

IN THE HIGH COURT OF SINDH, KARACHI

**C.P Nos.D-4348, 4581, 5141, 5261, 5424, 5504, 5519,
5547, 5987, 6131, 6818, 6825, 6859, 7087 OF 2017,**

Present:-

**Mr. Justice Syed Hassan Azhar Rizvi
Mr. Justice Adnan-ul-Karim Memon**

1. C.P. No.D-4348/2017

Dr. Dileep Kumar & others Petitioners

V E R S U S

Sindh Public Service Commission and others... Respondents

2. C.P. No.D-4581/2017

Ali Gohar & others Petitioners

V E R S U S

Sindh Public Service Commission and others Respondents

3. C.P. No.D-5141/2017

Dr. Gul Hassan Dahri and others Petitioners

V E R S U S

Sindh Public Service Commission and others Respondents

4. C.P. No.D-5261/2017

Dr. Shakil Ahmed Memon & others Petitioners

V E R S U S

Sindh Public Service Commission and others Respondents

5. C.P. No.D-5424/2017

Dr. Abid Hussain and others Petitioners

V E R S U S

Sindh Public Service Commission and others ... Respondents

6. C.P. No.D-5504/2017

Dr. Rahana Fayyaz and others..... Petitioners

V E R S U S

Sindh Public Service Commission and others Respondents

7. C.P. No.D-5519/2017

Dr. Kelash Babu Petitioner

V E R S U S

Sindh Public Service Commission and others Respondents

8. C.P. No.D-5547/2017

Dr. Aftab Haider Deeshak and others Petitioners

V E R S U S

Sindh Public Service Commission and others Respondents

9. C.P. No.D-5987/2017

Dr. Sabrina and others Petitioners

V E R S U S

Sindh Public Service Commission and others Respondents

10. C.P. No.D-6131/2017

Dr. Moomal and others Petitioners

V E R S U S

Sindh Public Service Commission and others Respondents

11. C.P. No.D-6818/2017

Dr. Tahira Tauseef and others Petitioners

V E R S U S

Sindh Public Service Commission and others Respondents

12. C.P. No.D-6825/2017

Dr. Kanwar Gul Petitioner

V E R S U S

Sindh Public Service Commission and others Respondents

13. C.P. No.D-6859/2017

Dr. Behsham Kumar and others Petitioner

V E R S U S

Sindh Public Service Commission and others Respondents

14. C.P. No.D-7087/2017

Dr. Fahad Petitioner

V E R S U S

Sindh Public Service Commission and others Respondents

Date of hearing:- 01.11.2017.

M. M.M. Aqil Awan, Advocate for Petitioners in C.P No.D-4348/2017.

Mr. Ghulam Shabbir Pathan, Advocate for Petitioners in C.P No.D-4581, 6131 and 6859/2017.

Mr.Awais Malano, Advocate for Petitioners in C.P. No. D-5141, 5261, 5987 of 2017.

Mr. Zulfiqar Ali Chandio, Advocate for the Petitioner in C.P. No. D-5504/2017

Mr. Sajid Ali Gorar, Advocate for Petitioner in C.P. No. D-5424 of 2017.

Mr. Iftikhar Ahmed, Advocate for Petitioner in C.P. No. D-5519, 6825 of 2017.

Mr. Mukhtiar Ahmed Deeshak, Advocate for the Petitioner in C.P. No. D-5547 of 2017.

Mr. Muhammad Arshad Khan Tanoli, Advocate for the Petitioners in C.P. No. D-6818 of 2017.

Mr. Sohail Saeed, Advocate for the Petitioner in C.P. No. D-7087 of 2017.

Mr. Abdul Jalil Zubaidi, Assistant Advocate General alongwith Muhammad Yousuf Alvi, Law Officer, Sindh Public Service Commission

ORDER**ADNAN-UL-KARIM MEMON-J.** In all above referred

Constitutional Petitions, petitioners have sought declaration to the effect that impugned interview and their result announced on 05.06.2017 by SPSC, against 2192 vacancies for the post of Medical Officer BPS-17 (Male and Female) in Health Department, Government of Sindh, is unlawful, illegal and without lawful authority. Petitioners are seeking further directions that the Sindh Public Service Commission may be directed to undertake fresh exercise of the selection process against the sanctioned posts of Medical Officers in Health Department regarding (Male and Female)

after completion of full strength of SPSC/Respondent No. 1 and after framing of the rules, as directed by the Hon'ble Supreme Court in Suo-Moto Case No. 18/2016, vide order dated 22.02.2017.

2. Learned counsel for all the Petitioners consented that Petition bearing No. 4348/2017 may be treated as leading Petition and same may be heard at Katcha Peshi stage along with other connected petitions.

