

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Before:

Justice Arbab Ali Hakro
Justice Riazat Ali Sahar

C.P No.D-1730 of 2025

[Sajad Hussain vs. The Province of Sindh and Others]

Petitioner by : Mr. Naveed Anjum Jarwar advocate

Respondents by : Mr. Rafique Ahmed Dahri Assistant A.G

Date of hearing : **10.03.2026**

Date of Decision : **10.03.2026**

ORDER

ARBAB ALI HAKRO J:- Through the instant petition, the petitioner has challenged the Order dated 16.01.2025 issued by the Director, Schools Education (ES&HS), Hyderabad Region, whereby the offer letter dated 15.11.2024 and the appointment order dated 18.12.2024 were cancelled/withdrawn in terms of Clause- V of the Instructions issued on 06.12.2024.

2. The facts giving rise to the present lis are that pursuant to the advertisement dated 26.03.2021 issued by the School Education & Literacy Department, Government of Sindh, the petitioner applied for the posts of Junior Elementary School Teacher (JEST) BPS- 14 and Primary School Teacher (PST) BPS14 under the disabled quota. The tests were conducted by Sukkur IBA, wherein the petitioner obtained 35 and 36 marks, respectively. After amendments in the recruitment policy, the petitioner was issued an offer letter dated 15.11.2024, followed by an appointment order dated 18.12.2024 for the post of JEST. The petitioner joined his duties; however, through the impugned Order dated 16.01.2025, the earlier appointment order was cancelled/withdrawn in terms of Clause- V of the instructions dated 06.12.2024.

3. Counsel submits that in order to make an appointment pursuant to the subject advertisement, the Education Department framed the Recruitment Policy 2021 vide Notification dated 24.02.2021. He states that according to said policy the appointments against subject posts were to be made on Union Council basis according to vacant position and the threshold marks were 55% out of 100; that petitioner applied from Taluka/Town Qasimabad on disabled quota and secured 35 marks for the post of JEST; that subsequently the Sindh Cabinet in its meeting held on 20.10.2021 amended the aforesaid Recruitment Policy whereby 33% out of 100 marks for disabled persons were decided; that since the petitioner had acquired 35 marks as such he was issued offer letter followed by appointment order for the post of JEST; that petitioner after being declared medical fit joined the duties, but vide impugned 16.01.2025 the respondents abruptly and even without hearing the petitioner cancelled/withdrawn the appointment, which is illegal, arbitrary and against the fundamental rights of the petitioner.

4. Conversely, learned Assistant Advocate General submits that the petitioner's appointment was rightly cancelled, as it was issued in clear violation of the binding interim Order dated 12.01.2023 passed by this Court at the Sukkur Bench, in C.P. No. D- 297/2022, which categorically restrained the Education Department from issuing appointment orders to any candidate securing below 40% marks, irrespective of quota or category. The petitioner admittedly obtained 35 marks; therefore, no lawful appointment could be made in his favour. The offer letter and appointment order were issued due to administrative oversight and were withdrawn immediately upon scrutiny by the competent authorities, strictly in compliance with judicial and departmental directives and without any mala fide intent. It is further argued that the petitioner is already serving as a PST (BPS- 14) under the disabled quota, and since both PST and JEST posts carry the same pay scale, he has suffered no loss of pay, seniority or promotional prospects. The judgments relied upon by the petitioner are distinguishable on facts and pertain to different recruitment circumstances and thus do not assist him. Learned

A.A.G. maintains that the respondents acted lawfully and within their mandate, and no violation of constitutional rights has occurred; therefore, the petition is meritless and liable to be dismissed.

5. We have heard learned counsel for the petitioner, the learned Assistant Advocate General Sindh and have meticulously examined the material available on record.

6. The foundational facts are not in dispute. The petitioner, a duly certified differently-abled person, participated in the recruitment process initiated through an advertisement dated 26.03.2021 for the posts of JEST and PST. He secured **35 marks in JEST**, exceeding the **33% threshold** specifically prescribed for differently-abled candidates under the amended Recruitment Policy dated 08.12.2021. The District Selection Committee scrutinised his credentials, recommended him for appointment, and the competent authority issued the offer letter dated 15.11.2024 and the appointment order dated 18.12.2024. The petitioner joined duties after fulfilling all codal formalities, including medical fitness and police verification.

