HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD

C.P. No.D-1930 of 2023
[Abdul Sami vs. Province of Sindh and Others]

BEFORE:

JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE RIAZAT ALI SAHAR

Mr. Naveed Hussain Umrani, Advocate for Petitioner

Mr. Rafique Ahmed Dahri, Assistant A.G. Sindh along with Insp. Azhar Qureshi Focal Person Tando Allahyar for SSP Tando Allahyar

Date of hearing & decision: 02.12.2025

ORDER

ADNAN-UL-KARIM MEMON J.-   The petitioner, through this Constitutional Petition, has prayed as follows:-

a.   That this Honorable Court may be pleased to issue directions to respondents for releasing the recommendation/appointment letter to the waiting/next in line Candidate/petitioner.

b.   That this Honourable court may kindly be pleased to direct the respondents to appoint the petitioner for the post of Junior Clerk BPS-11 as he has cleared all the stages of the Examination and declared fit in the General Recruitment Merit list of the respondents.

c.   That this Honorable Court may be pleased to issue directions to the respondents to start the process of recommendation/appointment as early as possible, as the petitioner may render his services in the department in collaboration with other fresh appointees.

2.   The case of the petitioner is that the Police Department announced vacancies for the post of Junior Clerk (BPS-11) in the Hyderabad Region through PTS on 26.11.2020. The petitioner applied, appeared in the written test, qualified and was subsequently called for an interview. A list of successful candidates was later published in which the petitioner's name appeared at Serial No. 13. Only four posts were available, and recommendation letters were issued to the top four candidates. Out of these, only two candidates joined, while ten candidates withdrew after receiving recommendation letters issued to them from time to time. The petitioner, being next in line, expected issuance of recommendation letter; however, no such letter was issued. Despite approaching the respondents', he did not receive proper response, leading him to file this Constitutional Petition. He prayed to allow the petition.

3.   Learned AAG submitted that the post of Junior Clerk pertaining to the former office of Additional IGP Hyderabad was announced by that office, and the

recruitment process was conducted through PTS, with six seats reserved for District Tando Allahyar. The petitioner secured 74.5 marks in the test but was not recommended; the committee recorded remarks against his name stating "below vacancy, not recommended." He further submitted that CPO Sindh Karachi, through a letter dated 06.10.2023, communicated the observations of the Sindh Police Recruitment Board (SPRB) from its meeting held on 08.06.2023. The Board decided that vacant posts may be filled from next-in-line qualified candidates within 90 days from issuance of first appointment order in that recruitment process. Since the first appointment order for Junior Clerk in Hyderabad Range was issued on 28.09.2022, the 90-day period had already lapsed. Accordingly, under this policy, the SPRB recommended that the cases of next-in-line candidates cannot be considered against the posts vacated by unwilling candidates. He concluded by stating that this petition is liable to be dismissed.

4.   The question for our determination is whether the Petitioner has an enforceable right to appointment. It is a settled principle of law that mere placement in merit list or being next in line does not confer an enforceable right to appointment unless the recruitment rules expressly provide such entitlement or unless refusal to appoint is shown to be arbitrary or *mala fide*. The Supreme Court held that a waiting-list candidate acquires no vested right to appointment merely by qualifying or being placed next in the merit list. It was also held that even if posts remain vacant, the government is not legally bound to fill them once the recruitment process has been concluded. The petitioner, therefore, cannot claim an indefeasible right to appointment solely on the basis of being next in merit.

5.   The administrative bodies are vested with authority to frame recruitment guidelines provided they are reasonable and non-discriminatory. The 90-day rule, as adopted by the SPRB, governs the validity period of a recruitment cycle in Sindh Police. The Supreme Court reiterated that government departments may regulate their recruitment processes and courts should avoid interfering unless such policy is illegal or discriminatory. There is nothing on record to show that 90-day rule is arbitrary or has been selectively applied. On the contrary, it applies uniformly to all candidates in the recruitment batch.

6.   Courts have consistently held that vacancies arising due to non-joining do not automatically entitle waiting-list candidates to appointment. The Supreme Court held that vacancies created by unwilling candidates do not oblige the Government to appoint next-in-line candidates unless specifically required by the service rules. Therefore, the Police Department was under no mandatory obligation to continue making appointments beyond the validity period of the recruitment process.

7.   After considering the arguments advanced by both sides and applying the settled principles of law discussed hereinabove, we are of the view that the petitioner does not acquire any vested or enforceable right to appointment merely on account of his being next in the merit list. The 90-days policy formulated by the Sindh Police Recruitment Board is found to be lawful, reasonable, and uniformly applicable. The recruitment process stood concluded upon expiry of 90-days period calculated from 28.09.2022. No *mala fide* or discriminatory conduct on the part of the respondents has been established. It is a settled position that candidates placed in waiting list cannot claim appointment once the recruitment cycle has come to an end. Consequently, the stance of the respondents / Police Department is legally justified, while the petitioner's claim lacks merit. The petition is, therefore, dismissed.

<div align="right">JUDGE</div>

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Karar_Hussain/PS*