

THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 887 of 2026

[Afsar Hussain and others v. Province of Sindh and others]

Before:

Justice Arbab Ali Hakro

Justice Muhammad Osman Ali Hadi

Petitioners by : Mr. Abdul Waheed Laghari, Advocate

Respondents by : Mr. Saeed Ahmed Wassan, Assistant Advocate General Sindh along with Barkat Hussain, Office Superintendent on behalf of Deputy Commissioner, Sukkur

Date of Hearing : **09.09.2026**

Date of Decision : **09.09.2026**

ORDER

ARBAB ALI HAKRO, J. – The petitioners, being persons with disabilities, have filed the instant Constitutional Petition seeking directions for the respondents to consider their cases for appointment against the quota reserved for persons with disabilities and to appoint them to suitable posts in accordance with their qualifications and eligibility.

2. The petitioners have pleaded that they are persons with disabilities and hold disability certificates issued by the competent authority. They claim that they approached the respondents to seek appointment against the quota reserved for persons with disabilities and submitted their domiciles and PRCs. According to them, despite repeated requests and approaches, their cases were not considered and they were not appointed. The petitioners have therefore invoked the constitutional jurisdiction of this Court, seeking appointment to any suitable post under the 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 petitioners failed to appear in any walk-in interview/recruitment process and, therefore, cannot claim appointment merely on the basis of their disability or by submitting applications to the authorities.

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

5. A perusal of the petition reveals that the petitioners seek 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 falling 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 petitioners assert that they approached the respondents and submitted applications for appointment under the disability quota, no such applications or any public advertisement

or recruitment process in which the petitioners participated have been placed on record. Conversely, the respondents have categorically stated that the petitioners did not appear for any walk-in interview or recruitment process. Thus, there is no material before us to establish that the petitioners participated in a lawful recruitment process and were 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 actualized 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 petitioners did not participate in the relevant recruitment process. In these circumstances, no direction can be issued for the direct appointment of the petitioners to any post merely on the basis of their disability certificates, qualifications, or the applications allegedly submitted by them.

10. Consequently, the petitioners, having failed to participate in the prescribed recruitment process, are not entitled to the relief of direct appointment sought. However, they 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 and Khairpur, 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 petitioners, if otherwise qualified and eligible, shall be entitled to apply pursuant to the relevant advertisement/notice, and their 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 fulfillment of all mandatory legal and codal requirements. No discrimination shall be made against the petitioners merely on account of their 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 Commissioner, Sukkur Division, and the Deputy Commissioners, Sukkur and Khairpur, for information and compliance.

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Abdul Basit