016 and he was ordered to be reinstated in service. Though no challenge was offered to the order dated 30.11.2016 but on account of the order passed by Honourable Supreme Court of Pakistan in H.R.C. No.16082-S of 2015, wherein vide order dated 23.12.2015, the Committee was constituted to probe into the illegal appointments in SRP Hyderabad and other Districts of Sindh. Petitioner argued that the committee scrutinized the recruitment record and submitted its report dated 25.04.2016, wherein 518 police constables, including the petitioner, were declared successful and genuine appointees, wherein the name of the petitioner found place at serial No. 348. He contended that despite of the recommendation of the committee, and order passed by SST he was not reinstated in service. He prayed to allow this petition.

3. Learned AAG, submits that pursuant to the direction of the Learned Apex Court contained in order dated 26.12.2016 a re-examination committee was constituted, wherein Petitioner availed the opportunity of re-assessment. Petitioner appeared in the re-assessment test but he failed in the physical test, thus declined reinstatement and induction in job. He argued that the petition was misconceived and liable to be dismissed.

4. **Heard arguments** and perused the material made available before is on record.

5. The case of the petitioner has a chequered history. Petitioner was appointed as Police Constable in Sindh Reserve Police (S.R.P.) in the year 2013 and he served the department for about three years, when his

appointment was declared irregular. Consequently, he was removed from service vide order 06.05.2016. Petitioner filed departmental appeal which was declined. He filed service appeal before SST, which was allowed vide order dated 30.11.2016. Petitioner was directed to be reinstated in service with effect from 06.05.2016, i.e., the date of his removal. The operative part of the order reads as under:

"The impugned order is, thus, not maintainable in fact and law so as the appellate order. Both the impugned and appellate orders are hereby set-aside and the appeal is allowed with the direction to respondents to re-instate the appellant in service w.e.f. 6.5.2016 i.e. the date of his removal. As in other appeals mentioned in Para 5 above, the appellant will be entitled for salary with effect from the date of this judgment. So also as in other appeals, the respondent No.2 may choose to initiate de novo disciplinary proceedings in accordance with law and conclude the same after giving right of audience to the appellant."

6. The perusal of the above order reveals that the Petitioner was reinstated in service without any condition with effect from 06.05.2016. However, Petitioner was allowed to draw salary from the date of the judgment, of SST i.e., 30.11.2016. The said judgment attained finality as the Respondents have not placed on record any material to show that they preferred any appeal against the judgment passed by SST.

7. The fortune did not turn in favor of the petitioner as Learned Apex Court took notice of the illegal appointments in police department under Suo Moto proceedings in HRC Case No 16082 - S of 2015, which was decided vide order dated 23.12.2015, the operative part of the order reads as under:

"15. The illegal appointments made by the Selection Board in SRP Hyderabad of in any other District of Sindh shall be enquired into by the following officers:

- (1) A.D. Khawaja Additional I.G. Police.*
- (2) A.I.G Sanaullah Abbasi*
- (3) A.I.G Naeem Ahmed Shaikh*

16. In fact, we proposed to the Advocate General Sindh for referring the matter to the NAB, but he requested that high powered

Committee may be constituted amongst the senior police officers of Sindh to probe into such illegalities therefore, while accepting his request have proposed the names of the officers mentioned herein above.

17. The aforesaid Committee shall examine all the appointments made in all Wings, Units, Zones including different units of SRPs (except those enquired by DIG Munir A. Shaikh earlier) and in all other Districts of Sindh on case-to-case basis and shall record their findings. In case if it is found that the appointments made are illegal, they shall be removed from service after required show cause notice on submission of the proposed report before this Court. The Members of the Selection Board which recommended their appointments shall be proceeded against. Secretary Establishment Division shall proceed against PSP officers, who were the members of the Selection Board for illegal appointments and Chief Secretary Sindh or any other competent authority shall proceed against Provincial police officer who was member of such Selection Board. The aforesaid committee shall complete its report within three months from the date of communication of this order.

