

IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No.D-4252 of 2023
[Aftab Ali versus Province of Sindh and others]

Before:

Justice Muhammad Karim Khan Agha
Justice Adnan-ul-Karim Memon

Mr. Irfan Aziz advocate for the petitioner
 Mr. Ali Safdar Depar, Assistant AG
 Mr. Ihsanullah Laghari, Focal Person, College Education Department

Date of hearing & order: 18.9.2025

ORDER

Adnan-ul-Karim Memon, J. Petitioner has filed this Constitutional Petition with the following prayer(s): -

- i) *Direct the respondent No.3 to decide the application of the petitioner for the post of Braille Instructor (BPS-17);*
- ii) *Direct the respondent No.3 to provide a complete list of candidates who applied for the posts of Braille Instructors and have not been issued a test/interview letter with sound and cogent reasons;*

2. Facts of the case as narrated are that on November 24, 2019, Respondent No.3 announced openings for several positions, including six for Braille Instructors, with a closing date of December 24, 2019. The petitioner, who is blind, applied for a Braille Instructor role on December 19, 2019, submitting all necessary documents, including a certificate from the Chandka Special Education Centre. Despite being qualified and repeatedly contacting Respondents No.2 and 3, the petitioner never received a response regarding an interview or test and is still waiting for the results of his application.

3. The petitioner's counsel argued that every citizen has equal rights under the Constitution of Pakistan, 1973. However, Respondent No.3 has violated these rights by failing to respond to the petitioner's application or provide a valid reason for not inviting him for an interview, even though the Braille Instructor positions remain open. Therefore, the counsel requested that the petition be allowed.

4. The Assistant Advocate General (AAG) stated that the College Education Department had initially requested a Braille Instructor position from the Sindh Public Service Commission. However, the department later decided the position was no longer necessary because of low student enrollment. On September 6, 2022, the College Education Department, with the Minister's approval, withdrew the request for this and other subjects. The Sindh Public Service Commission also

officially withdrew the posts via a press release on October 11, 2022. He prayed for dismissal of the petition.

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

6. The College Education Department, as the recruiting authority, officially withdrew the requisition for the Braille Inspector posts. This action was taken with the approval of the competent authority (the Minister for College Education) and was formally communicated to the Sindh Public Service Commission (SPSC). The petitioner applied for a vacant post, but an application alone does not create a legally enforceable right to be appointed. The recruitment process was never completed. As per general principles of public service law, until a formal offer of appointment is issued and accepted, a candidate does not have a "vested right" to the post. The withdrawal of the posts was based on a policy decision by the department (low student enrollment and existing staff being sufficient). This Court is reluctant to interfere with such administrative and policy-level decisions unless they are proven to be mala fide (in bad faith), arbitrary, or discriminatory, which is not the case in hand. While the petitioner is a blind person and submitted for equal rights, the department's reason for withdrawing the post, low student enrollment in that specific subject, applies to all candidates, not just the petitioner. The withdrawal of other posts (Bio-Chemistry, Microbiology, Civics) supports the submissions of AAG that this was a general administrative decision, not a targeted act of discrimination against the petitioner.

7. The argument that every citizen has equal rights is correct in principle, but in practice, a government department has the authority to create and abolish posts based on its needs. As long as the decision is non-discriminatory and based on a valid administrative reason, it is considered lawful. The petitioner's claim that the posts are still vacant is technically incorrect, as the AAG has provided a clear reason why they were not filled, and the department no longer requires them. The department has the right to decide not to fill a position. The department's failure to respond to the petitioner's inquiries is poor administrative practice, but it is not a sufficient ground for this court to order the creation of a job and the petitioner's appointment, especially when the post has been officially withdrawn.

8. Given these circumstances, this court is not inclined to allow the petition on the analogy that the department's decision to withdraw the requisition was/is a lawful exercise of its administrative and policy-making authority. The petitioner, having only submitted an application, does not acquire a vested right to the post. The department's reasons for withdrawal (low enrollment) prima facie are valid and not demonstrably discriminatory. This court also noted that while the

petitioner's frustration is understandable, it cannot compel a government department to create or fill a position that it has determined is no longer needed. This court's role is not to manage administrative affairs but to ensure that they are conducted in accordance with the law. In this case, the department's actions, though delayed, appear to be legally justifiable. Consequently, this petitions fails and is dismissed accordingly.

JUDGE

HEAD OF CONST. BENCHES