

THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 717 of 2026

[Hizbullah Mirbahar v. Province of Sindh and others]

Before:
Justice Arbab Ali Hakro
Justice Muhammad Osman Ali Hadi

Petitioner by : Mr. Sikandar Sadar Siddiqui, Advocate

Respondents by : Agha Athar Hussain Pathan, Assistant Advocate General Sindh

Date of Hearing : **09.09.2026**

Date of Decision : **09.09.2026**

ORDER

ARBAB ALI HAKRO, J. – The petitioner, being a person with disability, has filed the instant Constitutional Petition seeking directions for the respondents to consider his case for appointment against the quota reserved for persons with disabilities and to appoint him to any suitable post according to his qualifications and eligibility.

2. The petitioner has pleaded that he is a person with a Locomotor Disability to the extent of 60% and holds a disability certificate issued by the competent authority. He claims to be qualified up to Matric level and states that, as a domicile holder of District Sukkur, he approached the concerned officials and various departments of the Government of Sindh for his appointment against the disability quota. According to him, despite repeated requests and the submission of his testimonial documents, domicile and PRC, his case was not considered. He has therefore invoked the constitutional jurisdiction of this Court, seeking appointment to any suitable post under the 5% quota reserved for persons with disabilities.

3. Learned AAG Sindh, while referring to the comments submitted by the Deputy Commissioner, Sukkur, submits that recruitment against vacancies, including the quota reserved for persons with disabilities/differently-abled persons, is regulated by the Sindh Empowerment of Persons with Disabilities

Act, 2018, the applicable rules, and the prescribed recruitment procedure. It is further submitted that recruitment against the 5% quota has been undertaken in District Sukkur from time to time, and that a substantial number of persons with disabilities have already been appointed through the District Recruitment/Selection Committee. It is stated that, in the recruitment process conducted in January 2026, more than 1000 applicants appeared for interviews and 20 persons were appointed, whereas a total of about 100 differently-abled persons/persons with disabilities have been appointed against the 5% quota in various departments in the relevant recruitment processes. Learned AAG further submits that the petitioner himself failed to appear in any walk-in interview/recruitment process and, therefore, cannot claim appointment merely on the basis of his disability or by submitting applications to the authorities.

4. We have heard the learned counsel for the petitioner as well as the learned AAG Sindh and have perused the material on record.

5. A perusal of the petition reveals that the petitioner seeks appointment under the 5% quota reserved for persons with disabilities. The statutory scheme provides for reservation for persons with disabilities in Government employment. However, such reservation does not, by itself, confer an automatic or indefeasible right of appointment upon every person within that category.

6. The foremost requirement for appointment to a government or public post is compliance with the prescribed legal and codal formalities and participation in a recruitment process initiated by public advertisement or notice, followed, where prescribed, by scrutiny of documents, a test, an interview, and determination of merit. A person holding the requisite disability certificate is entitled to the benefit of the reserved quota in accordance with law, but such entitlement does not exempt him from the mandatory recruitment procedure.

7. In the present case, although the petitioner asserts that he approached the respondents and submitted applications for appointment, no such application or any public advertisement or recruitment process in which

the petitioner participated has been placed on record. Conversely, the respondents have categorically stated that the petitioner did not appear for any walk-in interview or recruitment process. Thus, there is no material before us to establish that the petitioner participated in a lawful recruitment process and was thereafter denied appointment despite being eligible and having secured merit.

8. The constitutional and statutory protections available to persons with disabilities are intended to ensure their effective participation in public employment and cannot be defeated by administrative inaction. At the same time, the right arising from a reserved quota is to be actualised through a fair, transparent and lawful recruitment process for posts actually available for appointment. Employment of persons with disabilities is a right, not a matter of charity; however, the exercise of that right must take place within the framework of the prescribed recruitment process.

9. The respondents have placed on record that recruitment under the 5% disability quota has been undertaken in District Sukkur on various occasions, and that appointments have been made through the District Recruitment/Selection Committee. It is also their stated position that the petitioner did not participate in the relevant recruitment process. In these circumstances, no direction can be issued for the direct appointment of the petitioner to any post merely on the basis of his disability certificate, qualification, or the applications allegedly submitted by him.

10. Consequently, the petitioner, having failed to participate in the prescribed recruitment process, is not entitled to the relief of direct appointment sought. However, he shall remain at liberty to participate in any future recruitment process for posts reserved for persons with disabilities in accordance with law.

11. Needless to say, whenever recruitment against the 5% disability quota is initiated in District Sukkur, the competent authority shall undertake it through a fair, transparent and lawful process, in accordance with the Sindh Empowerment of Persons with Disabilities Act, 2018, applicable rules, Government policy and all prescribed legal and codal formalities. The

petitioner, if otherwise qualified and eligible, shall be entitled to apply pursuant to the relevant advertisement/notice, and his candidature shall be considered strictly in accordance with the prescribed procedure, including any test, interview and merit criteria.

12. It is further clarified that mere entitlement to consideration under the disability quota does not create a vested right to appointment. Any appointment shall remain subject to the availability of the post, prescribed qualifications and eligibility, participation in the recruitment process, merit, and fulfilment of all mandatory legal and codal requirements. No discrimination shall be made against the petitioner merely on account of his disability.

13. In view of the above, the instant Constitutional Petition is **disposed of** on the above terms. A copy of this order may be communicated to the Deputy Commissioner, Sukkur, for information and compliance with the directions contained herein.

J U D G E

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Abdul Basit