

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D - 629 of 2018

Present:

Justice Zafar Ahmed Rajput

Justice Shamsuddin Abbasi

Mr. Mushtaque Ahmed S. Baloch, Advocate for petitioner.
Mr. Muhammad Aslam Jatui, Assistant Attorney General along with Munir Ahmed, Assistant Superintendent, Post Office, Khairpur and Irshad Ali, Assistant Superintendent on behalf of Divisional Superintendent, Postal Services, Sukkur.

Date of hearing : 27-09-2022

Date of decision : 02-06-2023

ORDER.

Through the instant petition, petitioner Raees Ahmed Mevo seeks following relief(s):-

a. To declare the test of the scheduled was illegal because in which for the both post viz Mail Peon and Stamp Vender were also conducted on the same date, same time and same place.

b. To declare that the policy which has been adopted by the respondents department for the written test/for appoint is not a transparence therefore same may be declared null and void.

c. That petitioner may be allowed to appear in the examination Stamp Vender (BPS-03) because on the same time as well as same date the petitioner was not in a position to appear in the both the posts.

d. That the petitioner may also be considered on merit as well as on Dependent Quota/Child Quota because in the advertisement no any quota had ever been mentioned.

e. To direct the respondents to file the comments.

f. To grant the stay whereby restrain the respondents not to conduct the interview as well as further proceedings till to decision of this petition.

g. That this Honourable Court may be pleased to grant any other equitable relief which has not been specifically prayed for, which this Honourable Court deems fit and proper in the circumstances of the above case.

2. It is a case of the petitioner that his father served 34 years in Postal Services department and after attaining age of superannuation he got retirement from Postal Department as Head Post Man on 16.03.2013. He has maintained this petition on two counts firstly on the ground that he is entitled for the job in Postal Department on Dependent Quota/Son Quota/Deceased Quota and Shaheed Quota and secondly on the ground that he has applied for 02 posts (Male Peon BPS-02 & Stamp Vender BPS-03) in postal services department In pursuance of advertisement for recruitment of different categories in Postal Service department, the petitioner being eligible applied for the aforesaid 02 posts and appeared in the test. However, the test was conducted on the same date, therefore it was not possible for him to appear in tests for two different posts at the same time and he was not provided an opportunity to appear in both the tests on different dates and resultantly he was announced as failure for the post of Male Peon BPS-02 on merits where as he was called absent in written test for the post of Stamp Vender BPS-03. The petitioner approached the official respondents for the redressal of his grievance

but no response was given to him; hence he has maintained this petition seeking aforesaid relief(s).

3. The comments have been filed by the respondents No.1 to 9 which reveal that as per policy, there is no Dependent Quota/ son Quota existing in their department. However, the respondents have admitted that the quota for Minority, Ex-Serviceman and Merit has already been advertised. The comments further reveals that the petitioner obtained total 19 marks but he did not come on merits as he has obtained lesser marks than the others who were appointed. The comments further reveals that the petitioner was declared absent in test for the post of Stamp Vender.

4. Heard the learned counsel for the petitioner, Assistant Attorney General and perused the material available on record.

5. We have observed that the petitioner is resident of District Shikarpur and he has applied for the posts, which pertains to Larkana Postal Department. On both counts this petition is not maintainable on the point of jurisdiction of this bench for the reasons that the petitioner as well as he applied for the aforesaid posts come within the territorial jurisdiction of Circuit Court Larkana of this court. In reply to the query, learned counsel for the petitioner submitted that the petitioner has maintained this petition before this bench only on the ground that examination/written test was held at Sukkur, which also does not provide any justification to maintain this petition before this bench.

6. However, we are deciding this petition on merits. The contention of the learned counsel for the petitioner that father of petitioner served for 34 years in Postal Services Department and after attaining the age of superannuation he got his retirement, therefore, he is entitled for appointment on Dependent Quota/Son Quota. The respondents have denied this assertion on the ground that there is no such policy existing in their department for the

appointment on Dependent Quota/Son Quota. The respondents have admitted that quota of Minority, Ex-Serviceman and Merit has already been advertised but since the petitioner did not succeed in the test on merits and was declared fail, therefore, he is not entitled for appointment on merits. Since the claim of the petitioner, has been denied by the official respondents and it is a well settled proposition of law that the factual controversy cannot be resolved through writ petition, therefore this petition being devoid of merit, is dismissed accordingly.

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