

Order Sheet

HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

CP No. D- 942 of 2024
[Muzafar Hussain & others v. Province of Sindh & others]

Before :

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Riazat Ali Sahar

Petitioner : Through Mr. Ishrat Ali Lohar, Advocate

Mr. Muhammad Ismail Bhutto, Addl. A.G.,

Date of Hearing
& Decision: 08.12.2025

ORDER

ADNAN-UL-KARIM MEMON, J.- Through listed Constitutional Petition, the Petitioners have prayed as follows:-

- i. Set aside the impugned Letters dated. 15-06-2023 issued by the respondent No. 02 as the same being illegal, unlawful, unconstitutional, and discriminatory, and is arbitrary.
- ii. Declare the Impugned Letter dated. 15-06-2023 is contrary to the directions given by the Honorable Supreme Court of Pakistan.
- iii. Restrain the Respondent Nos. 01 and 02, from implementing the Impugned Order/Notification & Circular vide No. E&A (W&S) 12-11/2023 dated: 15-06-2023.
- iv. Direct the Respondent No. 02 to 13 to restore the salaries of the above-mentioned Petitioners
- v. Any other relief(s) which this Honorable Court deems fit, just and proper in favour of the petitioners.

2. The case of the petitioners is that they belong to poor family backgrounds, whereas respondents 1 & 2 are the authorities responsible for running the affairs of the Government of Sindh in accordance with law. Respondents No. 3 to 12 are officials of Works & Services Department, Government of Sindh, responsible for providing road networks and building facilities for various provincial departments, and are also appointing authorities within the department. In 2021, the respondents invited suitable candidates from across Sindh for various posts in BPS-01 to BPS-04 in the Works & Services Department through advertisements published on 20.05.2021, 23.05.2021, 25.05.2021, 27.05.2021, and 28.05.2021 in leading newspapers. The petitioners, being eligible, applied for the posts and submitted the required documents. Subsequently,

further advertisements were issued, and the candidates, including the petitioners, were called for walk-in interviews. The petitioners appeared before the Selection Committee, submitted all necessary documents, and after proper scrutiny and interviews, they were declared qualified. Offer letters were issued accordingly. The petitioners accepted the terms and conditions, submitted their physical and medical fitness certificates, police verifications, and all verification letters issued by the department on the recommendations of the Departmental Selection Committee with the approval of Competent Authority. Appointment orders were issued for various posts in the Building Department (Works & Services Department), and the petitioners joined their respective duties. After joining, the petitioners performed their duties and awaited their monthly salaries. However, without any legal justification, respondent No.2 issued impugned Letter No. E&A (W&S)12-11/2023 dated 15-06-2023, restraining respondents No.3 to 13 from opening the IDs/accounts of all new appointees, including the petitioners, on the pretext that the recruitment process and advertisements were illegal, null, and void.

3. Learned counsel for the petitioners submitted that employment is a basic necessity of life, particularly for educated youth and poor laborers; that the State is responsible for ensuring transparent working conditions, and employers must provide opportunities for professional growth. The petitioners were assured that their salaries would soon be released; however, respondent No.1 subsequently issued another impugned letter directing the authorities not to open their accounts/IDs; that since the tests and interviews were conducted lawfully and all codal formalities were fulfilled, the abrupt cancellation of recruitment process without providing the petitioners an opportunity of hearing is illegal and contrary to fundamental principles of justice. Furthermore, Bill No.1591/2022, issued by the Information Officer, Directorate of Advertisements, confirms that the recruitment advertisements were issued after completing all formalities. He emphasized that the respondents have arbitrarily discontinued the recruitment process to accommodate their preferred candidates. Their decision is discriminatory, irrational, politically motivated, and denies the petitioners their rights. The petitioners cannot be held responsible for any alleged procedural lapses committed by the official respondents; they should not be penalized for administrative failures; that the impugned notification dated 15.06.2023 is ultra vires, issued without authority, arbitrary, null and void, and devoid of legal justification. The petitioners were duly appointed, submitted joining reports and began performing their duties. Other aggrieved candidates have also filed CP. No. D-705 of 2024, in which notices have been issued to the respondents. He argued that it is a well-established principle that petty employees such as chowkidars, Naib Qasids, and junior clerks should not be punished for the wrongful acts of authorities, particularly when they rely on these jobs to support their families. Instead, action should be taken against officials who misuse their powers. The impugned letter is contrary to Article 29 of the Constitution and Section 24-A of the General Clauses Act. Appointments made by competent authorities

cannot be invalidated due to procedural lapses by the department; the appointees cannot be blamed for failures attributable to the authorities. He submitted that the law requires that discretion vested in authorities must be exercised fairly, justly, and honestly. However, the respondents have acted arbitrarily, maliciously, capriciously, and whimsically, contrary to the principles laid down by the Supreme Court in **1995 SCMR 650** and **2005 SCMR 25**. The petitioners have suffered grave injustice and are "aggrieved persons" within the meaning of Article 199 of the Constitution, as their legal and fundamental rights have been violated. He prayed to allow this Petition.

