

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P No. D-961 of 2024

[Laraib Noor Khokhar vs. Province of Sindh & Ors]

BEFORE:

JUSTICE MUHAMMAD SALEEM JESSAR

JUSTICE NISAR AHMED BHANBHRO

Petitioner: Through Mr. Javed Ali Buriro
advocate

Respondents: Through Mr. Muhammad Ismail
Bhutto Additional A.G Sindh

Date of hearing: 31.10.2025

Date of decision: 31.10.2025

J U D G M E N T

NISAR AHMED BHANBHRO, J:- Through this petition, the petitioner seeks following reliefs:-

- (a) *Set-aside the press release issued by the respondent No. 3 vide No/PSC/2024/197 dated: 21-05-2024 null and void to the extent of eligibility of the petitioner.*
- (b) *Direct the respondents to conduct the interview of the petitioner along with other candidates as the petitioner has already qualified the written test.*
- (c) *Restrain the respondent from conducting interviews until the disposal of this petition.*
- (d) *Restrain the respondents, their officers, agents, representatives, and all other persons acting on their behalf from filling the subject vacancy of Inspector (BPS-16) in the Enquiries & Anti-Corruption Establishment, Services General Administration &*

Coordination Department until the final disposal of the instant petition.

2. Learned counsel for the petitioner contends that respondent Sindh Public Service Commission (SPSC) through advertisement No.05 of 2023 dated 10.04.2023 (subject advertisement) invited applications for recruitment to various posts including the post of Inspector (BPS-16) (**subject post**) in Enquiries and Anti-Corruption Establishment Services General Administration and Coordination Department Government of Sindh; that the petitioner applied for the subject post and secured 70 marks in written test vide result announced through press release dated 19.04.2024, but she was disqualified for appearing in physical test on the pretext that she has less height; that she filed the representation under Regulation No.161 of SPSC Recruitment and Management Regulations 2023 (RMR), but the Member (Appeals) SPSC dismissed the representation vide Order dated 08.07.2024 without any justification. He argued that the height for a female candidate was 5'.2", which the petitioner fulfills, but the respondent SPSC considered the same as 5'.5". He lastly prayed for allowing this petition.

3. Learned Additional A.G Sindh submits that the petitioner was required to also qualify for physical test but she has less height as such she was disqualified for further process. He prayed for dismissal of the petition being not maintainable.

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

5. It appears from the record that SPSC through advertisement dated 10.04.2023 invited the applications for various posts including the subject post for which the required qualification and height was mentioned as below:-

- i) *Masters Degree at least in Second Division and law Graduate (LLB) from a recognized University by Higher Education Commission.*

OR

Law Graduate at least in Second Division from a recognized University by Higher Education Commission and having two (02) years' experience with senior Advocate(s).

- ii) *Chest Minimum 33"X34 ½"*
Height Minimum 5'5"

6. The petitioner applied for the post. She appeared in the written part of examination and qualified the written test by securing 70.5 marks. Petitioner was called for physical test; wherein she was declared unfit on the ground her height was less than required height of 5 feet and 5 inches. The petitioner preferred appeal under Regulation No.161 of RMR pleading that the height of 5 feet and 5 inches was prescribed for male candidates and for female candidates' height provided under the rules was 5 feet and 2 inches, which she fulfilled. Representation of the Petitioner was referred by the Chairman SPSC to Member Appeals. Petitioner was heard in person and her representation was dismissed vide order dated 08.07.2024 in a stereotyped style. It would be advantageous to reproduce below the operative part of the Order passed by Member (Appeals) SPSC:-

