

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D-5241 of 2022
(Mukhtar Ahmed & others versus Province of Sindh & others)

Constitutional Petition No. D-3846 of 2022
(Madad Ali & others versus Province of Sindh & others)

Date	Order with signature of Judge(s)
	Before: Mr. Justice Muhammad Karim Khan Agha Mr. Justice Adnan-ul-Karim Memon

Date of hearing and order : 04.9.2025

Mr. Ali Asadullah Bullo advocate for the petitioners in both petitions
Mr. Sandeep Malani, Assistant AG

ORDER

Adnan-ul-Karim Memon, J. – The petitioners have filed the captioned Constitutional Petitions under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer: -

- 1. Declare the act of the Respondents regarding non-consideration of the Petitioners along with 75 candidates (as per advertisement dated: 06-02-2022 towards appointment as Gavi Vaccinators BS-06 as discriminatory and in violation of Article 25 of the Constitution of the Islamic Republic of Pakistan.*
- 2. Direct the Respondents to issue appointment orders to the Petitioners against the post of Gavi Vaccinators BS-06, as per the policy mentioned in the fresh advertisement dated: 06-02-2022, criteria, and in light of the Judgment of this Hon'ble Court dated: 31-05-2022 in CPD D-1695/2022, 2485/2022 & 3192/2022, alongwith all consequential benefits.*

2. In March 2018, the Expanded Program on Immunization (EPI) advertised 1,733 positions for Gavi Vaccinators, with a required qualification of matriculation. The National Testing Service-Pakistan (NTS) was hired to conduct the written test. Applicants needed a minimum of 60% on the written test to be eligible for an interview, but only those who scored 55% or above were actually called for interviews in January 2019. This change in the threshold was made without official approval. During the interviews, a member of the Recruitment Committee from the Services, General Administration and Coordination Department (SGA&CD) was absent. Despite this, the interviews proceeded, and a list of selected candidates was prepared. However, when the list reached the Secretary of SGA&CD for final approval, objections were raised regarding the transparency of the process. The Secretary recommended a fresh round of interviews to ensure fairness. Despite a new committee being formed on August 7, 2019, to re-interview candidates who scored 60% or higher on the NTS test, the Health Department went ahead and issued appointment letters based on the old, questionable selection list.

This led to several constitutional petitions from candidates who had scored over 60% but were not fairly considered. The court ruled on February 12, 2021, issuing the directives that all 1,611 candidates who scored 60% or higher must undergo a fresh interview with the newly constituted committee; that the remaining positions must be re-advertised according to recruitment rules; and that the appointments must be made based on the Union Council seats outlined in the original advertisement. The competent authority must establish a training institute for Gavi Vaccinators within three months. In the meantime, selected candidates must complete a training course at a recognized institute before their appointments are finalized. The petitions of candidates who scored less than 60% were dismissed. Following the court's judgment, 1,302 already appointed Gavi Vaccinators challenged the decision in the Supreme Court. They submitted that they were not made respondents or given notice before the court ruled against them. The Supreme Court dismissed their petitions and refused to grant leave to appeal on May 19, 2021. After the Supreme Court's ruling, the respondents, in accordance with the court's orders, started the process of conducting fresh interviews. A three-member committee, as constituted by the Chief Secretary of Sindh, was formed to conduct these interviews. Based on the re-interviews, 971 candidates were selected: 858 who were already employed and 113 new candidates. The selections were made based on NTS scores, interview marks, and the number of available vacancies per union council, as specified in the original March 22, 2018, advertisement.

3. The petitioners' counsel claimed that they were unjustly ignored and subjected to discriminatory treatment. They submitted that other candidates, who were not originally selected for their specific union councils, were given appointments, while the petitioners who qualified all tests and interviews with 60% or more on the NTS exam were not, despite meeting all the criteria. The petitioners' counsel argued for the equal protection of law, stating that the petitioners should be appointed to the 715 vacant Gavi Vaccinator posts, just as other candidates were appointed based on a new district-wise advertisement from February 6, 2022. The counsel asserts that the department's actions are in bad faith. He pointed out that while the original test required a 60% passing mark, a later advertisement for the same position reduced the requirement to 50%. He submitted that the petitioners, who passed the initial test, more difficult test, were then denied appointments on the grounds that union council vacancies were filled. The counsel argued that this is a deliberate, arbitrary, and illegal act that violates the petitioners' fundamental

constitutional rights. The petitioners' counsel argued that the authorities' discretion must be used fairly and honestly. He requested a declaration that the respondents' failure to consider the petitioners for the Gavi Vaccinator posts was discriminatory and a violation of Article 25 of the Constitution. He further requested an order directing the respondents to issue appointment letters to the petitioners for those posts, in accordance with the February 6, 2022, advertisement and the court's judgment of May 31, 2022. He prayed that this court allow these petitions.