4. Learned AAG, relying upon the relevant notification submitted that, the subject appointments in BPS-01 to BPS-04 made in the office of Executive Engineer, Buildings Division, Dadu, Works & Services Department were irregular. He referred to the impugned notification stating that it had come to the notice of Administrative Department that the Chief Engineer (Buildings), through Administrative Officer, had issued fake and bogus appointment orders in BPS-01 to BPS-04. It was further submitted that the appointment orders issued by the Chief Engineer (Buildings), Hyderabad, were made without seeking prior permission from the Selection/ Appointment Committee as required under the Services, General Administration & Coordination Department, Government of Sindh Notification No. SGA&CD 11-7/74(PT-1) dated 24.09.2014. Hence, the said orders were declared illegal and in view of these irregularities, the Administrative Department had advised that the IDs of all recently appointed persons should not be opened or entertained unless their cases were duly scrutinized in consultation with all concerned and recommended by the Competent Forum, such as Departmental Recruitment Committee (DRC). On these grounds, he prayed for dismissal of the petition.

5. When confronted with the legal position regarding unilateral cancellation of the recruitment process/appointments despite the fact that the petitioners had already been appointed and joined their duties, learned AAG, nevertheless relied upon the Minutes issued by the Cabinet Section, Government of Sindh, dated 03 December 2025, concerning the Cabinet meeting held on 01 December 2025. He submitted that Agenda Item No. 25(a) pertained to "*Briefing to the Cabinet on the progress of appointments against posts of BPS-01 to BPS-04.*" After extensive deliberations, the Cabinet made several decisions. He emphasized that it was resolved that the ban on appointments against posts in BPS-01 to BPS-04 stood lifted. The Cabinet also extended the validity of Minutes of the Departmental Selection Committees, constituted pursuant to the advertisements issued during 2021–2022, up to 30th June 2026. Additionally, the Cabinet directed that offer letters may be issued to recommended candidates in districts where complete and duly verified records existed such as copies of advertisements, vacancy positions attested by the Treasury/District Accounts Offices, properly signed DSC Minutes, and confirmation that all prescribed quotas had been observed. He added

that the Cabinet further directed that offer letters be issued by the respective appointing authorities after completion of all codal formalities under the existing rules and policies. In districts lacking complete records or where vacancies still remained, the Cabinet authorized initiation of fresh recruitment process for posts in BPS-01 to BPS-04, strictly in accordance with applicable rules, policies, and budgetary provisions duly verified by the Treasury/District Accounts Offices. The Cabinet also approved relaxation of age limit as per the rules/policies prevailing on the closing date of the original advertisements. The Services, General Administration & Coordination Department (SGA&CD) was also directed to circulate the Cabinet's decisions to all Administrative Departments, Commissioners, and Deputy Commissioners. Relying on these Cabinet decisions, learned AAG contended that, in view of the explicit directives of Provincial Cabinet, the present petition may accordingly be disposed of.

6. In view of the submissions advanced, and particularly in light of the explicit decisions of the Provincial Cabinet recorded in the Minutes dated 03 December 2025, whereby the ban on appointments in BPS-01 to BPS-04 has been lifted, the validity of Departmental Selection Committees' proceedings relating to the 2021–2022 advertisements has been extended up to 30th June 2026, and directions have been issued for processing appointments strictly in accordance with verified records and codal formalities, it is noted that the unilateral cancellation of recruitment process and the impugned actions of the respondents are not sustainable.

7. Accordingly, adopting the same analogy and guided by the binding Cabinet directives / policy decision, the impugned order issued by the respondents is hereby annulled. The petitioners, having already been appointed and having joined their duties shall be allowed to resume their respective posts, subject to verification of their credentials, record, and fulfillment of all necessary codal formalities. The competent authority of respondents is further directed to open the service IDs/accounts of the petitioners and complete the entire exercise of verification and fulfillment of formalities within one (01) month from the date of this order.

8. With the above directions, this petition stands disposed of.

JUDGE

JUDGE

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