

**IN HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

CP No.D-975 of 2023

[Ali Raza v. Province of Sindh & others]

PRESENT:

MR. JUSTICE ZULFIQAR ALI SANGI

MR. JUSTICE ARBAB ALI HAKRO

Mr. Shahryar Shar advocate for petitioner.

Mr. Rafique Ahmed Dahri Assistant A.G. Sindh along with SIP Noor Muhammad Bhurgri on behalf of DIGP Hyderabad and Inspector Manzoor Ali on behalf of SSP Hyderabad.

Date of hearing & decision: 17.02.2025

ORDER

ZULFIQAR ALI SANGI, J: - Through this petition, the petitioner has prayed that;

- a. *That this Honorable Court may be pleased to declare the petitioner as successful candidate having passed his PTS Test with 70 marks and also medically fit by Dr. Essa Medical Centre.*
- b. *That, this Honorable Court may be pleased to direct the respondents to appoint the petitioner against the post of Constable BPS (05) having qualified the PTS and Physical fitness test.*
- c. *Cost.....*
- d. *Any other relief.....*

2. It is claimed by the petitioner that despite the petitioner has qualified the physical and screening test for the post of Police Constable but he was deprived of for the said post to be appointed by the respondents.

3. Counsel for the Petitioner contends that pursuant to an advertisement dated 05.02.2020, the Petitioner applied for the job in the Police Department, Government of Sindh and passed the written test. He further contends that subsequently, it came into the knowledge of the Petitioner that some appointment has been made and even those persons have been appointed who obtained marks less

than the marks obtained by the petitioner in the written test. He lastly contends that all those appointments which are being made in violation of law are also liable to be declared as illegal, whereas, petitioner is entitled to be appointed as Police constable in the Police Department.

4. In response to the notice, issued by this Court, the respondent No.4 filed written comments wherein he denied the allegations made in the petition. However, the respondent No.4 submitted that during interview the petitioner could not qualify and he was declared as failed. The petitioner obtained 23 marks out of 50 wherein passing marks were 25, as such, he was not recommended by the Committee. The respondent No.5 also stated similar facts in his comments to that of respondent No.4.

5. On the other hand, learned A.A.G. Sindh opposes the petition on the ground that as per result of the interview, the petitioner had failed and hence no case is made out.

6. We have heard learned counsel for the petitioner as well as learned A.A.G. Sindh and perused the record.

7. From the facts so pleaded on behalf of the petitioner, it appears that despite he did pass his written test, but admittedly as per comments, he was unsuccessful in the interview and therefore a question arises as to how and in what manner any right accrues to the petitioner to claim appointment by filing instant petition. So far alleged illegal appointment of others are concerned, it would suffice to observe that neither those persons have been joined as respondents; nor any specific prayer has been made to this effect. In fact, it appears to be an afterthought, and may have surfaced after filing of response to these petitions. In that case either the petition was required to be amended or after withdrawal of this petition permission should have been obtained to file fresh petition. None of these has happened and therefore, we cannot look into this aspect of the matter as it would seriously prejudice other.

8. Further, 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 declared as failed to him, as 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 completely 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.

9. 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.”

10. 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...”

11. 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