4. The Assistant Advocate General (AAG) argued that the initial passing marks for the written test were reduced from 60% to 55% with the Health Minister's approval to fill the 1,733 vacant posts, as only 1,636 candidates had scored 60% or above. This change allowed 3,245 candidates to be interviewed. Although the Chief Minister did not approve this reduction, the absence of one committee member was later excused by the Chief Minister. The AAG contended that a previous court judgment on February 12, 2021, already addressed these issues. In compliance with that judgment, a fresh round of re-interviews was conducted for all candidates who scored 60% or higher. The AAG stated that the recruitment committee had already selected successful candidates on merit for the Union Council-specific seats, as originally advertised. Finally, the AAG argued that the competent authority has the discretion to reduce the passing threshold. He asserted that candidates who failed the first recruitment process cannot be considered for the current one and should instead reapply and compete with the new applicants. The AAG submitted that petitioners were not selected because other candidates had higher total scores and were, therefore, chosen on a merit basis. For these reasons, he requests that the captioned petitions be dismissed.

5. We have heard learned counsel for the parties and have perused the material available on record with their assistance.

6. The petitions address a recruitment dispute for Gavi Vaccinator (BPS-06) positions. The petitioners, who secured 50% or more on the NTS test, claim they were unfairly excluded. They argue for equal treatment, citing this Court order that reinstated other candidates who were previously not selected. The petitioners contend that because the recruitment criteria were changed from Union Council-wise to District-wise, and the passing NTS score was reduced from 60% to 50%, they are now eligible for the remaining 715 vacant posts. They assert that the refusal to appoint them, while others from the same recruitment batch were appointed or reinstated, constitutes discriminatory treatment and a

violation of the equal protection of law under Article 25 of the Pakistani Constitution.

7. The selection process involved a combined merit of NTS test scores from an exam on September 16, 2018, and interview marks. An excerpt of the list of successful candidates and their scores is as follows: Additionally, two petitioners were disqualified for failing to list their Union Council on the NTS form.

Petitioner Name	District	NTS Marks	Interview Marks	Total Score	Reason for Non-Selection
Mr. Madad Ali	Tharparkar	72	7	79	Lower merit score than selected candidates
Mr. Saddam Hussain	Umerkot	68	5	73	Lower merit score than selected candidates
Mr. Qurban Ali	Umerkot	65	10	75	Lower merit score than selected candidates
Mr. Javed Ahmed	Ghotki	62	8	70	Lower merit score than selected candidates
Mr. Nisar Ahmed	Ghotki	60	7	67	Lower merit score than selected candidates
Mr. Shahabuddin	Larkana	61	8	69	Lower merit score than selected candidates
Mr. Muhammad Saleem	Larkana	60	7	67	Lower merit score than selected candidates
Mr. Ayaz Hussain	Larkana	62	9	71	Lower merit score than selected candidates
Mr. Sajjad Ali	Larkana	64	7	71	Lower merit score than selected candidates
Mr. Gul Mir	Kashmore	63	8	71	Lower merit score than selected candidates
Mr. Jazib Hussain	Kashmore	60	7	67	Lower merit score than selected candidates
Mr. Ikhtlaque Hussain	Kashmore	60	9	69	Lower merit score than selected candidates
Mr. Waseem Ali	Khairpur	65	7	72	Lower merit score than selected candidates
Mr. Muhammad Ibrahim	Khairpur	62	7	69	Failed to mention UC on NTS form
Mr. Rizwan Ahmed	Sukkur	61	7	68	Failed to mention UC on NTS form

8. Based on the facts and circumstances of the case, Let the competent authority of the respondents review the cases of all eligible petitioners for the remaining vacant positions to ensure equal protection

under the law. The competent authority must complete this review within two months.

9. Petitions stand disposed of in the aforesaid terms.

JUDGE

Head of Const. Benches