

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C.P No.D-3576 of 2014

(Amjad Ali v. P.O Sindh and others)

PRESENT:

*MR. JUSTICE ZULFIQAR ALI SANGI;
MR. JUSTICE RIAZAT ALI SAHAR;*

Petitioner: Amjad Ali, through Ghulam Shabeer Shar,
Advocate for petitioner

Respondents: Through, Mr. Ali Raza Balouch, Additional
Advocate General Sindh

Date of hearing: 22.10.2025

Date of order: 30.10.2025

ORDER

ZULFIQAR ALI SANGI, J.– Through the instant petition, the petitioner has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan 1973, seeking appropriate directions against the respondents concerning his appointment to the post of Police Constable.

2. The petitioner asserts that he duly appeared in the prescribed recruitment process. He successfully qualified the physical test and was declared fit. Thereafter, he appeared in the written examination and secured 42 marks, followed by the viva voce/interview in which he obtained 62 marks, thereby securing an aggregate score of 104 marks. Consequently, his name was allegedly included amongst the successful candidates in the final result pertaining to General Recruitment 2014. The petitioner maintains that he was assured by Respondent No. 2 that the offer/ appointment order would be issued to him in due course. Having successfully qualified all stages of the recruitment process, the petitioner claims that he developed a legitimate expectation of his appointment. However, Respondent No. 2, without lawful justification, failed to issue the appointment order and instead allegedly issued appointment orders to certain individuals who neither participated in nor qualified the physical, written, or viva voce tests, solely on account of their political affiliations. Thus, eligible candidates including the petitioner have been unlawfully deprived of their rightful appointments. The petitioner further states that

several representations were submitted to Respondent No. 3, apprising him of the illegalities committed by Respondent No. 2 and seeking remedial action. However, no action was taken. It is asserted that the respondents failed to perform their statutory duties in a fair, transparent, and impartial manner, thereby unlawfully depriving the petitioner of his appointment. The petitioner prays for the following reliefs:-

(a) To declare that the act of respondents for not issuing appointment orders to the petitioner, who is successful candidate and the respondent No.2, appointing those person who have got political source is illegal, unlawful unconstitutional and contrary to law.

(b) To direct the respondents to issue the appointment order to the petitioner who have all qualified physical, written, further delay, duty bound orders to as the test with voice via without the respondents are issue the appointment the successful candidates per rules and regulation.

(c) To issue of prohibition the writ restraining the respondent No.2 not issue the appointment orders till the final decision of petition in hand without ascertaining that the persons who are been choose successful candidates have cleared all the test or not.

(d) To grant any other relief/relieves, deems fit and proper in circumstances of as the case.

(e) To award the costs of the Petition.

3. Upon issuance of notice, the respondents submitted comments. In compliance with this Court's order dated 02.04.2024, the learned AAG filed a statement enclosing complete details of the marks obtained by the petitioner and other candidates in the written examination and viva voce. It transpired from the verified record that the petitioner had secured 68 marks in the written test and 26 marks in the viva voce, aggregating to 94 marks, thereby revealing a significant discrepancy between the marks claimed by the petitioner and those reflected in the official record. The merit list relied upon by the petitioner was denied by the respondents. Consequently, the Inspector General of Police, Sindh, was directed to conduct an inquiry. In compliance with the Court's order dated 07.05.2025, an inquiry committee was constituted and its report was submitted, holding that the list furnished by the petitioner lacked any evidentiary value and could not be treated as an authentic or official merit

list pertaining to District Khairpur for General Recruitment 2014. The report concluded that the petitioner's entitlement to appointment could not be established based on the available official record. It was, however, observed that the office of the SSP Khairpur had acted negligently by providing incorrect information to this Court, warranting disciplinary action. The DIG Sukkur was accordingly directed to initiate appropriate action against the concerned officials responsible for such misconduct.

4. Learned counsel for the petitioner reiterates that the petitioner had secured 42 marks in the written examination and 62 marks in the viva voce, totaling 104 marks, and was duly declared successful for recruitment. It is argued that petitioner's legitimate expectation of appointment has been frustrated due to malafide and politically motivated decisions of the respondents. It is further submitted that any lapses or negligence on part of the official authorities should not prejudice the rights of the petitioner, who having fulfilled the recruitment criteria, is entitled to be appointed strictly on merit. Reliance is placed on the settled principle that an eligible candidate must not be penalized due to official inefficiency or administrative lapses.

5. Conversely, learned AAG contends that the petitioner has relied upon a forged and fabricated merit list. The official record conclusively establishes that the petitioner obtained only 68 marks in the written examination and 26 marks in the viva voce, and therefore failed to qualify. No enforceable or vested right has accrued in his favour for appointment to the post of Police Constable. It is further argued that the petitioner has deliberately misrepresented material facts, submitted manipulated documents, and attempted to mislead this Court. Such conduct is devoid of bona fide intent, constitutes mala fide effort to subvert due process, interferes with lawful functions of competent authorities, and amounts to flagrant abuse of the constitutional jurisdiction of this Court. It is, therefore, prayed that the petition, being misconceived and frivolous, be dismissed with exemplary costs.