18. We direct Chief Secretary, Home Secretary and I.G. Police to ensure that proposed committee is provided requisite documents and or information as and when sought by them and in case of failure on their part they shall be proceeded in contempt. Sindh Government shall not post out any of the aforesaid officer who is member of the proposed Committee outside Sindh till the completion of the enquiry."

8. Though Petitioner succeeded in service appeal, but the same could not be acted upon, as department found it obligatory to follow the order of Learned Apex Court. Pursuant to the order of Learned Apex Court, committee was constituted by Police Department to scrutinize the cases of appointees who were alleged to have been appointed illegally in SRP. Perusal of the inquiry report revealed that petitioner was declared successful and genuine appointee, his name transpired at Serial No 348 in the list, showing him pass, whereas a large number of appointees were declared fail and their appointments were declared bogus.

9. It further transpires from the record that CPLA No 634 – K and others Re- Deputy Inspector General of Police Larkana range and others versus Abdul Hafeez Kalwar and others were filed before Learned Apex Court challenging the reinstatement orders passed on various dates by Learned SST in service appeals of the affected appointees. The CPLAs were disposed of vide consent order dated 26.12.2016, operative part of the order is reproduced for the ease of reference:

“The Learned Advocate General, Sindh states that Centralized Re-examination Committee shall be headed by Sanaullah Abassi, Additional Inspector General of Police and the members of the Committee shall comprise of two officers of the rank of DIG and two officers of the rank of SSP. Recruitment process shall be initiated after advertisement given in the widely published newspapers of English, Urdu and Sindhi. This recruitment will be confined only to the police personnel, who were employed from 2013 to 2015 and were dismissed / discharged from service. No any other candidate shall be part of this. The entire process shall be completed within three months from today and a compliance report shall be submitted by the Inspector General of Police to the Office In charge/ Assistant Registrar of this Registry for our perusal in chambers.

10. Pursuant to the above referred orders, petitioner and other appointees were called by the police department to appear in the re-examination / re-assessment test through advertisement published in newspapers.

11. Petitioner aggrieved of the decision of the department for assessment filed an application with Learned Sindh Service Tribunal (SST) seeking execution of the judgment dated 30.11.2016 passed in service appeal No 1288 of 2016 by agitating a specific plea that his case was not covered by the judgment dated 26.12.2016 passed by the Learned Apex Court in CPLA No 634 – K of 2016. Learned SST dismissed application of the petitioner vide order dated 07.02.2017 on the ground that he was appointed in year 2013 therefore his case squarely fell within the category of police constables who were required to undergo re-examination. The Petitioner challenged the order passed by SST before Learned Apex Court through CPLA No 155 – K of 2017 Re Shayan Qureshi V. Province of Sindh, which was disposed of vide

order dated 11.07.2017 with observation that the Petitioner may avail the concession given by the Learned Apex Court in other matters to appear in re-assessment / re-examination which may be held by Centralized Re-examination Committee.

12. Petitioner appeared before the Centralized Re - examination Committee, he was refused reinstatement / appointment on the ground that he failed to clear physical test. No record has been made available before us to show that petitioner failed in the physical test. Contrary in reply to the para No 7, Senior Superintendent of Police, Sindh Reserve Police Hyderabad, Respondent No 4 in the instant petition has admitted that the Petitioner cleared the physical test, Para 7 of the reply reads as under:

"That the content of Para No 7, it is submitted that the committee under the Chairmanship of the then SP SRP Hyderabad constituted by then Commandant/ DIGP SRP Sindh Karachi vide his order No SRP/ADMN/3796 - 3805 dated 25.03.2021. The committee report of measurement test was sent to the then commandant /DIGP SRP Sindh Karachi vide this office letter No. SRP/Estt/6982 - 83 dated 25.04.2016 in which the height and chest measurement of the Petitioner was cleared."

