

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
C. P. No.D-744 of 2024
(Mst. Parveen v. P.O Sindh and others)

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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Before:

Mr. Justice Muhammad Saleem Jessar.
Mr. Justice Adnan-ul-Karim Memon.

Date of hearing and Order: 12.03.2025

Mr. Sarfraz Ali M. Abbasi, advocate a/w petitioner.

Mr. Liaquat Ali Shar, Addl. A. G assisted by Mr. Aftab Ahmed Bhutto, Asstt. A. G.

PDSP Inayat Hussain Brohi, on behalf of SSP Kamber, is present

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ORDER

Adnan-ul-Karim Memon, J; The petitioner *Mst. Parveen* prays that this Court orders Respondents No. 2, 3, and 4 to issue her appointment order for the vacant Lady Police Constable position in District Kamber-Shahdadkot, as she was a successful candidate.

2. The Sindh Police Department advertised vacant positions for Lady Police Constable (BPS-07) within the Larkana Division. Being eligible and qualified, the petitioner, a resident of Kamber-Shahdadkot, applied for the advertised position. The petitioner was assigned Roll Number 32624900163 and completed the written examination and interview. Subsequently, the Sindh Police Department released a merit list of successful candidates for the Lady Constable position, wherein the petitioner's name was listed at serial number 10 for District Kamber-Shahdadkot. (A copy of the merit list is attached as Exhibit [Number/Letter]). Following her inclusion in the final merit list, the petitioner underwent and completed all required formalities, including medical examination, police verification, and document verification. She received an offer of appointment dated September 22, 2023, for the position of Lady Police Constable in District Kamber-Shahdadkot, which she accepted via an acceptance letter dated September 28, 2023. (Copies of the offer and acceptance letters are attached as Exhibits [Number/Letter]). Due to unforeseen family circumstances, the petitioner was unable to join her service

within the stipulated timeframe. Consequently, she applied to the Senior Superintendent of Police (SSP) Kamber-Shahdadt, requesting re-appointment. This application was forwarded to the Deputy Inspector General (DIG) Larkana, who, vide letter number E-1/30215-16 dated August 22, 2024, forwarded the matter to the Inspector General (IG) Sindh Police, Karachi, for appropriate action. (A copy of the DIG's forwarding letter is attached as Exhibit [Number/Letter]). Despite the petitioner's case being placed before the Sindh Police Recruitment Board, her application has not been considered. The petitioner asserts that she has no other adequate, effective, or expeditious remedy available, save for invoking the extraordinary jurisdiction of this Court.

3. Pursuant to the notice, Respondent No. 4 submitted comments through the learned Additional Advocate General (AAG) on December 20, 2024. These comments stated that the petitioner's case was considered by the recruitment committee, and her request for re-appointment was rejected by the committee via a decision dated October 17, 2024. However, the learned AAG did not dispute the petitioner's status as a successful candidate, nor did he controvert the fact that the period of non-joining was approximately six months, a delay that could be rectified. Furthermore, no fresh appointments were made during this period.

4. learned counsel for the petitioner submitted that the condition contained in the appointment letter to join the post within 15 days of the issue of such letter and failure to report within the time fixed in the letter is not fatal to the case of the petitioner on the premise that petitioner submitted the joining report on 22.9.2023 (available at page No.21 of the case file). He further submitted that the petitioner belongs to the tribal clan of Sindh and the respondents claim that they served the notice upon the petitioner through WhatsApp, his afterthought decision and cannot be relied upon and there is no harm if the petitioner is allowed to join the duties as a lady police constable for the reason that the subject vacancy has not yet been filled, which post is still lying vacant. However, this assertion has been denied by the respondents. The petitioner's counsel argued that the proper administration of justice mandates allowing the petitioner to join duty. At this stage, AAG submitted that the petitioner's failure to join duty within the prescribed period, she does not qualify as a 'civil servant' under Section 2(b) of the Sindh Civil Servants Act, 1973. Consequently, disciplinary action under the Sindh Civil Servants

(Efficiency & Discipline) Rules, 1973, is inapplicable. The respondent department's sole recourse was to cancel the petitioner's appointment letter.

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

6. The petitioner, Parveen d/o Liaquat Ali Gopang, was selected and issued an appointment order as Lady Police Constable (BPS-07) in District Kamber-Shahdaddock on August 10, 2023. She failed to join within the stipulated 10 days, despite multiple attempts to contact her. Consequently, her appointment was canceled on November 23, 2023. Subsequently, she applied for re-appointment, citing resolved family issues. This application was forwarded to the Sindh Police Recruitment Board, which rejected her request on October 17, 2024, citing the significant time lapse since her initial appointment and the prior cancellation of her order. The Board deemed her case time-barred.

7. The petitioner, having applied, tested, interviewed, and been appointed according to the advertised process, was without fault. His appointment was subsequently canceled without notice or hearing, violating Article 10-A of the Constitution, which guarantees due process. Article 4 of the Constitution ensures equal protection and prohibits actions detrimental to life and liberty without due process. Public officials must act in good faith and within their powers, ensuring fair treatment. Natural justice requires a fair hearing before any adverse action. Judicial, quasi-judicial, and administrative authorities must act rationally, impartially, and independently, providing clear reasons for their decisions. They must ensure justice and uphold natural justice principles. The Supreme Court, in *Tariq Aziz-ud-Din* (2011 PLC (C.S.) 1130), held that authorities must exercise power reasonably and ensure justice. This principle is further supported by *Delhi Transport Corporation v. D.T.C. Mazdoor Congress* (AIR 1991 SC 101) and *Mansukhlal Vithaldas Chauhan v. State of Gujarat* (1997(7) SCC 622), and numerous recent judgments of the Supreme Court, including *Junaid Wazir v. Superintendent of Police and others* (2024 SCMR 181). The petitioner's summary cancellation of the appointment order, without any opportunity to be heard, is a clear violation of these established legal principles. Therefore, the subsequent withdrawal or cancellation of the appointment is illegal. Article 3 of the Constitution imposes a duty on the State to eliminate exploitation and ensure equitable distribution of work.

Departmental errors in recruitment processes that lead to the reversal of valid appointments constitute severe injustice and a failure to prevent exploitation. Such actions undermine good governance and perpetuate the very exploitation the State is obligated to prevent. The assertion of the petitioner seems to be reasonable and acceded to on the premise that if the post is still lying vacant, there will be no prejudice to any of the parties to allow the petitioner to continue with the subject job under the law.

8. This petition is disposed of. The impugned order is hereby set aside. The petitioner is directed to be allowed to join duty as Lady Police Constable upon completion of all requisite formalities, within fifteen (15) days from the date of this order.

~~JUDGE~~
12/03/2015
JUDGE 12/3