6. We have heard learned counsel for the petitioner, learned Additional Advocate General Sindh and perused the material available on the record with their able assistance.

7. The petitioner maintains that he successfully cleared all stages of recruitment including physical test, written examination, and viva voce. He claims to have secured 42 marks in the written component, 62 marks in the viva voce, achieving an aggregate total of 104 marks, where after his name appeared in the list of successful candidates. Having qualified the entire process, the petitioner asserts a legitimate expectation of appointment. It is alleged that despite assurances from Respondent No. 2, the appointment order was withheld without lawful justification while persons lacking requisite qualifications were favored. Upon issuance of notice, respondents filed comments, categorically denying the petitioner's stance. Initially, on 09.03.2015, the SSP Khairpur (respondent No.2) filed comments stating that the petitioner had secured 40 marks in the written test but did not qualify the viva voce; therefore, he was not issued an appointment order. Subsequently, the same officer submitted another statement, clarifying that, as per the official record, the petitioner had actually secured 68 marks in the written test but failed in the interview/viva voce. It was further admitted that in the earlier comments dated 09.03.2015, the figure of 40 marks had been mentioned inadvertently instead of 68 marks. The officer also submitted that he was neither posted as SSP Khairpur nor a member of the appointment committee at the time of recruitment, and that the said negligence was committed by the staff of SSP Office, Khairpur, against whom disciplinary action had been initiated. He tendered an unconditional apology for this human error. In consequence of the order dated 07.05.2025, a detailed report along with the relevant record was submitted by the AIG Legal-II on behalf of the IGP Sindh, Karachi. The report reflects that the petitioner had actually secured 68 marks in the written examination and 26 marks in the viva voce, totaling 94 marks, thereby rendering him an unsuccessful candidate. This clarified the factual controversy. The merit list relied upon by the petitioner was found to be neither genuine nor traceable to the official recruitment record. Consequently, an inquiry was ordered by this Court. The compliance report submitted on 07.05.2025 reflects the following findings:

a. The purported merit list annexed by the petitioner is unauthentic and unsupported by the official record.

b. The petitioner's eligibility in the recruitment process is not established.

c. The office of SSP Khairpur displayed negligence in transmitting incorrect information to this Court earlier,

resulting in disciplinary action against the delinquent officials.

8. The primary question is whether the petitioner, on the basis of demonstrated merit, holds a legally enforceable right to appointment under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973. The jurisprudence of the Honourable Supreme Court is unequivocal that *mere participation in recruitment, even a position in a merit list, does not confer an indefeasible right of appointment*. The employer retains discretion subject to law, transparency, and fairness. The Hon'ble Supreme Court in the case of *Secretary Finance and others v. Ghulam Safdar (2005 SCMR 534)* has held as under:

"10. Be that as it may, it is difficult to sustain the prayer of the respondents since mere selection in written examination and interview test would not, by itself, vest candidates with a Fundamental Right for enforcement as such in the exercise of Constitutional jurisdiction of the High Court. Admittedly, the appellants had not issued any offer of appointment to the respondents and their appointment was subject to clearance by the Establishment Division under the Centralized System of Recruitment till it was discontinued in November, 1996, which again coincided with the imposition of ban on fresh recruitments, which could not be safely ignored by the appellants..."

In another case of *Waheed Gul Khan and another v. Province of Sindh and orders (2024 SCMR 1701)* the Honourable Supreme Court has held as under:

3 "9. *An interview is inherently a subjective evaluation, and a Court of law does not have jurisdiction to substitute its opinion with that of the Interview Board to provide relief to anyone. The role of the Interview Board is to evaluate candidates based on a variety of subjective criteria, which may include interpersonal skills, presentation, and other intangible qualities that are difficult to measure objectively. These assessments are inherently qualitative and depend on the opinion of interviewers, who are appointed for their expertise and ability to make such evaluations. However, this does not mean that the decisions of the Interview Board are beyond scrutiny. If there were any indications of mala fides, bias, or significant errors in opinion that are apparent from the records, the Court would certainly be compelled to intervene.*

10. *This court in the case of Muhammad Ashraf Sangri v. Federation of Pakistan (2014 SCMR 157), has ruled that;-*

"Essentially an interview is subjective test and it is not possible for a Court of law to substitute its own opinion for that of the Interview Board in order to give the petitioner relief. What transpired at the interview and what persuaded one member of the Board to award him only 50 marks is something which a Court of law is certainly not equipped to probe and to that extent we cannot substitute our own opinion with that of the interview Board. Obviously if any mala fides or bias or for that matter error of judgment were floating on the surface of the record we would have certainly intervened as Courts of law are more familiar with such improprieties rather than dilating into question of fitness of any candidate for a particular post which as observed above is subjective matter and can best be assessed by the functionaries who are entrusted with this responsibility....."

