

IN THE HIGH COURT OF SINDH AT KARACHI
 CP. No. D-5747 of 2024
(Bashir Ahmed Khan and another v Province of Sindh & others)
 CP. No. D-5748 of 2024
(Faisal Saleem & others v Province of Sindh & others)

Date Order with signature of Judge

Before:
 Mr. Justice Muhammad Karim Khan Agha
 Mr. Justice Adnan-ul-Karim Memon

Date of hearing and Order: 22.01.2025

Mr. Zakir Hussain Bughhio advocate for the petitioners
 Mr. Hakim Ali Shaikh, AAG along with Hyder Raza , Principal, SHPTC,
 Saeedabad, Karachi and Sikandar Ali on behalf of DIG
 Training/Respondent No.3

ORDER

Adnan-ul-Karim Memon, J: Petitioners seek this court's declaration that the letter dated 25.10.2024, issued by the office of the SSP/Principal Shahid Hayat Police Training College Saeedabad Karachi (SHPTC) whereby they were returned to their parent District/Unit in terms of Sindh Police Training Medical Policy/2024, is illegal and violates their service/fundamental rights as envisaged under the law and constitution. They request the court to order respondents to allow petitioners to join the Upper School Course at SHPTC.

2. Petitioners in C.P. No.D-5747/2024 are serving as Sub-Inspectors, whereas petitioners in C.P. No. 5748/2024 are serving as Head Constables in Sindh Police and were selected for upper-course training. They claim to have qualified for the medical fitness test and were deputed to the course starting on 07.10.2024. However, police authorities withheld their training course and returned them to their parent Districts/Unit on the premise that they failed to meet medical policy 2024. An excerpt of the policy is reproduced as under:-

Arrival	Medical Officer at Training Institution	Basic Medical Examination/Re-Checking Medical Record of the Trainee	Basic Medical Examination on arrival. <ul style="list-style-type: none"> • Blood Pressure • Blood Sugar • Struck off Obese Cases (BM1 30 and above) • Inspect for injuries, fractures& impairments • Re-check the Medical record/ certificate issued by MS/Police Hospital etc. • Conduct a physical inspection of the trainee for injuries, amputation & impairments, etc. • Prepare the trainee's medical file. • Counter-sign the Medical Certificate issued by the Police Hospital /Poice Surgeon. • Psychological Profiling by the Hired Psychologist. • Bring all anomalies/observations to the notice of the Principal/commandant immediately and in writing.
DSP Drill	Physical Endurance Test		Conduct the Physical Endurance Test on arrival Running (1.6 Kilo Meter) Push up (5) Chin up (02) Hanging by Rod (10 Second) Bring all anomalies/observations to the notice of the Principal/Commandant immediately and in writing.

3. Learned counsel argues that the petitioners' right to training for the intermediate course is a vested right linked to their career progression. Denying this training course for further promotion violates their service/fundamental rights. He has contended that after obtaining medical fitness certificates, from the concerned Medical Superintendent Police Hospital Karachi, completing necessary tests, and being included in the final list for the Upper Course, the respondents unlawfully repatriated the petitioners to their parent units without justification. The counsel argues that the respondents' actions are illegal, without lawful authority, and violate the petitioners' fundamental rights; that they are fit to undergo the training course and they do qualify the parameters of the Sindh Police Training Medical Policy 2024. He further submitted that it is also in violation of Articles 4, 8 10-A, 18, 25, and 27 of the Constitution of the Islamic Republic of Pakistan. He further submitted that the impugned letters dated 21.10.2024 and 25.10.2024 are against the basic spirit of law and are liable to be set aside and the petitioners may be allowed to complete the training at SHPTC, Karachi. He prayed for allowing the petition.

4. The learned Additional Advocate General has an objection to granting of instant petition on the premise that the petitioners have been declared medically unfit in terms of Policy 2024. He further submitted that the MBI of the petitioners, undergoing Upper and Intermediate School Courses were found not under the SOPs as per the medical examination/medical record of the petitioners at the time of their arrival at the college. He has further contended that the police personnel are required to be fit to perform their duties since the petitioners are overweight and there is possibility that they may collapse during the training which is a herculean task and even death can occur, which will be a colossal loss to the police department. He lastly prayed for dismissal of these petitions.

5. We have heard learned counsel for the parties and have perused the material available on record with their assistance.

6. The question for determination for this court is whether the Petitioners were/are medically fit under the Sindh Police Training Medical Policy, 2024 to undergo the Upper Course/Training.