7. The respondents seek to justify the cancellation of the petitioner's appointment on the basis of the interim Order dated 12.01.2023 passed in C.P.No.D-297/2022, asserting that the Education Department was restrained from issuing appointment orders to candidates securing less than **40% marks**. However, the subsequent Order dated 26.01.2023 passed in the same petition clarifies the scope of the restraint. A careful reading of the said Order reveals that the Court's concern was confined to the **policy of reducing passing marks for hard-area candidates**, and the Court expressly suspended the relaxation granted under **paragraph 03** of the Notification dated 08.12.2021, which pertained exclusively to **hard-area candidates**. The Order did not disturb **paragraph 02**, which fixed the passing marks for differently-abled candidates at **33%**.

8. The respondents' attempt to extend the 40-mark restriction to differently-abled candidates is therefore legally untenable. This position is fortified by the detailed Order dated 26.03.2025, passed in C.P. No.

D-163/2025 and C.P. No. D-192/2025, wherein the Division Bench categorically held that the Sukkur Bench's Order did not apply to differently-abled candidates, who are governed by a distinct statutory and policy framework. The Division Bench held that the blanket cancellation of appointments of disabled candidates on the basis of the 40-mark requirement was a misinterpretation of the earlier Order and was therefore unlawful.

9. The legal position is further crystallised by the judgment dated 17.03.2025, passed in C.P. No. D-511/2025 (Meer Shahnawaz Khoso), wherein the Karachi Bench held in unequivocal terms that the 40-mark restriction has no relevance whatsoever to appointments made under the disabled quota and that the impugned blanket cancellation letters issued by the Department were based on a gross misreading of the Sukkur Bench's interim Order. The Court further held that the Department's approach was "mean-spirited" and lacked the compassion required when dealing with differently-abled persons, whose statutory rights are protected under Section 11(12) of the Sindh Empowerment of Persons with Disabilities Act, 2018.

10. The statutory framework governing the petitioner's appointment is unambiguous. Section 11(12) of the 2018 Act mandates a 5% quota for differently-abled persons in all government departments and entities. The Recruitment Policy 2021, as amended on 08.12.2021, fixed the passing marks for differently-abled candidates at **33%**. The petitioner met this threshold. His appointment was made after scrutiny by the District Selection Committee and after completion of all legal formalities. The subsequent cancellation of his appointment, without notice and without independent reasoning, constitutes a colourable exercise of power, violative of Articles 4, 9, 18, 25, and 27 of the Constitution.

11. The respondents' contention that the petitioner has suffered no prejudice because he is serving as PST (BPS-14) is misconceived. The petitioner was duly selected, appointed, and posted as JEST, and the unilateral withdrawal of that appointment has direct implications for his seniority, cadre placement, promotional trajectory and legitimate expectation

of service in the post for which he was selected. The doctrine of legitimate expectation, coupled with the statutory protection afforded to differently-abled persons, prohibits such arbitrary deprivation.

12. The impugned cancellation order dated 16.01.2025, issued nearly two years after the Sukkur Bench's interim Order and without any statutory authority to override a Cabinet-approved recruitment policy, is *ultra vires*, arbitrary and unsustainable. As held in the judgment dated 17.03.2025 and the Order dated 26.03.2025, the Department was not competent to revise or nullify the Cabinet-approved policy through an executive letter. The impugned action, therefore, cannot withstand judicial scrutiny.

13. In view of the foregoing discussion, the petition is **allowed**, the impugned Order dated 16.01.2025 is hereby set aside and the petitioner's appointment order dated 18.12.2024 as Junior Elementary School Teacher (BPS-14) is restored with all consequential benefits, including continuity of service, seniority and arrears of salary; the respondents shall permit the petitioner to resume duties at his place of posting within seven days and shall finalise and release all withheld emoluments within forty-five days.

JUDGE

JUDGE