11. It is an admitted position that petitioners passed the written examination but did not succeed in the interview, which was a mandatory requirement for the test. Written test measures a candidate's knowledge and expression skills but does not evaluate important personality traits like communication skills, leadership qualities, and decision-making abilities. These traits are assessed during the interview. The interview process allows evaluators to see how candidates interact and respond in realtime, offering a complete picture of their suitability for the job. In the instant case, however, the petitioners failed to pass the interview examination as they did not meet the necessary standards in the interview. Thus, learned High Court was correct in its view that constitutional jurisdiction cannot be invoked for challenging the interview process."

9. The petitioner, having failed in the recruitment process, does not possess any locus standi or vested right to invoke the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973. The Honourable Supreme Court of Pakistan, in the case of *Uzma Manzoor and others vs. Vice-Chancellor Khushal Khan Khattak University, Karak and others* (**2022 SCMR 694**), has categorically held that mere participation in the recruitment process in consequence of an advertisement does not, by itself, confer any vested right upon a candidate to claim appointment irrespective of merit or outcome. The Court further observed that before final selection by the competent authority, the credentials and antecedents of all candidates must be scrutinized in accordance with notified criteria, ensuring a level playing field and equal opportunity among participants.

10. The doctrine of legitimate expectation may arise only where a candidate can establish a reasonable expectation of being treated in a particular manner due to a consistent past practice or an explicit assurance by a public authority. Such expectation must be grounded in prescribed law, rules, policy, or established procedure. Deviation from notified terms of recruitment, if demonstrated, may invite judicial review. Reference may also be made to *Halsbury's Laws of England, Vol. 1(1), 4th Ed., para 81*, wherein it is expounded that legitimate expectation may arise even in the absence of any enforceable legal right. Additionally, the Honourable Supreme Court of Pakistan in the *Judges Pension case (PLD 2013 SC 829)* has elucidated that the doctrine of legitimate expectation is judge-made and primarily operates as a ground for judicial review of administrative actions where fairness is compromised. Similarly, the principles enunciated in *R. v. Secretary of State for Transport, ex parte Greater London Council (1985) 3 AIR 300* affirm that legitimate expectation must be justified, reasonable, and protectable, but does not automatically mature into an enforceable right. Moreover, a five-member bench of the Supreme Court of Pakistan in *Asif Mahmood Chughtai, Advocate and 17 others vs. Government of Punjab through Chief Secretary and others (2000 SCMR 966)*, upheld the decision to deny appointments to candidates who had failed to achieve qualifying marks in interviews, despite securing good marks in the written examination. It was held that such failure rightly disentitled them from appointment. The jurisprudence from the Supreme Court of India also reinforces that interview and viva voce evaluations remain an essential component in assessing personal attributes such as confidence, communication skills, judgment, and leadership. In *Ashok Kumar Yadav and others vs. State of Haryana (AIR 1987 SC 454)* and *Majeet Singh vs. Employees' State Insurance Corporation (AIR 1990 SC 1104)*, it has been held that interviews serve as an indispensable tool for evaluating attributes which written examinations cannot gauge, and qualifying thresholds for such interviews are legally sustainable.

11. The petitioner's claim of legitimate expectation collapses for lack of factual foundation. The inquiry report conclusively discredits the merit list relied upon by petitioner. What remains is the admitted record, which reflects failure to attain qualifying marks. Courts are further guided by the doctrine that a person invoking extraordinary constitutional jurisdiction

must come with clean hands, disclosing truth in entirety. The petitioner has placed conflicting, manipulated figures regarding his score. The very foundation of his plea rests on a document found to be unauthentic. Constitutional relief becomes unavailable when the claimant poisons his own well. However, this Court does not overlook the serious negligence committed by the officials of SSP Khairpur office who initially submitted incorrect information. The competent authority has already been directed to proceed against them, and such accountability must be seen to its logical conclusion to ensure transparency in future recruitments.

12. The assertions advanced by the petitioner stand unequivocally refuted by the respondents, thereby giving rise to a factual controversy that necessitates the recording of evidence. Such an exercise is beyond the permissible scope of constitutional jurisdiction envisaged under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973. It is a settled proposition of law that superior courts, while exercising writ jurisdiction, cannot embark upon disputed factual inquiries, as such controversies can only be adjudicated upon by a competent civil court after conducting a proper inquiry and recording of evidence. Reliance in this regard is placed on the judgments rendered in *Fateh Yarn Pvt. Ltd. vs. Commissioner Inland Revenue (2021 SCMR 1133)* and *Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others vs. Intizar Ali and others (2022 SCMR 472)*.

13. In light of the foregoing facts and circumstances, and for the reasons discussed hereinabove, this petition is found to be devoid of merit and is accordingly **dismissed**.

14. Office is directed to communicate the copy of this judgment to Inspector General of Police Sindh, at Karachi so also office of Additional Advocate General Sindh, at Sukkur for information.

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M.Ali*