7. It is well settled that before joining, all recruits must undergo a medical exam by the Civil Surgeon and be certified fit for duty. A medical certificate (Form 10-64) is mandatory. The Civil Surgeon's exam,

following medical department guidelines, assesses eyesight, speech, hearing, physical fitness, and freedom from any disease or defect that could hinder police duties. Candidates must strip for the exam (loin covering allowed) and refusal leads to rejection. Strict medical standards are essential for police service. Superintendents of Police are responsible for initially screening candidates, ensuring only those meeting the required physical and intellectual standards are forwarded for medical examination." Rule 12.16, Chapter XII of (Appointments and Enrolments) Police Rules, 1934, is essential.

8. In our view, no candidate shall be appointed to a post unless after such medical examination as the Government may prescribe such candidate is found medically fit to discharge the duties of the post. Candidates must undergo a medical examination to ensure they are physically and mentally fit for the demands of the training. If a police officer is deemed medically unfit for the Upper Course training, the officer will be unable to participate in the specific training session. However, depending on the nature of the medical condition, the officer may be reassigned to other duties within the police force that are suitable for their medical condition. The officer may have the right to appeal against the decision of the competent authority and/or the medical board's decision if any. This process would typically involve a review of the medical records and potentially a second medical opinion could be sought.

9. In the present case, the petitioners were relieved from the training course on medical grounds in terms of point 4 of the policy 2024 i.e. Medical Examination/Re-checking and medical record of the trainee as discussed supra. Besides the above, the assertion of the petitioners is misconceived for the simple reason that the trainee has to be medically fit if the competent authority finds him unfit to undergo such training, this court cannot substitute the view of the competent authority so far as medical fitness is concerned, which requires expertise in the medical field.

10. Promotion to the post of ASI or SI is dependent on completion of the courses stipulated in Rule 19.25 of the Police Rules, 1934 (Rules), which is reproduced hereunder:

[19.25]. Training of upper subordinates. (1) Inspectors, subinspectors and assistant sub-inspectors, who are directly appointed, shall be deputed to the Police Training School to undergo the course of training laid down for such officers in the Police Training School Manual and are liable to discharge if they fail to pass the prescribed examinations or are badly reported on.

(2) On successfully completing the course at the school, upper subordinates will be posted to districts for practical training.

Officers undergoing courses A, B, and C shall attend all parades in lines.

(3) Ordinarily course A shall last for 3 months, courses B and C for 6 weeks each, and course D for the remaining probationary period. Directly appointed upper subordinates will thus be under training for 3 years before they are confirmed.

(4) On the completion of each course the probationer shall be examined by the Superintendent, who shall satisfy himself that the officer has obtained efficiency before allowing him to commence another course, and a concise report regarding the progress made shall be submitted to the Deputy Inspector General in Part IV of Form 19.25(5).

(5) On the termination of the prescribed period of probation the Superintendent shall submit, to the Deputy Inspector-General for final order the full report required by Form 19.25(5) on the probationer's working and general conduct, with a recommendation as to whether he should or should not be confirmed in his appointment. In the case of inspectors such reports shall be forwarded to the Inspector-General. The progress and final reports shall be filed with the character rolls of the officers concerned.

11. The police force is crucial for law enforcement. Effective training and capacity building are essential for its success. The institution should prioritize enhancing capabilities, productivity, and public awareness. Constant litigation hinders progress. A culture of strict adherence to internal rules is necessary for smooth governance and administration.

12. Rule 19.25 mandates that Inspectors, SIs, and ASIs complete courses (A, B, C, and D) for promotion. This training is crucial for capacity building and ensuring officers possess the necessary skills and knowledge for their higher roles. Senior police officers must possess the skills and competencies befitting their rank. Continuous professional development is crucial for all officers. Promotions should prioritize training and capacity building, rather than focusing on seniority.

13. The current uncertainty about the petitioners' medical fitness for the required training, we cannot order their participation or promotion until they demonstrate their fitness for the training course.

14. Determining petitioners' vested legal rights under Article 199 of the constitution is challenging. Moreover, writ of mandamus relief is discretionary and be exercised judiciously. No rigid rules govern the court's discretion in granting or denying such relief.

15. In view of the above, these petitions are misconceived and are hereby dismissed along with the pending application(s) with no order as to costs. A copy of this order shall be communicated to the IGP Sindh. He is directed to ensure all police personnel are fit for duty. Medical examinations/re-checks and records shall be conducted. Appropriate action will be taken for unfit personnel. Only fit personnel will be allowed to perform executive duties.

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