

**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD**

C.P. No.D- 550 of 2015

Present:

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Adnan-ul-Karim Memon

Ali Khan ----- Petitioner

VERSUS

Province of Sindh
& others ----- Respondents

Dates of hearing: 06.03.2019

Date of decision: 06.03.2019

Mr. Mushtaque Ali Tagar, advocate for petitioner.

Mr. Allah Bachayo Soomro, Addl. A.G. Sindh.

ORDER

ADNAN-UL-KARIM MEMON, J.- Through instant petition, the Petitioner is seeking direction to the respondents No.1 & 2 to recheck record of the petitioner and issue offer letter in his favour being eligible candidate for the post Junior School Teacher (General) from Union Council Qazi Ahmed II, under the terms and conditions of the policy introduced by respondent No. 1 and 2.

2. We have noted that in pursuance of the advertisement published in daily Kawish dated 19.4.2012 petitioner applied for the post of JST in BPS-9 on Union Council level and was declared successful candidate by obtaining 86 marks but the respondents have appointed another person in place of the petitioner.

3. We asked from learned counsel to satisfy this Court that how this petition is maintainable as he has been non-suited by the respondents on the premise that he is not qualified to be appointed being graduate in third

division, which is not the requirement for the post of JST. He in reply to the query has submitted that he applied for the aforesaid post on the basis of postgraduate Degree. We are not convinced with the assertion of learned counsel for the petitioner and are of the considered view that the petitioner does not qualify for the post applied for under Teachers Recruitment Policy 2012.

4. Record reflects that the Petitioner applied for the appointment of Junior School Teacher (BPS-14) to be filled on merit subject to availability of need based vacancy in Union Council of a candidate. The criterion for selection and appointment, provided under Teachers Recruitment Policy 2012 is fair, just and reasonable and no prejudice has been caused to the petitioner. This Court has already decided the similar matter in the case of Shabbir Hussain vs. Executive District Officer (Education), Larkana and five others (2012 CLC 16).

5. In view of the aforesaid facts and circumstances of the case, we are of the considered view that mere selection in written test would not, by itself, vest a candidate with a fundamental right to be enforced through Constitutional jurisdiction of this Court.

6. Admittedly the authorities had not issued any offer of appointment letter to the Petitioner and appointment to the post is subject to the Teachers Recruitment Policy 2012, which in our view has been followed in letter and spirit.

7. We have also noted that the appointment of the candidates was on contract basis for three years as per the advertisement for the posts applied by the candidates and apparently such period has already expired.

8. It is a settled principle of law that for the purpose of maintaining a Constitution Petition it is the duty and obligation of the Petitioner to point out that the action of the official Respondents was in violation of the rules and regulations, which the Petitioner has failed to point out and has thus failed to make out his case for discrimination as well.

9. In the light of above facts and circumstances of the case, we have reached the conclusion that the Petitioner has failed to make out his case for appointment for the post of Junior School Teacher. Consequently, the instant Petition is dismissed along with the listed application(s).

JUDGE

JUDGE

Irfan Ali