

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
C.P. No.D-297 of 2022

Date	Order with signature of Judge
1.	For orders on office objections
2.	For hearing of CMA No.1273/2022
3.	For hearing of main case.

26.01.2023

Mr. Qurban Ali Balouch, advocate along with Petitioners M/s. Ali Raza & Shafi Muhammad, AAGs alongwith Ghulam Akber Leghari, Secretary (Education and Literacy Department), Imran Ali Syed, Deputy Secretary, Finance Department and Sikandar Hassan, Deputy Secretary/Law Officer, Finance Department, Government of Sindh.

Pursuant to order dated 12.01.2023, Secretary, Education and Literacy Department, Government of Sindh, present contends that in fresh recruitment plus 52000 qualified candidates have been appointed as PSTs and JESTs. Further, he contends that hard area notification was issued in March, 2021 and thereafter there is no fresh notification to expand the scope of hard area; however there could be justification on different reasons to include other areas of Province of Sindh as hard areas.

2. Accordingly, around 1300 candidates, who secured below than 40 marks due to closure of schools in the region of hard area even Education Department failed to find out any successful candidate above 40 marks in that Talukas even two Taluka(s) in Karachi accordingly and they placed this policy in view of Article 27(2) of Constitution of Pakistan, 1973 with the Cabinet of Sindh and accordingly number of marks reduced up to 33%; however this exercise will not be continued as fresh recruitment process-2023 has been initiated through SIBA.

3. The policy of reduction in numbers is against the principle of equity. The policy for recruitment was prepared much prior to recruitment of the teachers. After recruitment test change of policy in recruitment under any pretext including the reason of hard area(s) creates a serious doubt over entire policy especially when there is alternate procedure i.e. publication of further recruitment. The issue is sensitive in nature, the recruited teachers being teachers will build

the future of the students as well as nation. Besides this, the candidates who were unable to obtain the required passing marks are capable to give education to the students of hard area, where the literacy ratio is zero and this relaxation will not serve the task. In such situation, the relaxation in passing marks under the garb of hard area and cover of Article 27 (2) of the Constitution is not acceptable. The Secretary Education should re-continue the policy of reduction of marks upto 33% and find out an alternate over this issue in fresh recruitment.

4. Another issue, which is on everyone's tongue is duplication of the policy. In the urban and rural areas the policy of recruitment is different. Especially in the urban area(s) it is the matter of great concern that at the time of announcing vacancies, the vacancy position is considered but at the time of appointment and issuing posting orders vacancy position is not considered and the posting orders are issued for those schools where the number of teachers is already in excess. The result of this practice is the appointments which are made for specific areas/schools remain vacant and the areas/schools which are already in excess number of teacher, more teachers are posted and the purpose of appointments for closed schools remain unsolved.

5. The Secretary Education is further directed that he shall ensure that posting orders should be issued to the newly recruited teachers for their specific area(s) for which they have been appointed. In case, after appointment and postings of newly recruited teachers the position of close schools still remains close, he will be responsible for failure of government policy and the proceedings for making failure the government policy will be initiated against him. We further direct the Secretary Education to introduce special allowance, enhanced salary or any other emolument for the teachers who wish/agreed to perform their duties and posted in the respective area(s).

6. Accordingly, SIBA shall ensure that recruitment process, 2023 is completed within three weeks positively. Further, Secretary Education and Literacy Department, contends that since at least 1000 schools were closed due to non-availability of teachers and +50000 are newly

recruited teachers, therefore, they have initiated a mobile app to ensure the attendance of teachers in their respective schools. He contended that in first phase, they have started this program in seven districts for 3 months as experimental process and there is MoU with said relevant cellular company to improve this application if there is any difficulty to the teachers with regard to presence at site. It is further contended that respective teachers' organizations have shown their concern on different reasons.

7. Needless to mention, Teachers' Organization is for welfare of teachers and normally cannot be allowed to disturb the affairs of management **and administration** of schools; however they are also citizens of this country and they have right to deal with in accordance with law without any discrimination. It is assured by Secretary, Education and Literacy Department, that no coercive action will be taken against the teachers if there is genuine issue in the app with regard to their attendance and they will provide chances to them to ensure their attendance. **No doubt the action against the delinquent teachers should not be coercive in nature but there should be some action. At-least the absence of the teacher should be treated as casual leave. The casual leave should be monitored through app. After availing the permitted casual leaves the absence of the teachers from the duties should be treated leave without pay and we think that only this minor action of deduction of salaries of the delinquent teachers will bring best result in attendance of the teachers hence there should be prepare a mechanism in this regard and the introduced app be updated with the option of number of availed casual leave and casual leaves in case of absence.**

8. Since that app is in experimental process, therefore, in three months no adverse action be taken against the teachers except the absence of teachers be treated as casual leave. However every teacher should be bound to participate in that mobile app and cooperate diligently; besides failure can cause stigma on their career; however, this Court will further deal with this issue on the next date; however this relaxation will be applied to already working teachers. At this juncture, it has come on record that identical matters with regard to

issue in question have been heard by another Division Bench and same are reserved. Further we expect that Secretary, Education and Literacy Department, will examine the issue of present petition pertaining to Ghotki District and when admittedly petitioner qualified in 1st phase of policy and shall submit definite statement if there is chance of appointment of present petitioner.

Adjourned to **28.02.2023**. Attendance of Secretary, Education and Literacy Department, Government of Sindh, is dispensed with; however Focal Person shall be in attendance on the next date.

JUDGE

Faisal Mumtaz/PS

JUDGE