*The applicant was called for personal hearing on July 04, 2023 in the Regional Office of SPSC at Karachi. She stated that she had appeared in the written examination and obtained 70.5 marks out of 100 marks as per the result declared by SPSC on 19.04.2024. I verified it. Her Roll No. was 48552. Then she went through the Physical examination, and was rejected as statedly she did not possess the height of 5 feet and 5 inches as prescribed by the Department's recruitment rules. I verified the qualifying conditions as mentioned in the advertisement and that was, the height should be 5'5" chest - 33*34 and a half inch. It was of course gender neutral. I also verified the press release of the Commission No. PSC/Exam(SS)/2024/97 dated 21.05.2024. It was actually mentioned against the name of Ms. Laralb Noor at Sr. No. 5 that she was unfit height. The applicant showed me that in the same consolidated advertisement for ASI of Police (CPEC) the height for female*

candidates was separately mentioned to be 5'2". I agree in principle with the contentions of the applicant that in our part of the world, female height is generally not above 5'5", and that Sindh Police has quite rightly prescribed a shorter height requirement for female candidates. But I feel constrained to abide by the Administrative Department's prescribed recruitment rules the requirement of which the applicant does not fulfill in their existing format. So, while rejecting the instant application on the ground of non-fulfillment of the laid down criteria of physical height, I would urge the Administrative Department to rationalize its recruitment rules for future candidates.

7. Perusal of above order reflects that though the Member (Appeals) agreed with the contention of petitioner in principle that height of a female candidate should be different from a male candidate, yet he preferred to dismiss the representation of the petitioner. It is also astonishing that though the representation was preferred on 22.05.2024 but the same was decided on 08.07.2024 i.e after about more than two, needless to comment, it shows incompetency on part of the Member (Appeals).

8. It appears from the advertisement that neutral gender height criteria was fixed for male and female candidates in respect of the subject post despite of the fact that under the same advertisement, the height for the post of ASI in Home Department Government of Sindh was prescribed as 5x2" in respect of the female candidates. Therefore, the height prescribed for the subject post is itself illegal and discriminatory. Even otherwise the administrative department vide letter dated 21.07.2023 intimated the respondent SPSC that since the height criteria for the female candidates in respect of the subject post found no mention in the requisition letter, as such requested SPSC to adopt same criteria in respect of female candidates as that of Police Department. The SPSC should have adhered to the standards of physical test as communicated by the administrative department through subsequent correspondence. For the sake of convenience, the letter dated 21.07.2023 issued by the administrative department is reproduced below:

NO. SO(ADMN)/E&ACE/4-772/2022

GOVERNMENT OF SINDH ENQUIRIES &
ANTICORRUPTION ESTABLISHMENT
SERVICES GENERAL ADMINISTRATION AND
COORDINATION DEPARTMENT

Karachi dated 21 July, 2023

To

The Secretary,
Sindh Public Service Commission,
Thandi Sarak, HYDERABAD

SUBJECT: CLARIFICATION OF RECRUITMENT RULES
REGARDING PHYSICAL FITNESS FOR
RECRUITMENT AGAINST VACANT POST-IN-
ANTI-CORRUPTION ESTABLISHMENT.

I am directed to refer your letter No. PSC/RS-III/2023/24 dated 18.07.2023 on the subject captioned above and to state that the criteria of measurement for female Candidates is not reflected in the incumbent recruitment Rules of this Establishment.

It is therefore, requested you to adopt the same criteria of measurement for female candidates as practiced in Police Department, laid down herewith.

Police Department	Male	5'x5"
	Female	5'x2"

Sd/-
(UBAID U REHMAN)
Section Officer (Admn/DDO)
E&ACE

9. From the perusal of above letter, it evidenced that the height for the female candidate was 5 feet 2 inches and not the 5 feet 2 inches. Moreover, the stance of the petitioner has also been admitted by the respondents SPSC in reply to para-7 of the petition, wherein they have specifically admitted that administrative Department through letter dated 21.07.2023, reproduced above, had clarified about height requirement of a female candidate in

respect of the subject post. The respondent SPSC admittedly did not distinguish in advertisement about requirement of height of a male and female candidate and despite of issuance of a clarification letter by the administrative advertisement, no fresh advertisement and/or corrigendum to that effect was issued, which again reflects the incompetency on part of the respondent SPSC. Surprisingly vide letter dated 13.05.2024 Petitioner was called by the SPSC to appear in physical test, the contents of letter attached as Annexure B to Memo of Reply lay down the physical standard for qualifying the physical test, wherein the height of the Female Candidates is mentioned as 5'X2" which lends further support to the case of the petitioner.

