

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No. D-961 of 2024

[Laraib Noor Khokhar vs. Province of Sindh and Others]

BEFORE:

JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE RIAZAT ALI SAHAR

For hearing of M.A No.9065/2025

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Mr. Javed Ali Buriro, advocate for petitioner

Mr. Rafique Ahmed Dahri Assistant A.G Sindh a/w Deputy Director SPSC Akhlaq Ahmed

Date of hearing and Order: 18.12.2025

O R D E R

This Petition was disposed of on 31.10.2025 with certain directions. The concluding paragraphs of the aforesaid Order are reproduced here under for the sake of clarity:-

12. *In the wake of above discussions, we are of the considered opinion that the respondent SPSC has failed to deal with the petitioner in accordance with law. The order passed by the Member (Appeals) SPSC dated 08.07.2024 is contrary to law, perverse and without justifiable reasons, as such cannot be endorsed/upheld. Therefore, the case for exercise of powers of judicial review under Article 199 of the Constitution is made out. Consequently, this petition is allowed and the Order passed by Member (Appeals) SPSC dated 08.07.2024 is set aside. The case of the petitioner is referred to respondent SPSC for conducting her physical test afresh in presence of Medical Superintendent Civil Hospital Hyderabad while keeping in mind the height as 5'.2" for female candidates in respect of the subject post in terms of letter dated 21.07.2023 issued by the administrative department. If the petitioner qualifies the physical test, then her interview be conducted in accordance with law. If the petitioner qualifies the physical and interview process, then appropriate action should follow.*

13. *Since the recruitment process for the subject post was initiated in the year 2024 and it might have been completed by now. If the SPSC has made recommendations in favour of the successful female candidates, this order shall not affect the right of any recommended female candidate in respect of the subject post. However, in case the petitioner after qualifying the physical test and*

interview is recommended for appointment against the subject post, as discussed above, the administrative department in that eventuality shall approve a fresh SNE by creating one subject post to adjust the petitioner.

14. *The aforesaid exercise shall be completed within one month from the date of this Order. Office is directed to send copy of this Order to respondents SPSC as well as Chairman Enquiries and Anti-Corruption Establishment Government of Sindh for compliance. The compliance should reach this Court through Additional Registrar, failure whereof shall be deemed as defiance of the Court's order, entailing consequences according to law.*

Petition stands disposed of in the above terms.

2. Learned counsel for the petitioner contended that the directions issued were not complied with and sought the initiation of contempt proceedings against the alleged contemnors. He submitted that although the process was carried out, the alleged contemnor, the Medical Superintendent of Civil Hospital, was not present during the petitioner's measurement, and therefore, the compliance could not be said to have been carried out in letter and spirit.

3. Learned AAG, on the other hand, submitted that the petitioner's measurement was conducted; however, she was found unfit for the subject post as per the prescribed requirements. He prayed to dismiss the contempt application.

4. From the material available on record, it is evident that this Court, in its earlier Order dated 31.10.2025, set aside the impugned order of the Member (Appeals), SPSC dated 08.07.2024, and directed that the petitioner be provided a fresh opportunity to undergo the physical test in the presence of the Medical Superintendent, Civil Hospital, Hyderabad, with the prescribed height requirement of 5'-2" for female candidates in accordance with the administrative department's letter dated 21.07.2023. The petitioner has maintained that the Medical Superintendent was not present at the time of her measurement and, therefore, the process could not be said to have been complied with in *letter and spirit*. While the learned AAG asserts that the petitioner was measured and found deficient of one inch in height as such unfit, the fundamental issue remains that the *mandate* of this Court was not fully implemented as directed.

5. It is a settled principle of administrative law that recruitment rules and physical parameters prescribed for government posts are not to be applied in a mechanical or arbitrary manner where a marginal deficiency causes disproportionate hardship to a candidate who is otherwise qualified and entitled to consideration.

6. In a recent decision of this Court, it was held that a candidate's height deficiency for the purpose of recruitment can be addressed through appropriate scrutiny, re-measurement or relaxation where the shortfall is minor, especially when the candidate has fulfilled all other codal formalities and has succeeded in the written test and other stages of selection. In that case, this court directed the competent authority to re-measure the petitioner's height and process his candidature if found fit despite marginal deficiency in height. However, in the present case it appears that the height of Petitioner for the subject post is required as 5x2 whereas Petitioners height measurement shows 5x1 and she has been declared unfit for the post of Inspector BS-16 (Enquiries & Anti-Corruption Establishment).

7. Primarily this court cannot condone the purported deficiency of one inch in height of the petitioner which is required for the subject post as per Recruitment Rules; therefore, this matter is left with the competent authority of the government of Sindh to relax the one inch in height if feasible, and if the competent authority relax the required height, the SPSC shall conduct her interview afresh and result whereof shall be communicated to the competent authority for the subject post.

8. Without touching the merits of the case, the listed Miscellaneous Applications stand disposed of in the aforesaid terms.

JUDGE

JUDGE

Karar_Hussain/PS*