13. The perusal of the reply of the Respondent No 4 and the report of the Committee reflected that the petitioner remained successful in physical test and he was declared pass. There is no material on record to support the stance of the Respondents that Petitioner failed in physical test, which lends support to the claim of the petitioner that he was left out under extraneous considerations. It is also important to notice that vide letter dated 08.08.2016, DIGP SRP Karachi reinstated 115 police constables in service and vide letter dated 20.09.2016 other 235 police constables were reinstated in service subject to verification of documents, without assigning any reasons for discriminatory treatment to the petitioner.

14. As to the maintainability of the Petition, since the Petitioner was not given appointment letter after re-examination therefore his status fell outside the embargo contained in article 212 of the Constitution, as after removal from service he was treated as a fresh candidate and was not taken back in

service. Petitioner was left remediless as he cannot knock at the doors of appellate authority and service tribunal, thus actions on the part of the Respondents fell within the dominion of this Court to exercise the powers of judicial review, hence his petition was maintainable.

15. Though recruitment in any Government Department was purely an administrative affair and Courts of Law sparingly interfere into the issues relating to the recruitment. It is always expected that the recruitment process is done with higher rate of accuracy with no compromise on merit and transparency. It is for the authority at the helm of affairs in the department to establish that the recruitment process was done strictly in accordance with law and merit and the only merit was the consideration for appointment.

16. Right to get job in a government department, though was not an absolute right, but once a person qualifies for job and he is inducted into service, then his removal from service must be made in accordance with law. Petitioner was appointed in police service as Police Constable. He was removed from service under the charges of illegal appointment, that charge did not sustain before the fact-finding forum of SST. Petitioner underwent re-examination process where he remained successful but denied appointment on a frivolous pretext of failure in physical test. The petitioner has been denied the right of appointment in an arbitrary manner and beyond the bounds of law, which cannot be tenable under the law. Petitioner was discriminated with the other colleagues similarly placed to him, without any rationale. The literal connotation of the word "discrimination" referred to different treatment of the same kind to a class of persons or behaving less favourably towards them without any intelligible differentia which was spelt out in the case of petitioner. The acts on the part of Respondents depriving Petitioner from right of job, despite having qualified all the phases of recruitment process offended his fundamental rights guaranteed under article 25 and 27 of the constitution, which stressed for the equal treatment and established a tremendous benchmark for maintaining equality amongst the citizens, stating that all citizens are equal before the law, and are entitled to equal protection of the law, and there shall be no discrimination on the basis of sex, age or creed in all walks of life including recruitment. The treatment meted out to the petitioner is discriminatory in nature, he was not

dealt in accordance with law and his right to job was impinged upon through arbitrary and unfair decisions in gross violation of the fundamental rights guaranteed under Articles 4 and 9 of the Constitution of the Islamic Republic of Pakistan, 1973.

17. In our candid view the case of the Petitioner came to an end by the verdict of the fact-finding forum SST, however due to in person appearance by the Petitioner and being layman, he could not render proper assistance to the Learned Apex Court, therefore he was directed to appear in the assessment test.

18. For the foregoing reasons, the petitioner has made out a case for the indulgence of this Court under its writ jurisdiction. Consequently, this petition is allowed. The termination letter dated 06.05.2016 issued against the petitioner is hereby set aside. The respondents are directed to issue reinstatement order of the petitioner within thirty (30) days from today. Petitioner shall be reinstated in service with effect from the date of termination; however, he shall be entitled to back benefits with effect from 30.11.2016 as directed by SST or from the date when his colleagues were granted such benefits after centralized re-examination / re-assessment pursuant to the order dated 26.12.2026 passed by Learned Apex Court in CPLA No 634 – K of 2016.

. Office is directed to send a copy of this order to the respondents for compliance.

JUDGE

JUDGE

Irfan Ali

Approved for reporting

14.10.2025

Hyderabad