

IN THE HIGH COURT OF SINDH AT KARACHI

Before:

Mr. Justice Irfan Saadat Khan

Mr. Justice Adnan-ul-Karim Memon

C.P. No.D-1427 of 2018

Muhammad Rafique

Versus

The Province of Sindh & 02 others

Date of hearing

& order: 30.03.2021

Mr. Munir Ahmed Rajpar, advocate for the petitioner.

Mr. Sibtain Mehmood, Addl. A.G.

ORDER

ADNAN-UL-KARIM MEMON, J:- Through this petition, the petitioner is seeking appointment as Primary School Teacher (PST) on the premise that he secured 94 marks in National Testing Service (NTS) test and his credentials were duly verified by the competent authority, thus, he is eligible and entitled to be appointed on the aforesaid post on merit.

2. Mr. Munir Ahmed Rajpar, learned counsel for the petitioner, has mainly contended that he is eligible for the post of PST as he secured the highest number of marks in the written test conducted by the NTS. Learned counsel referred to the order dated 08.9.2016 passed by this Court in C.P. No. D-3413/2014 whereby direction was given to the Director School Education to conduct an inquiry with a fair opportunity to him to appear and produce all academic antecedents and certificates and after considering the relevant certificates the competent authority was directed to decide his case whether he is entitled to the job or otherwise. Per learned counsel, the respondent conducted an inquiry and rejected his claim vide order dated 21.3.2017. He being aggrieved by and dissatisfied with the aforesaid decision has filed the instant petition on 07.2.2018 on the premise that his all educational certificates which he submitted before the competent authority was duly verified and declared as genuine documents, thus, it was not an occasion for the respondents to reject his claim that his case

did not fall within the purview of Teachers Recruitment Policy, 2012. Per learned counsel, this is hardly a ground to reject the candidature of the petitioner.

3. We have asked the learned counsel for the petitioner that how this petition is maintainable when the respondent has rejected his claim vide order dated 21.3.2017 with certain observations which adversely affected his case on the analogy that he produced a tempered mark sheet for his appointment as PST through NTS in a deceitful manner. He replied that he had produced intermediate pass certificate under seat No.12697, supplementary examination 1999, however, merely failing to produce admit card of either of the examination viz. supplementary/annual 1999 as well as the admit card, issued to him by NTS was/is no ground to reject his candidature as the respondent-department has already declared his academic certificate as genuine. Learned counsel referred to various documents attached with the memo of the petition and argued that this petition does not involve any disputed question of fact, thus, the petitioner's case is covered from every corner of law as such the respondents are under obligation to issue him offer letter for the post of PST under the Teachers Recruitment Policy, 2012.

4. Learned Addl. A.G. pointed out that the basic qualification of the petitioner is dubious, thus, he could not be accommodated for the post of PST. Learned AAG concluded by saying that there is no post lying vacant, therefore, the petitioner cannot be adjusted. He prayed for dismissal of the instant petition.

5. We have considered the facts and circumstances of the case. It is important to discuss the right of the petitioner to be appointed as PST as agitated by him. We have noted that the action of respondents against the petitioner does not impinge the petitioner's any fundamental and statutory right. We are of the considered view that even a successful candidate does not acquire an indefeasible right to be appointed and that it could be legitimately denied. The public notice inviting application for the appointment has been held only to be an invitation

to the qualified candidates to apply for an appointment. On their mere applying or selection, they do not acquire any right to the post.

6. The material placed before this Court explicitly shows that the respondents considered his case on the aforesaid pleas and rejected vide order dated 21.3.2017 with certain reasoning and we are not in a position to say for and against the documents attached with the memo of the petition and on this scope alone this petition fails on the ground of disputed question of facts. No case is made out for interfering with the impugned order dated 21.3.2017 passed by Director School Education (Primary) Sukkur Region, Sukkur (Chairman DRC).

7. In view of the foregoing, the Constitutional Petition in hand is dismissed along with the pending application(s).

JUDGE

JUDGE

*Nadir**