

IN HIGH COURT OF SINDH, CIRCUIT COURT MIRPURKHAS

C.P No. D-1790 of 2024
[Mukesh Kumar & others v P.O Sindh & others]

Before:
Mr. Justice Arbab Ali Hakro
Mr. Justice Riazat Ali Sahar

Counsel for Petitioners:	Mr. Wishan Das Kholi, Advocate
Counsels/ Representatives for Respondents:	Mr. Ayaz Ali Rajper Assistant Advocate General, Sindh. Mr. Inayat Ali Kumbhar District Education Officer, Umerkot.
Date of Hearing	26.03.2025
Date of Judgment	07.05.2025

JUDGMENT

RIAZAT ALI SAHAR, J. Through this judgment, we intend to dispose of captioned petition, wherein the following relief is sought:

- “1. To declare that appointments made by respondents against the vacant posts on disable quota other than the petitioners are illegal, unlawful unconstitutional and are against natural principles of justice.*
- 2. To declare that the respondents are under legal obligation to implement policy regarding disabled quota and to appoint the petitioners against any vacant post that may suit his qualification.*
- 3. To mandate and direct the respondents to consider the case of the petitioners regarding any vacant post on the basis of deceased quota without further delay. And appoint them as provided under section 5(1) A of civil servant act 1973 as per vacant posts.*
- 4. Any other relief, which this Court may deem proper and appropriate in the circumstances.*
- 5. Cost of the petition be dumped upon the respondents.”*

2. The petitioners are differently-abled individuals who had applied to different post for appointment under the Disabled Quota. However, despite the passage of a considerable period, no

such post has been granted to the petitioners. Aggrieved by this unexplained inaction and delay, and having no alternate or efficacious remedy available to them under the law, the petitioners have been constrained to approach this Honourable Court by invoking its extraordinary constitutional jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking appropriate relief to safeguard their fundamental rights.

3. In due course, the College Education Department, Government of Sindh, submitted its para-wise reply, wherein it was categorically stated that no appointments have been made in the department since the year 2012. However, it is pertinent to note that this does not preclude the availability of posts for differently-abled persons in other departments. As observed in similar Constitutional Petitions pending before this Court, namely **C.P. No. D-1725 of 2024, C.P. No. D-1706 of 2024, and C.P. No. D-1735 of 2024**, the concerned Deputy Commissioners have undertaken to accommodate differently-abled individuals against the Disabled Quota in various departments after receiving recommendations from the respective departments. Such undertakings are being made pursuant to the directions contained in the order dated 19.03.2024 passed in **Constitutional Petition No. D-176 of 2023 titled Abid Ali Jatoi and others v. Province of Sindh and others** by the High Court of Sindh, Bench at Sukkur.

“In the course of arguments, it has transpired that out of 204 petitioners, 96 petitioners have applied for appointment on disabled quota and their applications are pending before relevant authorities and have not been considered yet in terms of 5% quota. Learned AAG has undertaken that their applications would be considered on merits and out of them if

anyone is found competent and deserving would be appointed against the post as per his qualification within a period of two months and such report would be submitted. Regarding remaining petitioners, he has proposed that they may be directed to file applications for appointment as per their qualification in the relevant districts and its copy may be sent to his office and he will make sure that their applications are considered and decided in accordance with law by observing 5% disabled quota as ordained by the law and the Constitution. The counsel for the petitioners is satisfied, hence this petition is accordingly disposed of in above terms.

Let this order be implemented despite any stay granted by any court including a Single Bench of this Court in exercising jurisdiction under Civil Procedure Code except by the Supreme Court. A copy of this order be sent to the office of AAG for a perusal and compliance.”

Thus, the petitioners’ case falls squarely within the protective umbrella of the aforesaid judicial directive.

4. Nevertheless, the petitioners are at liberty to apply afresh for employment under the disabled quota after an advertisement is published as well as fulfillment of all legal and codal formalities. In doing so, the competent authority shall process the petitioners’ applications strictly in view of the directions contained in the order dated 19.03.2024 passed in **Constitutional Petition No. D-176 of 2023 (Abid Ali Jatoi and others v. Province of Sindh and others)**, High Court of Sindh, Bench at Sukkur). Appointments shall be made in accordance with the eligibility criteria and against relevant vacant posts, without any discrimination.

In light of the above, the instant petition stands disposed of in the terms mentioned herein.

JUDGE

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