

IN THE HIGH COURT OF SINDH AT KARACHI

Present:
Irfan Saadat Khan, J.
Agha Faisal, J.

CP D 5751 of 2021 : Yaseen Khan & Others vs.
Insp. General of Sindh Police & Others

CP D 6065 of 2021 : Waseem Afzal & Others vs.
Insp. General of Sindh Police & Others

For the Petitioners : Mr. Mansoor Ahmed Khan, Advocate

For the Respondents : Mr. Ali Safdar Depar
Assistant Advocate General Sindh
Along with Inspector Arif RPO, Addl. IG Office
& DSP Raza Mian IGP Office.

Date/s of hearing : 08.12.2021

Date of announcement : 09.12.2021

ORDER

Agha Faisal, J. The petitioners had applied for employment in the Sindh Police, however, were found medically unfit / ineligible on account of having been diagnosed with Hepatitis. Aggrieved, the present petitions have been instituted seeking *inter alia* fresh medical tests to be conducted by the Nazir of this Court and seeking medical fitness certificates for appointment.

2. Petitioners' counsel submits that test results procured by the petitioners ought to have been accepted or fresh tests be conducted by this court in order to confer eligibility upon the petitioners. The claim is rested on the petitioners' lack of confidence in the tests already conducted per departmental guidelines.

3. Learned AAG demonstrated from the comments that the petitioners were required to be medically examined and upon detection of Hepatitis by the recognized laboratories they were found unsuitable for consideration. It was submitted that per Sindh Police Recruitment Policy 2019 a candidate cannot be deemed to be eligible if he / she suffering from Hepatitis, as found per the tests mandated by the department from reputed laboratories.

4. Petitioners' counsel candidly submitted that the recruitment policy was duly applicable in the petitioners' case and the medical reports obtained, per the same policy, were admittedly adverse to the petitioners. It was also articulated

that some of the disenfranchised candidates had accepted the laboratory test results as accurate, while the petitioners had opted to challenge the same.

5. We have heard the respective counsel and considered the record. Admittedly, the 2019 Policy considers candidates with Hepatitis ineligible. There is also no cavil to the proposition that the departmental determination rests on the tests mandated by the department itself, from reputed laboratories. In such regard it is apparent that the policy guidelines, pertinent hereto, have been followed.

6. The petitioners' grievance with respect to their test results is not a matter fit for determination in writ jurisdiction as *inter alia* no *mala fide* and / or prejudice has been attributed to the testing system. There appears to be no case for discrimination either as it was never the petitioners' case that otherwise ineligible candidates have been considered for appointment.

7. The claim for re-testing has not been substantiated by any cogent grounds and the court's supervision in such regard also appears unmerited. The petitioner seeks to agitate issues of a factual nature, requiring appreciation of conflicting claims and documentation. It is now settled law that entertaining of a fact finding exercise, requiring appreciation of evidence and adjudication of conflicting claims, is discouraged in the exercise of writ jurisdiction of this Court¹.

8. In view hereof, we are of the considered opinion that no case has been set forth before us to merit the exercise of discretionary² writ jurisdiction of this Court, therefore, the listed petitions are hereby dismissed.

JUDGE

JUDGE

¹ 2016 CLC 1; 2015 PLC 45; 2015 CLD 257; 2011 SCMR 1990; 2001 SCMR 574; PLD 2001 Supreme Court 415.

² Per Ijaz Ul Ahsan J. in *Syed Iqbal Hussain Shah Gillani vs. PBC & Others* reported as 2021 SCMR 425; *Muhammad Fiaz Khan vs. Ajmer Khan & Another* reported as 2010 SCMR 105.