

IN THE HIGH COURT OF SINDH AT KARACHI  
CP. No. D-5165 of 2020  
(*Junaid Sikandar Junejo v Province of Sindh & another*)

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Date	Order with signature of Judge
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Before:  
Mr. Justice Adnan-ul\_Karim Memon  
Mr. Justice Zulfiqar Ali Sangi

**Date of hearing and Order: 05.03.2026**

Mr. Talha Abbasi advocate for the petitioner  
Mr. M.M. Aqil Awan advocate for respondents No. 5 to 10.  
Mr. Danish Rashid advocate for respondents No. 12 to 22.  
Mr. Abdul Jalil Zubedi, Assistant AG

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**ORDER**

**Adnan-ul-Karim Memon, J:** Petitioner Junaid Sikandar Junejo has filed this Petition under Article 199 of the Islamic Republic of Pakistan, seeking the following relief(s):

- 1. To direct the respondents No. 5 to 22 to show the authority of law under which they are holding public offices as Sub-Inspectors in Enquiries & Anti-Corruption Establishment, Sindh, and upon their failure to do so, declare such offices vacant forthwith by issuing writ of quo warranto against them;*
- 2. Declare that the appointment of respondents No.5 to 22 in Enquiries & Anti-Corruption Establishment Sindh is illegal, void ab initio, unlawful, unconstitutional, malafide, arbitrary, discriminatory, and in violation of principles of natural justice, equity fairness and good governance, and set aside the same forthwith;*
- 3. Restrain the respondents, their officers, agents sub-ordinates and anyone acting for and on their behalf from granting service benefits to the respondents No. 5 to 22, including promotion, seniority, etc.*
- 4. Grant any other relief deemed appropriate by this Honorable Court.*

2. The petitioner, a practicing advocate, filed a constitutional petition in the nature of a writ of quo warranto against Respondents No. 5 to 22, who were appointed as Sub-Inspectors (BS-14) in the Enquiries & Anti-Corruption Establishment, Sindh. The petitioner contends that only 11 posts were advertised in Daily Kawish on 11.02.2010, but 18 persons were appointed, which was contrary to the advertisement and recruitment rules. He claims that the appointments were made without transparency, the recruitment record was withheld, and the process was tainted by favoritism and nepotism, thereby violating Articles 18 and 25 of the Constitution of Pakistan, 1973. It is urged that earlier, the petitioner had challenged these appointments through C.P. No. D-382/2013 before this Court, which was dismissed on 26.11.2014 on the ground of laches. The petitioner then filed Civil Appeal No. 158-K/2015 before the Supreme Court of Pakistan, which set aside this Court's order on 28.04.2016 and remanded the matter to the Sindh Service Tribunal for examination of the recruitment

process. The Tribunal later observed that the selection process was not transparent and that the relevant records had been withheld. The petitioner, therefore, sought a declaration that the appointments of Respondents No. 5 to 22 are illegal and void, and requests issuance of a writ of quo warranto directing them to show under what authority they hold the office of Sub-Inspector.

3. Learned counsel for the petitioner submits that only 11 sanctioned posts of Sub-Inspector (BS-14) existed in the Enquiries & Anti-Corruption Establishment, Sindh, yet the DPC recommended 18 candidates, including seven against so-called future vacancies, which was beyond sanctioned strength and contrary to law. The selection process was also not transparent and did not follow the eligibility criteria of the advertisement dated 11.02.2010. The Honourable Supreme Court, noting these irregularities, set aside the judgment and remanded the matter to the Sindh Service Tribunal to examine the appointments and record findings. He submitted that before the Tribunal, respondents raised jurisdictional objections, arguing the petitioner was not a civil servant and the remand order was per incuriam. The Tribunal, however, held that while its appellate jurisdiction was limited, it was bound to comply with the Supreme Court's directions to ensure complete justice under Article 187 and conducted a fact-finding inquiry. He argued that the inquiry revealed that only partial records were produced, 18 candidates were appointed against 11 vacancies, 48 successful candidates' final status was unclear, and minimum passing marks were not recorded. Original records and answer sheets were missing, and the inquiry committee exceeded its mandate by validating appointments instead of investigating the missing record. Result sheets lacked signatures of the DPC members, further casting doubt on authenticity. These findings show the appointments were made in violation of law and sanctioned strength, rendering them void ab initio. Since the respondents are holding public office in these circumstances, a writ of quo warranto is maintainable to challenge the legality of their authority. The Tribunal's findings of irregularity, concealment, and appointments beyond sanctioned posts justify the Court's scrutiny under its constitutional jurisdiction. He prayed to allow this petition.

