

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

Constitutional Petition No.D- 1238 of 2023.

Present:

Mr. Justice Muhammad Saleem Jessar.

Mr. Justice Zulfiqar Ali Sangi.

Petitioner                      Shahid Hussain Siming through Mr.Allah Wassayo  
Ujjan, Advocate a/w Petitioner.

Respondents                    P.O Sindh and others through Mr.Ali Raza Baloch,  
Additional Advocate General a/w Sanghar Ali Malik,  
S.S.P Noshehro Feroze and DSP Muhammad Akram  
Rajput on behalf of DIGP Sukkur.

Date of hearing:              10.12.2024  
Date of order        :        10.12.2024.

**ORDER.**

**ZULFIQAR ALI SANGI-J.**:- Through this petition, the petitioner prays  
as under:

*“(a) That this Honourable Court may graciously be pleased to declare that the Final Merit List issued by AIGP / Establishment-II Sindh Police Department Karachi dated; 10.08.2023 as illegal, unlawful null and void and liable to be cancelled; because the same has been issued by ignoring the candidates including petitioner who secured highest marks for their appointment for the post of Constable in SPF Police Department; and further be declared the petitioner as successful candidate who secured 78 Marks including 15 Extra Marks being son of retired / deceased servant of Police Department Total Marks 93 and entitled to be appointed on the said post.*

*(b) That it may further be pleased to issue appropriate directions to the respondents individually as well as jointly to issue revised Final Merit List by placing the names of those candidates from highest marks up to lowest marks as per reserve seats of District Khairpur, as the name of petitioner was placed at Serial No.36 of the Merit List of qualified candidate.*

(c) *To grant stay; thereby suspending all the process of appointment of candidates as per impugned Final Merit List dated 10.08.2023 and restraining the respondents not to issue any appointment or offer orders to the candidates as per impugned Final Merit List; till issuance of revised Final Merit List as per highest marks obtained by candidates as well as till final disposal of this Petition.*

(d) *To award any other equitable relief, this Honourable Court deems fit and proper under the circumstances of the case.*

(e) *To award costs of the petition.”*

2. Claim of the petitioner is that pursuant to advertisement published in Daily Kawish in the year 2021, he applied for appointment against the post of Police Constable (BPS-05) in Special Police Force and participated in the written test conducted by the respondents through Pakistan Testing Service (P.T.S) which was qualified by him by obtaining 78 marks out of 100 marks and after qualifying the physical test as well, his name was placed at Sr.No.36 of merit list. Thereafter he was called for the interview/viva voce in which he appeared in which he was asked formal questions to which he replied correctly. Subsequently, respondents issued final merit list which did not contain his name, which constrained him to file instant petition.

3. In response to the notices issued by this Court, the respondents have filed their comments wherein they have admitted participation of the petitioner in all the aforesaid tests and interview however, they submitted that the petitioner failed to qualify the interview therefore, he was declared failed candidate and his name was not placed in the final merit list.

4. On 14.11.2024, this Court directed that the persons who conducted the interview shall be present along with relevant record. Today Senior Superintendent of Police, Noshehro Feroze has appeared along with requisite record. The SSP apprised the Court that thought he petitioner had obtained 78 marks in the written test however, when his written paper was assessed, the Committee was shocked as to how he obtained such marks in the test conducted by P.T.S. He produced original answer sheets of the petitioner which were examined by the Court and it was found that the petitioner was unable to write correct sentence in English or even in Sindhi. He was unable to write the word 'mother' correctly in Sindhi. Even he was unable to write the word 'son' in Sindhi and the word 'hockey' in English correctly. The original record produced by SSP after having seen was returned back.

5. After above assessment of original record/answer sheets. we referred the said answer sheets to the petitioner and enquired from him as to whether these answer sheets produced by SSP Noshehro Feroze belong to him to which he acknowledged and also admitted all the above mistakes committed him in Sindhi and English.

6. In the similar circumstances, the Hon'ble Supreme Court in the case of Waheed Gul Khan and another v. Province of Sindh and orders (2024 SCMR 1701) held as under:

9. An interview is inherently a subjective evaluation, and a Court of law does not have jurisdiction to substitute its opinion with that of the Interview Board to provide relief to anyone. The role of the Interview Board is to evaluate candidates based on a variety of subjective criteria, which may include interpersonal skills, presentation, and other intangible qualities that are difficult to measure objectively. These assessments are inherently qualitative and depend on the opinion of interviewers, who are appointed for their expertise and ability to make such evaluations. However, this does not mean that the decisions of the Interview Board are beyond scrutiny. If there were

any indications of *mala fides*, bias, or significant errors in opinion that are apparent from the records, the Court would certainly be compelled to intervene.

10. This court in the case of *Muhammad Ashraf Sangri v. Federation of Pakistan (2014 SCMR 157)*, has ruled that;-

“Essentially an interview is 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 marks is 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.....”

11. It is an admitted position that petitioners passed the written examination but did not succeed in the interview, which was a mandatory requirement for the test. Written test measures a candidate’s knowledge and expression skills but does not evaluate important personality traits like communication skills, leadership qualities, and decision-making abilities. These traits are assessed during the interview. The interview process allows evaluators to see how candidates interact and respond in real-time, offering a complete picture of their suitability for the job. In the instant case, however, the petitioners failed to pass the interview examination as they did not meet the necessary standards in the interview. Thus, learned High Court was correct in its view that constitutional jurisdiction cannot be invoked for challenging the interview process.”

7. The petitioner was declared failed in the interview by the respondents however, if the petitioner would have qualified the same, even then such qualification in the interview does not create any vested right for appointment to a specific post as was

held by the Supreme Court in the case of Secretary Finance and others v. Ghulam Safdar (2005 SCMR 534) wherein the Supreme Court has held as under:

“10. Be that as it may, it is difficult to sustain the prayer of the respondents since mere selection in written examination and interview test would not, by itself, vest candidates with a Fundamental Right for enforcement as such in the exercise of Constitutional jurisdiction of the High Court. Admittedly, the appellants had not issued any offer of appointment to the respondents and their appointment was subject to clearance by the Establishment Division under the Centralised System of Recruitment till it was discontinued in November, 1996, which again coincided with the imposition of ban on fresh recruitments, which could not be safely ignored by the appellants...”

8. For what has been discussed above, we are convinced with the stand taken by the respondents that the petitioner could not qualify the interview and he was rightly declared as failed in the final merit list. Resultantly, instant petition being misconceived is hereby dismissed with no order as to cost.

**JUDGE**

**JUDGE**

*Shabir/P.S*