

IN HIGH COURT OF SINDH, CIRCUIT COURT
MIRPURKHAS

C.P No. D-1735 of 2024
[Irfan Ali v. P.O Sindh & others]

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

Counsel for Petitioner: Sandeep Kumar Maheshwari, 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:

“a. Direct the respondents to issue appointment letter to the petitioner for the post of Lab Attendant BPS-02 in Education & Literacy Department Government of Sindh on disabled quota for which he was issued offer letter.
b. Direct the Respondents to ensure that the Government Policy with regard to the appointment on Disable quota will be abide b) them and the request of the petitioner will be considered in accordance with law.
c.. Any other reliefs) which this Honourable Court deems fit, just and proper in favour of the petitioner.”

2. The petitioner is a **differently-abled** individual who, pursuant to a recruitment process initiated by the Education and Literacy Department, applied for the post of Lab Attendant (BPS-02) against the quota reserved for persons with disabilities. Upon successful completion of the requisite selection formalities, the

competent authority issued an offer letter to the petitioner, signifying his selection for the said post. However, despite the issuance of the offer letter, no formal appointment order has been issued in his favour, thereby depriving the petitioner of his right to employment. Aggrieved by this inaction and delay, and having no alternate efficacious remedy available under the law, the petitioner has approached 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.

3. In the due course, the concerned Deputy Commissioner of Mirpurkhas undertook to accommodate the petitioner in accordance with his eligibility under the **disabled quota**, 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. The relevant portion of the said order is reproduced hereunder for ready reference:

“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 petitioner's case falls squarely within the protective umbrella of the aforesaid judicial directive.

4. However, it is pertinent to note that the appointments made pursuant to the subject advertisement were subsequently declared null and void vide order dated 29.06.2024 passed in **Suit No. 1493 of 2023 by the Honourable High Court of Sindh, Principal Seat at Karachi.** Consequently, the petitioner's appointment also stands rendered null and void. Nevertheless, the petitioner is at liberty to apply afresh for employment under the disabled quota. In doing so, the competent authority shall process the petitioner's application 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.

5. It is also relevant to highlight that in the same Constitutional Petition No. D-176 of 2023 (Abid Ali Jatoi and others v. Province of Sindh and others), the Bench of this Court at Sukkur, passed a further order dated 10.10.2024 on CMA No. 2789/2024. In this order, the Court expressed dissatisfaction with

the compliance reports submitted by various Deputy Commissioners regarding the implementation of earlier directives aimed at ensuring appointments under the disabled quota. The Court observed that the reports appeared evasive and lacking in substance, and therefore returned them for proper compliance. The relevant portion of the order is reproduced as follows for ready reference:

"Pursuant to orders dated 18.09.2024 and 03.10.2024 passed in the captioned petitions, whereby Deputy Commissioners were directed to submit their response regarding the number of differently-abled persons/petitioners appointed and the steps taken to fill the reserved vacancies, a number of reports have been presented through the learned AAG. However, on the face of it, these reports appear to be evasive and are thus returned. We are not concerned with fishy or eye-washed reports submitted under the guise of compliance.

Petitioners before the Honourable Supreme Court as well as this Court are directed to contact their respective Deputy Commissioners forthwith, who shall ensure their appointment against posts from BPS-01 to BPS-04. It has been brought to the notice of this Court that the orders passed in these petitions, as well as those of the Honourable Supreme Court in CPLA No. 745-K to 750-K and Civil Petitions No. 966-K to 971-K of 2022, for the appointment of differently-abled persons on their reserved quota, shall be complied with in letter and spirit.

All Deputy Commissioners are directed to issue appointment letters to the petitioners as undertaken before the Honourable Supreme Court and this Court, and to submit compliance reports before the next date of hearing without fail. No excuse of any nature shall be acceptable, and coercive measures shall be taken against delinquent officials. It is further directed that no bar of overage shall hinder the appointment of petitioners to Grade-01 to 04 posts, and such restrictions shall be waived. Deputy Commissioners shall also treat differently-abled persons with respect and dignity when approached."

6. This subsequent judicial directive further reinforces the binding obligation upon the concerned authorities to act in accordance with the constitutional mandate and court directions regarding the employment rights of differently-abled individuals, including the petitioner herein.

7. In light of the above, since the petitioner Irfan Ali was issued an offer order for appointment as “Lab Attendant BPS-02)” by the respondent No.5 consequent upon approval of the Competent Authority through recommendations of District Selection Committee Mirpurkhas on 07.08.2023 the instant petition stands **allowed** in the terms mentioned therein. The respondent No.5 is directed to issue appointment letter to the petitioner without further delay within a period of fifteen (15) days under compliance report before this Court through the Additional Registrar.

JUDGE

JUDGE