

IN THE HIGH COURT OF SINDH KARACHI

Before:

Justice Muhammad Saleem Jessar
Justice Nisar Ahmed Bhanbhro

CP No.D-5020 of 2025

(Saqlain Mushtaq v. learned District & Sessions Judge and another)

Malik Altaf Hussain, Advocate for Petitioner alongwith
Mr. Rafiullah and Hameed Khan Chakzai, advocates

M/s. Hakim Ali Shaikh Additional Advocate General
and Sagheer Ahmed Abbasi Assistant Advocate
General.

Mr. Asad Mufti, representative of District Judge East,
Karachi

Date of hearing and order:

04.02.2026

Date of Reasons:

12.02.2026

JUDGMENT

NISAR AHMED BHANBHRO, J. Through this petition, the petitioner has claimed following relief(s):-

“a) To hold and declare that the Impugned Orders dated 13.03.2025 and 11.08.2025 are illegal, unlawful unconstitutional and afterthought; consequently, to quash the same in exercise of powers available under Article 199 (1)(a)(ii) of the Constitution of Pakistan, 1973.

b) Further the Respondent No.1 be directed to issue appointment order to the Petitioner in terms of consolidated result for the post of Stenographer (BPS-16) announced by the Departmental Selection Committee

c) Pending adjudication of the instant proceedings, the Respondent No.1 be restrained from filling up the post of Stenographer (BPS-16) and/or to keep one post vacant for the Petitioner.”

2. Learned counsel for the petitioner contended that respondent No.1, through advertisement dated 15.06.2023, invited applications for various posts, including Stenographer (BPS-16), for which candidates domiciled across province of Sindh were expressly eligible, while domicile restrictions were imposed only on certain other posts falling in grade 2 to 11; that the petitioner, holding domicile of District Naushahro Feroze, applied strictly in terms of the advertisement and was duly scrutinized and declared eligible; that the petitioner successfully qualified the written test conducted by SIBA Testing Service, secured 72 marks, stood 3rd on merit, and thereafter

qualified the skill test and viva voce; that upon completion of all codal formalities, the petitioner was selected for the post, and the final result was duly notified and signed by the Selection Committee. He argued that while awaiting issuance of the appointment letter, respondent No.1, vide letters dated 13.03.2025 and 11.08.2025, sought relaxation in age and domicile of the candidates which, according to learned counsel, was wholly unnecessary, illegal, and contrary to the express terms of the advertisement. It is contended that the impugned letters are arbitrary, beyond jurisdiction, and aimed at defeating the petitioner's vested right accrued through a lawful selection process. He, therefore, prayed that the petition may be allowed.

3. Learned Additional Advocate General contended that as per directions of the High Court issued vide letter dated 18.11.2017, cases of candidates not holding PRC of the concerned district, though otherwise qualified and selected, were required to be forwarded to the High Court for consideration. It is submitted that the petitioner's grievance regarding withdrawal of the request for domicile relaxation is misconceived. It is argued that the office of District & Sessions Judge, Karachi East, received communication dated 30.04.2025 from High Court, wherein the then Honourable Chief Justice observed that relaxation of domicile condition does not fall within the true scope of Rule 14 and such relaxation could not be treated as a matter of course, rather being a policy decision. In view of the said clear directive, no further request for relaxation of domicile could lawfully be made. Learned AAG maintains that the recruitment process was conducted strictly in accordance with law and that no illegality or irregularity has been committed. The withdrawal of the request for domicile relaxation was, therefore, in compliance with the policy decision and binding directions of this Court. Lastly, he prayed for dismissal of instant petition.

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

5. The crux of the controversy involved in the present petition is that the petitioner applied for the post of Stenographer (BPS-16). Petitioner went through the entire competitive process and vide consolidated result issued by the Departmental Selection Committee available at page 57 of Court File Petitioner was declared as "selected" but he was not issued appointment letter as he did not belong to concerned District. In such an eventuality Respondent No 1 (Learned District & Sessions Judge Karachi East) vide its letter dated 13.03.2025 addressed to Registrar of this Court sought relaxation

in domicile district of the Petitioner. It appears that worthy Chief Justice was pleased to decline a similar request made by Learned District & Sessions Judge Karachi West vide its orders dated 30.04.2025 as is transpired from Para 4 of the reply filed by Respondent No 1, therefore, the request seeking relaxation in Domicile District was withdrawn through letter dated 11.08.2025.

6. The appointments in the judicial staff service in province of Sindh are made under the provisions of the Sindh Judicial Staff Service Rules, 1992 (SJSS Rules), which divided the judicial staff service in different categories. Rule 3 being relevant is reproduced below:

3. Constitution of Service.- (1) *The service shall comprise of the posts of the staff in the District and Sessions Courts, the Small Causes Court, Karachi, and the Subordinate Civil Courts in the province of Sindh.*

(2) *The posts in Service shall be grouped as following – A. Chief Ministerial Officer/ Clerk of the Court of the Judge Karachi Small Causes Court and District Court.*

B. Nazir of the District Court, Reader of the District Judge, Senior Clerk Translators and Head Translators of the district Court, Assistant Clerk of the Court (Asst. C.M.Os) of District Court, Clark Court, Readers and Nazirs in Courts of Senior Civil Judges and Reader and Nazir in the Court of Judge, Small Causes Court, Karachi.

C. Librarian of District Court Reader to Additional District Judges, Record Keeper, Cashier Assistant Accountant, Head Clark, Assistant Record Keeper, Junior Translators, English Clerks and Senior Clerks in the District Court, Cashier in the Karachi Small Causes Court, Senior Clerks in the Civil Courts.

