

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

CP. No. D-974 of 2019

Dr. Ghulam Sarwar
and others

v. Province of Sindh

BEFORE :

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Adnan Iqbal Chaudhry

Petitioner: Dr. Ghulam Sarwar present in person

Mr. Rafique Ahmed Dahri, Asstt: A.G.

Date of hearing & decision: 27.10.2021

O R D E R

ADNAN-UL-KARIM MEMON, J:- Through instant petition the petitioner applied for VDS Doctor; his written test was conducted by NTS in which he passed hence he was issued letter for appointment on contract basis for a period of one year but he was not allowed to join duty and was asked to appear in interview to be conducted by Sindh Public Service Commission.

2. Petitioner who is present in person has asserted that his interview was not conducted and was asked to approach the respondent No.1; however, he was kept on hollow hopes to be appointed as VDS Doctor, compelling him to approach this court on 30.4.2019.

3. This court after hearing the learned counsel for the petitioner on the subject issue dismissed the instant constitutional petition vide order dated 28.4.2021. An excerpt of the order is reproduced as under:-

“ Admittedly, the petitioner was shortlisted for interview and was notified / showed to appear on 20.08.2008, but per comments filed by the respondents he did not appear in the interview, accordingly was not among the list of the qualified candidates. Counsel for the petitioner submits that the petitioner in fact appeared for the interview, however, he has

no evidence to support this contention. The matter definitely skips out of the scope of Article 199 of the Constitution, as it pertains to now recording of the evidence. Counsel to seek his remedy in accordance with law, as tentatively, we do not find any merit in the petition, which is accordingly dismissed.”

4. On 25.5.2021, the Applicant filed an application under Order 47 read with Section 114 of Civil Procedure Code (MA No. 4245/2021) for review of order dated 27.4.2021 passed by this court on the ground that the order dated 28.04.2021 has been passed by this court is a result of misstatement given by respondent No.3 via comments, therefore, the impugned order needs to be reviewed on this score alone.

5. Petitioner who is present in person has submitted that this matter may be reopened and decided in accordance with law on the basis of documents available on record. He lastly prayed for allowing the listed application and matter may be posted for hearing.

6. We are not in agreement with the contention of Petitioner for the simple reason that this Court considered the aforesaid submissions of learned Counsel for the Petitioner at the time of hearing of the matter on 27.4.2021 and gave finding on the issue which he is now raising in Review Application.

7. We have scanned the record and found the contention of Petitioner untenable, in view of the scope of Order 47 read with Section 114 of Civil Procedure Code as well as under Article 199 of the Constitution.

8. In our view, the review of the order can only be made by the party, if there is mistake or error apparent on the face of record as provided under Order XLVII (Section 114 CPC). The Petitioner through the review application has attempted to call in question the validity of order dated 27.4.2021 passed by this Court without assailing the same before the Appellate Forum, therefore, reviewing the order does not merit consideration.

9. For the aforesaid reasons, we are not persuaded by the contention of Petitioner that any case of review is made out. Therefore, the review application merits dismissal, which is accordingly dismissed as, in our view, the order dated 27.4.2021 passed by this court was based on correct factual as well as legal

position of the case and we do not find any inherent flaw floating on the surface of record requiring our interference.

10. Consequently, the application bearing (MA No. 4245/2021) is dismissed.

JUDGE

JUDGE

Karar_hussain/PS*