

# IN HIGH COURT OF SINDH, CIRCUIT COURT MIRPURKHAS

**C.P No. D-1360 of 2024**

[Dr. Prithvi Raj v. Chairman SPSC Hyderabad and others]

**Before:**

**Mr. Justice Arbab Ali Hakro**

**Mr. Justice Riazat Ali Sahar**

Petitioner by : Mr. Sandeep Kumar, Advocate

Respondents by : Mr. Ayaz Ali Rajer, A.A.G

Date of Hearing : **19.03.2023**

Date of Decision : **19.03.2025**

## **JUDGMENT**

**RIAZAT ALI SAHAR, J.:-** Through this petition, the petitioner contends that the respondents, through Consolidated Advertisement No. 05/2024 dated 26.06.2024, invited applications for various posts in different departments of the Government of Sindh, including 950 posts of Medical Officer (BPS-17, Male) in the Health Department. The petitioner, possessing the required qualification of a degree in Medicine and Surgery, applied under both General Merit and Minority Quota. He appeared in the written test held on 10.08.2024 under Roll No. 188180 at Public School Hyderabad. However, the result announced on 24.09.2024 included only the names of qualified candidates, without publishing the complete result. Upon checking his carbon copy answer sheet against the official answer key, the petitioner found he had secured 39 marks. Despite this, the petitioner was declared unsuccessful under the Rural Quota, while candidates from the

Urban Quota who had secured only 33 marks were declared qualified for interviews. He further contends that this disparity is discriminatory, arbitrary, and against the principles of equality and fair play, particularly considering the educational disadvantages faced by candidates from rural areas. The act of the respondents in applying inconsistent criteria and withholding the full result violates their own recruitment policy, constitutional obligations, and fundamental rights of the petitioner, rendering the result illegal, unjustified, and liable to be set aside. The petitioner, therefore, prays for the following reliefs:-

- a). That this Honourable Court may be pleased to direct the respondents to announce the result of all candidates who applied for post of medical officer BPS-17 as well as declare the petitioner as successful candidate and qualified for interview by revising the instant result on basis of equal treatment under the constitution.*
- b). Direct the respondents to ensure that the Government Policy and rules with regard to the appointments will be abide by them and the request of the petitioner will be considered in accordance with law.*
- c). Costs of the petitioner may be saddled upon the respondents.*
- d). Any other relief(s) which this Honourable Court deems fit, just and proper in favour of the petitioner.*

2. Notices were issued to the respondents as well as Additional Advocate General Sindh.

3. The respondents, namely the Chairman, Secretary and Controller Examination of the Sindh Public Service Commission (SPSC), have submitted their para-wise comments/reply to the petition. In their response, they assert that the SPSC announced the written result of 2178 candidates for the post of Medical Officer (BPS-17) vide press release dated 24.09.2024; however, the petitioner secured 39 marks out of 10 against rural Minority Quota for the subject post; whereas the last shortlisted candidate for the interview against the said post on said quota obtained 40 marks accordingly, hence, the petitioner's name was not included in the list of pre-interview written test qualified candidates. They clarify that the posts of Medical Officer (BPS-17) are bifurcated on the basis of different quotas i.e. Urban, Rural and Minority and the short listing for interview of made under Rule 91 of the Sindh Public Service Commission (Recruitment Management) Regulations, 2023 from top to bottom in descending order and datum on Rural Minority Quota stood 40 marks. They further assert that the SPSC announced pre-interview written test result in the light of directions passed by this Court in C.P. No.D-1708/2023 filed by Zahid Hussain and others and C.P. No.D-1709/2023 filed by Malak Muneer and 15 others v. Province of Sindh and others. They also contend that the SPSC has mechanism of representation and appeal under the article 161 of RMR 2023 and the petitioner has failed to exhaust the available remedies as such this petition merits no consideration and liable to be dismissed.

4. Learned counsel for the petitioner has argued that there is a significant discrepancy in the results of the recruitment process, wherein candidates from the Urban Quota who scored as low as 33 marks were declared successful, while the petitioner, who secured 39 marks, was unfortunately declared unsuccessful under the Rural Quota and this consistency raises serious anxiety regarding the fairness and impartiality of the selection criteria applied by the respondents. He has further argued that the actions of the respondents violate the principle of equal treatment under the law as enshrined in the Constitution and application of different criteria for candidates from Urban and Rural Quotas destabilizes the rights of those from rural backgrounds who often face additional education disadvantages. He has further argued that the respondents have not upheld their constitutional obligations and have acted in violation of their own recruitment policies. He has emphasized that educational disadvantages faced by candidates from rural areas must be taken into account and discriminating against these candidates in the recruitment process only exacerbates existing inequalities in society. He stressed that the respondents must rectify this discriminatory practice by revising the results and recognizing the petitioner as a qualified candidate for the interview process thereby ensuring equal treatment in accordance with constitutional provisions. Lastly, learned counsel for the petitioner has prayed that the Court after considering the fact that the petitioner having rural backgrounds

may be pleased to order for providing an opportunity in the interview process.