4. Learned counsel for the private respondents submits that the petitioner's assertion that only 11 posts were sanctioned is incorrectly interpreted. The Departmental Promotion/Selection Committee (DPC) acted within administrative discretion to recommend candidates for future vacancies arising during the recruitment period. He added that the additional appointments were made to ensure continuity of service and operational efficiency in the Anti-Corruption Establishment, and do not amount to illegality. He submitted that the recruitment process, including advertisement, written tests, physical tests, and interviews, was conducted in accordance with the rules and procedures laid down at the time.

However he added that any alleged gaps in record-keeping, such as misplaced files, were administrative lapses and do not vitiate the legality of the appointments. He pointed out that the inquiry committee also found that all formalities, including tests and interviews, were completed, confirming compliance with prescribed procedures. He submitted that the petitioner is not a civil servant and, therefore, ought not to have invoked the appellate jurisdiction of the Sindh Service Tribunal under Section 4 of the Sindh Service Tribunals Act, 1973. However, the Tribunal itself held that it cannot adjudicate service appeals of non-civil servants, and the fact-finding inquiry conducted was purely to assist the Supreme Court, not to render a judgment declaring appointments void. He submitted that the remand order of the Supreme Court was issued under Article 185(3) to enable fact-finding and did not confer any substantive right on the petitioner to challenge appointments via quo warranto. However, any attempt to treat the Tribunal's fact-finding as a determination of legality is misplaced. He further submitted that any missing documents or signatures in records were technical and procedural lapses, and the merit and validity of appointments cannot be questioned on this basis alone. He emphasized that the selections were made in accordance with merit and departmental rules, and there is no evidence of favoritism, nepotism, or violation of law. he emphasized that quo warranto petition is not maintainable where the appointments are made in public interest, under statutory or delegated authority, and in compliance with rules. Since Respondents No. 5 to 22 were appointed as Sub-Inspectors through due process under the competent authority, the petitioner lacks locus standi to challenge their holding of office. In light of the above, the learned counsel submits that the petition is misconceived, lacks legal basis, and is not maintainable. The appointments of Respondents No. 5 to 22 were valid, lawful, and in accordance with the sanctioned posts and recruitment rules. The petition may therefore be dismissed with costs. Learned counsel for the respondent has relied upon the cases of Arbab Imtiaz Khan v Asim Jamil Zubedi and another **2011 PLC (C.S) 482**, Aziz-ur-Rahman Chowdhury v M. Nasiruddin & others **PLD 1965 Supreme Court 236**, Ehsan-ur-Rehman and others v Arshad Ali Khan & others **2012 PLC (C.S) 795**, Sajid Hussain v Shah Abdul latif University Khairpur and others **PLD 2012 Sindh 232**, Dr. Khalil-ur-Rehman v Government of Punjab & others **2015 PLC (C.S) 793**, Muhammad Shafique Khan Sawati v Federation of Pakistan and others **2015 SCMR 851**, Muhammad Yasin Saqib v Chairman Pakistan Telecommunication Corporation Islamabad & others **2003 PLC (C.S) 1105**, Atta Muhammad Qureshi & others v Province of Sindh & others **2018 PLC (C.S) Note-16**, Mudassar Hassan Rana and others v Federal Government & others **2017 PLC (C.S) 1342**, Dr. Bushra Ashiq Siddiqui v Muhammad Aslam **1989 MLD 1351**, Syed Manzoor Hussain Gilani v Sain Mullah Advocate & others **PLJ 1993 SC (AJK) 55**, Muhammad Rafiq & others v Muhammad Pervaiz and others **2005 SCMR 1829**, Dr. Kamal Hussain and others v Muhammad Sirajul Islam

and others **PLD 1969 SC 42** and Malik Nawab Sher v Ch. Muneer Ahmad and others **2013 SCMR 1035**. They lastly prayed for dismissal of the petition.

5. In light of the above, the learned AAG adopts the arguments of the learned counsel for the private respondents and further submits that the petition is misconceived, lacks legal basis, and is not maintainable. The appointments of private respondents No. 5 to 22 were valid, lawful, and in accordance with the sanctioned posts and recruitment rules. He prayed that the petition may, therefore, be dismissed with costs.