3. Mr. M.M. Aqil Awan, learned Counsel for the petitioners in C.P. No. D-4348/2017, interalia contended that the petitioners in response to the Advertisement No. 1/2016 published in "Daily Kawish" dated 03.01.2016, applied for the posts of Medical Officers, (Male and Female) and Dental Surgeon (BPS-17) in Health Department, Government of Sindh; that 6,683 candidates (3,502 Male and 3,181 Female) passed the written test conducted by the Sindh Public Service Commission; that as per announcement of result the petitioners were declared successful candidates. Per learned counsel S.P.S.C has conducted interview of 2,960 candidates, whereas the interview of 3,723 candidates could not be conducted because of the restraining order passed by the Hon'ble Supreme Court of Pakistan. Learned counsel stated at the bar that out of 6000 candidates only 2800 candidates were interviewed, in which the petitioners were including, when the SPSC/Respondent No. 1 was being chaired by the then Chairman, the rest of the candidates could not be interviewed because of taking cognizance by the Hon'ble Supreme Court in Suo-Moto Case No. 18 of 2016; that Sindh Public Service Commission became dysfunctional, while

the process of interviews of about 2800 candidates, including petitioners were halted because of restraining order of the Hon'ble Supreme Court, the process of ongoing interviews was postponed and that process again commenced w.e.f. 02.05.2017 to 22.05.2017; that the remaining interviews of about 3200 candidates were held by Sindh Public Service Commission under the chairmanship of present Chairman. Learned counsel for the Petitioners argued that Sindh Public Service Commission announced the result of interviews on 05.06.2017, whereas the names of the petitioners were not included in the press release, compelling the petitioners to impugn the press release dated 05.06.2017 before this Court; that this conduct of the S.P.S.C has seriously prejudiced the rights of the petitioners, by not including their names, being successful candidates in written test. He lastly prayed that the said press release may be declared illegal and without lawful authority.

4. Learned counsel for all the Petitioners in the connected Petitions adopted the arguments of Mr. M.M Aqil Awan, learned counsel for the Petitioners in C.P. No. D-4348/2017.

5. Upon notice to the Respondents, para-wise comments were filed on behalf of SPSC/Respondent No. 1.

6. At the very outset, Mr. Abdul Jalil Zubaidi, learned AAG, under instructions of learned Advocate General, Sindh has offered proposal that Respondents are willing to allow all 31 petitioners to

participate in the interview to be conducted by SPSC as per law. And, if Petitioners succeed in captioned Petitions, they can be accommodated without prejudice to their right and interest.

7. We have heard learned counsel for the parties and perused the material available on record.

8. This petition came up for hearing before this court on 22.06.2017 and notices were issued to the Respondents. On 30.06.2017, status quo was ordered and the case was adjourned to 09.08.2017. The Respondents assailed the said interlocutory order dated 30.6.2017 before Hon'ble Supreme Court of Pakistan in Civil Petition No. 426-K of 2017 which was disposed of vide Order dated 27.07.2017. The relevant portion of said Order is reproduced as under:-

“It is stated that all the Doctors who have qualified and Sindh Public Service Commission, having recommended appointments of 5400 Doctors, who could not be given posting in view of the impugned order of status quo by the High Court. It is stated that there are 6683 vacancies of Doctors throughout Province of Sindh. Step to make further recruitment is in process. In this view of the matter since large number of vacancies are still lying vacant, respondents herein all 31 in number if at all they succeed in the petition before the High Court, could be accommodated without prejudice to their right and interest. In this view of the matter, status quo order is set-aside. Statement of Advocate General of Sindh as recorded above is taken on record.

Learned Advocate General, Sindh states that he shall make proper statement in the line with what has been recorded above before the High Court.

Accordingly, this petition is converted into appeal and disposed of in the above terms”.

9. The order of Hon'ble Supreme Court was placed on record on 09.08.2017 and, in view of the observation made by the Hon'ble Supreme Court, interim order passed by this Court was recalled.

10. Learned counsel for the Petitioners has stated that Petitioners may be allowed to participate in the interview and result may be placed on record by Sindh Public Service Commission. Thereafter, these Petitions may be heard and decided on merits. Learned AAG has candidly conceded to the above mentioned proposal of the Petitioners.

11. In view of the above settlement between the parties, we direct Sindh Public Service Commission to conduct interview of all the Petitioners after sending Intimation Letter to each Petitioner. The entire exercise shall be done strictly in accordance with law within a period of one month and the result shall be placed before this Court on the next date of hearing. The matter is adjourned to be fixed after one month.

JUDGE

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