

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 2902 of 2013

Mehrab Ali Gadani V. P.O. Sindh and others.

Before:

Mr. Justice Muhammad Junaid Ghaffar
Mr. Justice Zulfiqar Ali Sangi

Date of Hearing: **12-01-2022**

Date of Decision: **02-02-2022**

Mr. Ubedullah Ghoto, Advocate for the Petitioner.

Mr. Ali Raza Baloch, Assistant A.G-Sindh along with Safdar Ali Shah, District Education Officer (Elementary, Secondary and Higher Secondary), Ghotki @ Mirpur Mathelo.

ORDER

Muhammad Junaid Ghaffar, J. – Through this Petition, the Petitioner has sought the following relief:

“A)- That this Honorable Court may be pleased to declare the act of respondents by not issuing appointment order to the petitioner is null, void and contrary to the right of the petitioner.

B)- That this Honorable Court may be pleased to direct the respondents to issue the appointment/joining order to the petitioner”.

2. Learned Counsel for the Petitioner has argued that pursuant to an advertisement, the Petitioner appeared in the test and interview for the post of Junior School Teacher (General) and secured 70 marks and was listed at serial No.2 in the result announced by the Respondents. According to him, the Respondents No.2&3 despite repeated requests did not issue an appointment order and kept the Petitioner on false hopes; whereas, some other persons, who were not qualified, have been appointed; hence, this Petition. As to the comments filed by the Respondents, per learned Counsel, two persons who have been appointed were Graduate in Science Group and were not qualified to appear for of JST-General; hence the Petitioner is entitled to be appointed. In support of his contention, he has relied upon the case

reported as *Sindhu v. P.O Sindh through Secretary and others* **(2017 PLC (C.S) Note 28)**.

3. On the other hand, learned Assistant A.G-Sindh has opposed this Petition on the grounds that as per advertisement, the persons who were Graduates in Science Group were eligible to apply in both the categories i.e. General and Science and per merit-list, the Petitioner is overall at Serial No.4, whereas, there were only two seats; hence, he had never qualified to be appointed, and therefore, this Petition is misconceived.

4. We have heard learned Counsel for the Petitioner as well as learned Assistant A.G and perused the record.

5. Insofar as the advertisement is concerned, under the head of necessary instructions, it is provided for the information of all the applicants that only those persons can appear in the JST-Science, who are Science Graduates; whereas, those applicants who were not Graduate in Science Group can only apply for JST-General irrespective of the fact that whatever group is mentioned on the admit card.

6. The Respondents in their comments have stated that there were only two seats of JST at the relevant time in the concerned Union Council; whereas, two persons, who have been appointed, had admittedly obtained higher marks as against the petitioner; however, they were Science Graduates and were eligible to apply in both categories i.e. Science as well as General. It further appears that in the combined merit-list of Science and General Groups Applicants / candidates, the Petitioner is at serial No.4 having obtained 70 marks; whereas, three other persons securing 81, 78 and 77 marks were ahead of the Petitioner in the said list. The Petitioner's argument that if both the groups i.e. Science and General are segregated, then the Petitioner would be at serial No.2; and consequently entitled to be appointed does not appear to be convincing inasmuch as from the advertisement (though not clearly worded and being confusing as well); the only inference one can draw is that insofar as Science Graduates are concerned, they were eligible and could apply in both the categories i.e. JST-General and JST-Science; whereas, the applicants who were only Graduates in General Group were eligible only for applying in JST-General. Any other meaning or interpretation of these instructions would be meaningless and absurd and in fact would have no

consequences. And in that case the petitioner has been rightly placed at Serial No.4 in the overall combined merit list; hence, not entitled for being appointed.

7. Even otherwise, as per practice in vogue in the Intermediate and Graduate studies, Science Group students can always enter into a General Group while seeking higher studies; but the same is not permissible vice-a-versa. General Group students cannot peruse Science studies until they have cleared compulsory subjects of Science Group before entering into any higher studies in Science Group. This practice is commonly followed in our Country as well as abroad to a certain extent.

8. In view of hereinabove facts and circumstances of the case, it appears that the Petitioner has no case and therefore this Petition does not merit any consideration. Accordingly, the same stands dismissed with pending applications.

Dated: 02.02.2022

J U D G E

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