

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
CP D 1998 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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Fresh case

1. For order on Misc. No.9676 of 2023
2. For order on Misc. No.9677 of 2023
3. For hearing of main case

20.04.2023

Mr. Imtiaz Hussain Bhutto, advocate for the petitioner

1. Granted. 2. Granted, subject to all just exceptions. 3. The petitioner participated in a competitive process for appointment as junior clerk, BPS 11, however, he failed in the interview. The petition seeks for the final interview results to be set aside and for the petitioner to be appointed as sought.

At the very onset the learned counsel was confronted with respect to maintainability hereof, however, he remained unable to satisfy the Court on such count.

A Division Bench of this Court has already deliberated upon this issue in *Tazeem Ahmed*¹ and maintained that delving into the interview process is not desirable in writ jurisdiction. It is considered illustrative to reproduce the operative observations herein below:

“Insofar as the case of the Petitioner as to the result of the interview being illegal and subject to challenge in these proceeding is concerned, we have not been able to persuade ourselves as to how the relief being sought can be granted in respect of Viva-voce/Interview Examination of the Petitioner, in which, according to him, he ought to have been declared successful, whereas, the Respondents have failed him. Apparently the verbal response of the Petitioner in a Viva-voce Examination and Interview cannot be looked into by us in our Constitutional jurisdiction, as it is entirely dependent on the factual determination and the contention of the parties. Even otherwise, what answer is given by a candidate in an Interview/Viva-voce Examination, the same is a matter of verbal response and no record is apparently required to be maintained by the concerned appointing authority. In these circumstances, we are of the considered view that this Petition is not maintainable. There isn't any yard stick or mechanism to examine that as to what had happened during the interview. Reliance in this regard may be placed on the case reported as *Muhammad Ashraf Sangri v. Federation of Pakistan* (2014 SCMR 157), wherein the Hon'ble Supreme Court has been pleased to observe as under:

“Essentially an interview is a subjective test and it is not possible for a Court of law to substitute its own opinion for that of the Interview Board in order to give the petitioner relief. What transpired at the interview and what persuaded one member of the Board to award him only 50

¹ Per *Muhammad Junaid Ghaffar J* in *Tazeem Ahmed vs. Pakistan* (CP D 3134 of 2021 – judgment dated 11.08.2022).

marks in something which a Court of law is certainly not equipped to probe and to that extent we cannot substitute our own opinion with that of the Interview Board. Obviously if any mala fides 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 question of fitness of any candidate for a particular post which as observed above is subjective matter and can best be assessed by the functionaries who are entrusted with this responsibility, in the present case, the Public Service Commission. For this proposition the case of Federation of Pakistan through Secretary Establishment Division v. Ghulam Shabbir Jiskani (2012 SCMR 1198) can be referred to."

Further reliance can also be placed on the case of *Arshad Ali Tabassum v The Registrar Lahore High Court* [2015 SCMR 112]; *Miss Gulnaz Baloch v The Registrar Baluchistan High Court* [2015 PLC (CS) 393] and *Altaf Hussain v Federal Public Service Commission* [2022 PLC (CS) 92]."

It may be opportune to mention that the exposition of law contained in *Tazeem Ahmed* is binding upon us per the *Multiline*² principles.

No vested right has been demonstrated by the petitioner before this court to be entitled to the prayers sought and even otherwise delving into the factual controversy of the petitioner's eligibility or lack thereof is not amenable to the writ jurisdiction of this court³.

In view hereof, this petition is found to be misconceived, hence, the same and the listed application are hereby dismissed in *limine*.

J U D G E

J U D G E

² *Multiline Associates vs. Ardeshir Cowasjee* reported as 1995 SCMR 362.

³ 2016 CLC 1; 2015 PLC 45; 2015 CLD 257; 2011 SCMR 1990; 2001 SCMR 574; PLD 2001 Supreme Court 415.