D. Civil Clerks, Criminal Clerk, correspondence Clerks, Assistant Correspondence Clerks and Junior Clerks in the district Court, English Clerks, Naib Nazir and Junior Clerks in Karachi Small Causes Court and Junior Clerks and Naib Nazir in Courts of Civil Judges.

E. The reminder.

F. Shorthand Writers/ Stenographers.

G. Head Bailiff, Bailiff, Drivers, Book-Binders, Daftaries (District Courts), Havalgars Naik, Peons, Naib Qasid and Chowkidars, Malis and Watermen.

7. The case of the Petitioner falls in category F. Rule 4 of the SJSS Rules confers powers of appointments in a Sessions Division to the District Judges and to the service in the Small Causes Courts by the Judges, Small Causes

Court. Rule 4 further elaborates that the provisions of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, (APT Rules) so far as they are applicable to the posts in the service and are not inconsistent with SJSS Rules, and such other general rules as Government may frame from time to time; and any instructions which the High Court may issue shall apply to the recruitment of judicial staff. Rule 4 for the sake of convenience is reproduced below:

*4. **Appointing Authority.**- Appointments to the service in a Sessions Division shall be made by the District Judges for the Sessions Division:*

Provided that appointments to the service in the Small Causes Courts shall be made by the Judges, small Causes Court:

Provided further that appointment shall be made in accordance with:-

(a) The provisions of the Sindh Civil Servants (Appointment, promotion and transfer) Rules, 1974, so far as they are applicable to the posts in the service and are not inconsistent with these rules, and such other general rules as Government may frame from time to time; and

(b) any instructions which the High Court may issue.

8. From the perusal of the provisions above Rule, it transpires that for the appointment of the judicial staff, the APT Rules shall be applicable besides any instructions issued by the Sindh High Court. cursory glance at the APT Rules would reveal that the initial appointments to the post of Basic Pay Scales 1 to 15 shall be made at local, District & Regional Level on recommendations by a Departmental Selection Committee after the vacancy in the Basic Pay Scale has been advertised in the newspapers. Since the issue under lis pertains to post in grade 16, which is governed by the provisions of Rule 14 of the APT Rules which reads as under:

"14.- Vacancies in the under mentioned posts shall be filled on Provincial basis, in accordance with the merit and regional or district quota as determined by Government from time to time.

(i) Posts in Basic Scales 16 and above;

(i) Posts in Basic Scales 3 to 15 in offices which serve only the whole Province."

9. The provisions of above Rule, make it crystal clear that the posts in Basic Pay Scale 16 and above are to be filled on the provincial basis in accordance with merit and on the basis of regional or district quota as determined by the Government from time. Careful examination of SJSS Rules and APT Rules makes it clear that for the post of stenographer which is a 16 grade post no quota has been reserved at District or Regional Level.

10. The advertisement dated 15.06.2023 itself distinguished the eligibility criteria for the post of stenographer, whereby the appointing authority had invited applications from the interested candidates domiciled in District East and Korangi Karachi for posts falling in grade 02 to 11, whereas, for the post of stenographer BS - 16 invited applications from the candidates domiciled in the province of Sindh. The advertisement conformed to the provisions of Rules 15 and 16 of APT Rules, which are reproduced below:

"15.- Posts in Basic Scales 3 to 15 in offices which serve only a particular region or district shall be filed by appointment of persons domiciled in the region or district concerned.

16.- Posts in Basic Scales 1 and 2 shall ordinarily be filled on local basis."

11. The rejection of the candidature of the petitioner on the ground that he was not having PRC (Permanent Residence Certificate) of the concerned district was not commensurate to the provisions of Rule 14 of the APT Rules. Since in the advertisement it was specifically mentioned that a candidate having domicile of province of Sindh was eligible to participate in the competitive process for appointment to the post of Stenographer, such terms and conditions mentioned in the advertisement were final and cannot be altered at a subsequent stage of recruitment process unless found in contravention to the recruitment rules that too by giving a public notice to the all concerned. Reliance in this regard is placed on dicta laid down by the Honorable Supreme Court in the case of **Ghayasuddin Shahani & others Vs. Akhtar Hussain & others reported as 2022 PLC (CS) 229.**

12. It further transpired from the record that vide order dated 30.04.2025 the worthy Chief Justice was pleased to decline the request of District & Sessions Judge West Karachi by observing that the request for relaxing the condition of domicile does not fall within the true interpretation of Rule 14. As discussed supra Rule 14 of APT Rules pertained to appointments in grade 16 and above and no material has been placed on record to evince that learned District & Sessions Judge West had sought domicile relaxation in the appointment matters of grade 16 and above.

13. The Petitioner has not been dealt in accordance with law, his candidature was rejected without giving him a right of hearing or even assigning any reasons. The Petitioner had qualified in the entire selection process and a right in his favor had accrued which was denied with following due course of law, as such a case for indulgence of this Court to

exercise the powers of Judicial Review conferred under article 199 of the Constitution of Islamic Republic of Pakistan, of 1973 is made out.

14. In the wake of above discussion, this petition is allowed. The impugned orders dated 13.03.2025 and 11.08.2025 are set aside. The petitioner is declared eligible to participate in competitive process for appointment to the post of Stenographer (BPS-16). Since the appointments under SJSS Rules are subject to any instructions by High Court, therefore, the Respondent No 1 is directed to forward the case of the Petitioner to Registrar of this Court for placing the same before Competent Authority for further orders within a period of 30 days from the date of this order.

15. This petition was allowed vide a short order dated 04.02.2026 and these are the reasons for the same.

JUDGE

**JUDGE
HEAD OF CONST. BENCHES**

Nadir*

Approved for reproting