10. The petitioner vigorously claimed her height as 5'2" and that she fulfilled the required criteria of physical fitness, but the respondent SPSC paid no heed. In spite of the issuance of clarifications by the administrative department, SPSC failed to implement the required criteria and denied the right of the petitioner in a slipshod manner. Petitioner who otherwise was amongst the toppers in the written part of the examination could not appear in final phase with no fault on her part. The stance of the petitioner finds support from the record, however the respondent SPSC has failed to treat her in accordance with law. This failure has resulted in miscarriage of justice, as Petitioner was denied the due process of law and meted out with discrimination. It is the foundational concept of the law that right must go to the person to whom it belongs. The SPSC should have reflected moral rectitude to consider the case of petitioner in accordance with law. The dreams of the Petitioner wilted on account of the inefficiency of SPSC. The SPSC was saddled with a sacred responsibility of the recruitment on merits. SPSC is required to maintain transparency and self-accountability to ensure that appointments are made strictly in accordance with law and purely on merits. It appears that respondent SPSC lacks the services of competent persons to deal with the issues arising out of the decisions being made by the authority, as has been done in the case of petitioner.

11. The respondent SPSC being an independent entity is best suited to deal with the affairs of the recruitment process strictly in accordance with law without any favouritism and/or discrimination and keeping in mind to meet the recruitment process to the highest level of transparency and any

action on their part must not smack malafide. It is also well settled principle of law that once the malafide of facts are established, every solemn proceeding cripples. The malice in fact and malice in law in the case of the Petitioner stands established as her candidature was rejected illegally and without any lawful authority.

12. In the wake of above discussions, we are of the considered opinion that the respondent SPSC has failed to deal with the petitioner in accordance with law. The order passed by the Member (Appeals) SPSC dated 08.07.2024 is contrary to law, perverse and without justifiable reasons, as such cannot be endorsed/upheld. Therefore, the case for exercise of powers of judicial review under Article 199 of the Constitution is made out. Consequently, this petition is allowed and the Order passed by Member (Appeals) SPSC dated 08.07.2024 is set aside. The case of the petitioner is referred to respondent SPSC for conducting her physical test afresh in presence of Medical Superintendent Civil Hospital Hyderabad while keeping in mind the height as 5'.2" for female candidates in respect of the subject post in terms of letter dated 21.07.2023 issued by the administrative department. If the petitioner qualifies the physical test, then her interview be conducted in accordance with law. If the petitioner qualifies the physical and interview process, then appropriate action should follow.

13. Since the recruitment process for the subject post was initiated in the year 2024 and it might have been completed by now. If the SPSC has made recommendations in favour of the successful female candidates, this order shall not affect the right of any recommended female candidate in respect of the subject post. However, in case the petitioner after qualifying the physical test and interview is recommended for appointment against the subject post, as discussed above, the administrative department in that eventuality shall approve a fresh SNE by creating one subject post to adjust the petitioner.

14. The aforesaid exercise shall be completed within one month from the date of this Order. Office is directed to send copy of this Order to respondents SPSC as well as Chairman Enquiries and Anti-Corruption Establishment Government of Sindh for compliance. The compliance should reach this Court through Additional Registrar, failure whereof shall be

deemed as defiance of the Court's order, entailing consequences according to law.

Petition stands disposed of in the above terms.

JUDGE

JUDGE

Sajjad Ali Jessar

Approved for reporting

Hyderabad

31.10.2025