

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

CP. No. D- 1442 of 2020

Muzaffar Hussain and another v. Province of Sindh
and others

BEFORE :

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

Petitioners: Muzaffar Hussain and another through
Mr. Muhammad Dilawar Qureshi, Advocate

Respondents: Province of Sindh and others through Mr.
Rafiq Ahmed Dahri, Asstt: A.G.

Date of hearing: 27.10.2021
Date of decision: 03.11.2021

O R D E R

ADNAN-UL-KARIM MEMON, J:- Through the instant petition,
the petitioners have mainly prayed as under:-

- a. to declare that the Press Release No. PSC/Exam: (S.S) 2020/388 dated 20.10.2020 issued by respondent No.6 at the behest of Respondent Nos: 3 to 5 for the appointment against the post of Assistant Sub- Inspector Police (BPS-09) Hyderabad Range in Home Department Government of Sindh is illegal, unlawful, meritless and void ab-initio wherein the petitioners were not included.
 - b. To direct the learned Registrar of the High Court of Sindh to conduct an impartial inquiry to probe into the whole process right from issuance of consolidated Advertisement No: 06/2016 dated 19.08.2016 published in various newspapers to the issuance of Press Release No.PSC/Exam: (S.S) 2020/388 dated 20.10.2020 with a view to hold responsible for such illegalities and irregularities.
2. Mr. Muhammad Dilawar Qureshi learned counsel for the petitioner has briefed us on the subject issue and submitted that respondent No.4 published consolidated Advertisement No: 06/2016 dated 19.08.2016 for the posts of Assistant Sub-Inspector BPS-09 in Home Department Government of Sindh; the petitioners applied for the said posts; petitioner No.1 was issued letter for physical fitness test dated 22.02.2018, who qualified the same, hence he was issued another letter dated 04.01.2019 for written test, the petitioner No.1

appeared and also qualified the written test hence he was called for interview through the telephone; petitioner No.2 was issued letter for pre-interview dated 04.01.2019, after qualifying the physical fitness test and so also after qualifying written test/interview letter dated 6.8.2020 was issued; that respondent No.7 issued a Press Release having No.PSC/Exam: (S.S) 2020/50 dated 14.02.2020, wherein the roll numbers of petitioners were given as qualified candidates; that interview program issued by respondent No.6 which was postponed due to COVID-19; that subsequently the respondent No.6 issued a press release dated 20.10.2020 declaring the candidates fit and suitable for appointment against the mentioned posts, wherein the petitioners were not appointed; that respondents 3 to 7 failed to conduct the whole process of test right from physical fitness to interview transparently, freely and fairly.

3. Learned counsel for the petitioners has argued that the entire process of appointment for the post of ASI (BPS-09) conducted by respondent-commission was illegal, malafide, and based on a pick and choose policy, hence the result, so announced by the respondents for the said posts are liable to be annulled and fresh test/interview ought to be conducted transparently. It is further contended that the assessment of a candidate at the interview is the collective responsibility of the Board and of its Members taken together as such essential qualities of the candidate which ought to have been kept in mind during the interview and the same factum has been ignored, which resulted in grave miscarriage of justice; that direction may be given to respondent-commission to place before this court the minutes of meetings held at times from the date of final result sheet inclusive of the marks assigned by the Commission to the candidates in viva-voce. Learned counsel lastly contended that this Court may remand the matter to the respondent-commission with direction to provide proper hearing to the petitioners and thereafter a well-reasoned order be passed, which will meet the ends of justice. In support of his contentions, he relied upon the case of *Suo Motu Action Regarding Eligibility of Chairman and Members of Sindh Public Service Commission, etc.*, 2017 SCMR 637.

4. It is an admitted position that although the petitioners had cleared the written examination they had failed in the interview/viva voce which was a pre-condition before they could be appointed to the posts applied for. Essentially the written test is designed to gauge a

candidate's familiarity with the subject plus his power of expression etc. In our view, the written test does not gauge the personality of the candidate or his communication skills, or his leadership or decision-making abilities which are left to be examined at the time of the interview. For this proposition, our view is supported by the decision rendered by the Honorable Supreme Court in the case of Muhammad Ashraf Sangri vs. Federation of Pakistan and others, 2014 SCMR 157.

5. Principally, an interview is a subjective test and a Court of law can't substitute its own opinion for that of the Interview Board. If any, malafide or bias or for that matter error of judgment were floating on the surface of the record, we would have certainly intervened as Courts of law are more familiar with such improprieties rather than dilating into the question of fitness of any candidate for a particular post which as observed above is a subjective matter and can best be assessed by the functionaries who are entrusted with this responsibility, in the present case, the Sindh Public Service Commission. For this proposition, we seek guidance from the decision rendered by the Honorable Supreme Court in the case of Federation of Pakistan through Secretary Establishment Division v. Ghulam Shabbir Jiskani, 2011 SCMR 1198

6. In view of the foregoing findings, we cannot agree with Mr. Dilawar Qureshi, learned counsel for the petitioners, for the aforesaid submissions made by him for the simple reason that per the conditions of Sindh Public Service Commission examination, a candidate had to achieve minimum marks in the interview to be declared successful which the petitioners failed to do.

7. For all the foregoing reasons we find that this petition has no merit and hence the same is dismissed with no order as to costs.

JUDGE

JUDGE