5. On the other hand, the learned Additional Advocate General (AAG) Sindh has strongly refuted the allegations raised by the petitioner. He contends that a well-defined and transparent mechanism is in place for the recruitment of candidates and that the entire process adheres to principles of fairness and merit. He further submitted that under Rule 161 of the Sindh Public Service Commission (Recruitment Management) Regulations, 2023, an aggrieved candidate has the right to file a representation or appeal. However, the petitioner failed to avail this statutory remedy before approaching this Honourable Court. Consequently, his claim is devoid of merit and lacks any legal or factual foundation. The learned AAG also asserted that similar petitions have been filed in the past with the intent to unduly pressure and blackmail the authorities of the Sindh Public Service Commission (SPSC). Despite such attempts, the SPSC has remained steadfast in its commitment to recruiting suitable candidates through a fair and impartial selection process. He maintained that the petitioner have sought to challenge the entire recruitment process of the SPSC, which he argues is a mere figment of their imagination and legally untenable, particularly given their failure to exhaust the alternative remedy available under Rule 161 of the 2023 Regulations. In support of his arguments, the learned AAG has relied upon the precedent set in *Muhammad Ashraf Sangri v. Federation of Pakistan and others* [2014 SCMR 157], as well as

orders passed by this Court in C.Ps. No.D-8033 of 2019, 404, and 52 others of 2023. Accordingly, he prays for the outright dismissal of the instant petitions.

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

7. It is an admitted position that the SPSC conducted the written test in accordance with Consolidated Advertisement No.05/2024 and thereafter announced the result for 2,178 candidates, bifurcated under Urban, Rural and Minority quotas. The petitioner, having secured 39 marks against the Rural Minority Quota, fell one mark short of the cut-off of 40 marks, whereas successful candidates under the Urban Quota, who secured 33 marks, were evaluated against a different quota and cut-off; thus, there is no dispute that the petitioner did not meet the prescribed criterion for his own quota and the SPSC has applied a uniform, transparent procedure to all candidates within each quota.

8. So far the grievance of the petitioner that there is discrimination and arbitrariness in respect of Urban and Rural Quotas is concerned, we deem fit to observe that the 'Quotas' by their very nature contemplate different benchmarks to ensure representation from under-served areas or communities; they do not amount to unequal treatment but rather to positive measures consistent with Articles 25 and 27 of the Constitution. Further, the reference is made to the Consolidated Advertisement No.05/2024

whereby the numbers of the posts of Medical Officer BPS-17 are shown as Rural = 512 and Urban = 342, and specially allocated seats for Minorities under which the petitioner also claims is shown 29 posts in Rural Quota while 19 in Urban Quota, as such, the quantity of the posts in Rural Quota is more than the Quota of Urban in both counts. Moreover, the Sindh Public Service Commission (Recruitment Management) Regulations, 2023, expressly provide under Rule 161 a mechanism for representation and appeal against any alleged error in result publication. The petitioner's failure to avail this efficacious statutory remedy, prior to invoking this Court's jurisdiction, constitutes a bar under settled jurisprudence, including Muhammad *Ashraf Sangri v. Federation of Pakistan [2014 SCMR 157]*, which requires to exhaust alternative remedies before approaching constitutional jurisdiction. In the circumstances, it would be appropriate to reproduce the SPSC (Recruitment Management) Regulations 2023 which reads as under:-

**“161. Right of Representation & Appeal.** *A candidate aggrieved by any decision of the Commission or the nominated Member under the preceding regulations may, within 15 days of the communication of such decision, prefer a representation addressed to the Chairperson and submitted to the Secretary of the Commission adducing evidence in support of his/her claim. The Secretary, upon receipt of such representation, shall forthwith seek nomination of a Member from the Chairperson. The Member so nominated shall, within the next 15 days, hear the aggrieved candidate, evaluate the evidence produced by him/her, seek any counter evidence or explanation by the concerned Branch/Section of the Commission and announce his/her decision through a speaking order mentioning therein the respective versions of the parties and weighing them against the relevant provisions of law, rules and regulations. Any party aggrieved by the decision of the Member may, within 10 days of the announcement of such decision, prefer an Appeal to the Chairperson. The Chairperson, upon receipt of the Appeal, shall constitute a Committee comprising at least 02 Members*

*to hear the Appeal. The Member against whose decision the Appeal is preferred, shall not be a Member of the Appellate Committee. The Appellate Committee shall, after giving an opportunity of hearing to the parties concerned, dispose of the Appeal through a speaking order within the next 10 days. The decision of the Appellate Committee shall be final and binding on the parties.*

9. In view of the above, we find no illegality, malice or arbitrariness on the part of Sindh Public Service Commission. The petitioner has failed to demonstrate any violation of recruitment policy. He has failed to show that he was treated differently from other similarly candidates within the same quota to that of the petitioner. As such, the claim of the petitioner appears to be without merit and cannot be entertained by this Court in the absence of exhausting the statutory appeal under Rule 161 of the 2023 Regulations. Consequently, instant petition being devoid of merits is here **dismissed**.

JUDGE

JUDGE