6. We have heard the learned counsel for the parties and perused the record with their assistance.

7. In the above factual background, the relief sought by the petitioner is the issuance of a writ of quo warranto against Respondents No.5 to 22. The scope and maintainability of such a writ are well settled in constitutional jurisprudence. A writ of quo warranto is issued only where it is demonstrated that a person is holding a public office without lawful authority or in clear violation of statutory provisions governing the appointment. This Court does not sit as an appellate authority to scrutinize the entire selection process or comparative merits of candidates, particularly where the appointments were made by a competent authority under the relevant service rules.

8. In the present case, it is not disputed that the respondents were appointed as Sub-Inspectors (BS-14) in the Enquiries & Anti-Corruption Establishment Sindh through the competent authority. The grievance of the petitioner essentially relates to the number of posts advertised and the purported lack of transparency in the recruitment process. Such objections pertain to the manner of selection or alleged irregularities in the recruitment procedure, which fall within the domain of service matters committee of the respondent department and cannot ordinarily be examined through a writ of quo warranto unless it is shown that the appointments were made in direct contravention of a statutory provision or that the appointees lacked the prescribed qualifications.

9. Furthermore, the record shows that the petitioner had earlier challenged the same appointments through C.P. No. D-382/2013, and thereafter pursued the matter up to the Supreme Court of Pakistan, which remanded the issue to the Sindh Service Tribunal for examination. Once the matter has been examined within the statutory service forum, the petitioner cannot re-agitate the same controversy through a fresh constitutional petition styled as quo warranto, particularly when the respondents have continued to serve on the posts for several years. The extraordinary constitutional jurisdiction cannot be invoked to reopen settled service matters after prolonged delay.

10. The settled principle is that quo warranto lies only when the appointment itself is shown to be void ab initio, such as when the appointee does not possess the required qualification or the appointment is made by an authority having no jurisdiction. Mere allegations of irregularity, procedural impropriety, or dissatisfaction with the recruitment process do not render the appointment illegal to warrant issuance of the writ, as no material has been placed on record whether the private respondents lacked qualification in the absence of such material, the writ in the nature of Quo Warranto cannot be issued.

11. In *Syed Mehmood Akhtar Naqvi v. Federation of Pakistan*, the Supreme Court of Pakistan held that a writ of quo warranto can only be issued where the appointment to a public office is contrary to law or the incumbent lacks eligibility under the relevant rules, and that courts should not interfere merely on allegations of irregularities in the selection process. Similarly, in *Muhammad Yasin v. Federation of Pakistan*, it was observed that quo warranto jurisdiction is limited and cannot be used to examine the correctness or propriety of a selection procedure when the appointment is made by a competent authority under existing rules. Likewise, in *Salahuddin v. Frontier Sugar Mills and Distillery Ltd.*, it was held that constitutional jurisdiction should not be exercised where the petitioner seeks to reopen a matter that has already been adjudicated or where the challenge is based on personal grievance rather than a clear violation of law.

12. In the present case, the petitioner admittedly participated in the recruitment process but remained unsuccessful, and the challenge is primarily directed against the alleged expansion of vacancies and the transparency of the selection process. Even if such allegations are assumed to be correct, they do not establish that the respondents are holding the office without lawful authority or in violation of any express statutory provision governing their appointment. Therefore, in the absence of any material demonstrating that Respondents No.5 to 22 were ineligible for the post, lacked the prescribed qualifications, or were appointed by an authority lacking jurisdiction, the essential ingredients for issuance of a writ of quo warranto are not satisfied.

13. Before parting with this order, we may observe that the recruitment process, including advertisement, written tests, physical tests, and interviews, was conducted in accordance with the applicable rules and procedures. However, any alleged gaps in record-keeping, including misplaced files or unsigned documents, are administrative lapses which do not vitiate the legality of the appointment process. The Sindh Service Tribunal, clarified that the fact-finding inquiry conducted was solely to assist the Supreme Court and did not amount to a declaration of illegality. The remand order of the Supreme Court under Article 185(3) was for collection of facts, and cannot be interpreted as conferring a substantive right on the petitioner to challenge appointments via quo warranto.

14. In view of the above, the essential ingredients for issuance of a writ of quo warranto are not satisfied. The petition is further barred by laches and prior litigation on the same subject. Accordingly, the petition is dismissed as not maintainable under Article 199 of the Constitution of Pakistan. All pending application(s) are also disposed of.

JUDGE

JUDGE

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