

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

C. P No. D – 511 of 2024

Present:

Mr. Justice Zulfiqar Ali Sangi

Mr. Justice Abdul Hamid Bhurgri

Petitioner : Muhammad Haneef Soomro in person

Respondent No.1 : Province of Sindh, through Secretary
(Universities & Boards) Government of Sindh
through Mr. Asfandiyar Kharal, Assistant Advocate
General

Respondents 2&3 : Chairman and Secretary, Board of
Intermediate and Secondary Education, Sukkur

Date of hearing : 10.04.2025.

Date of decision : 10.04.2025.

ORDER

Abdul Hamid Bhurgri, J.- The petitioner, appearing in person, has sought directions for the declaration of impartiality in the selection committee constituted for appointments to the post of Junior Clerk, as well as directions for the conduct of the requisite skill and typing tests and the issuance of appointment orders based on merit. He claims to have applied for the posts of Junior Clerk in BPS-11 and Steno Typist in BPS-14 in the Office of the Board of Intermediate and Secondary Education, Sukkur. The petitioner avers that he participated in the test conducted on 15.07.2023 and secured 53 marks out of 100, thereby qualifying for the position of Junior Clerk. He also maintains that he secured an identical score for the post of Steno Typist and was called for a viva voce on 04.08.2023 and 05.08.2023.

2. The petitioner alleges that, despite the stated requirement for a skill/typing test as per the advertisement, no such test was ever conducted. Instead, he contends, respondents No.2 to 4 appointed candidates of their own preference. Asserting that he approached the Provincial Ombudsman and other competent authorities for redress, he maintains that the respondents undertook to consider him on a priority basis for future vacancies.

3. Comments were filed by respondents No.2 and 3 through their learned counsel. It was submitted that the petitioner had indeed secured 53 out of 100 marks for the Steno Typist post and 13 marks in the interview. He had also secured 53 out of 100 marks for the Junior Clerk position and 08 marks in the interview. However, it was contended that despite these marks, the petitioner's total score did not meet the threshold for selection due to his lower merit ranking. His name was listed at serial No. 61, while the available vacancies were 8 as shown in the list attached with comments. Consequently, the petitioner failed to qualify for appointment and did not make the final merit list.

4. Upon hearing the petitioner and the respective learned counsel, and upon careful perusal of the official record, it becomes evident that although the petitioner cleared the written component of the test, he did not qualify for final appointment for the post of Junior Clerk. Furthermore, the respondents have not issued appointment letters to any individual as yet for the post of Steno Typist. Insofar as prayer clauses (a) and (b) are concerned, the petitioner's plea essentially seeks judicial directions to reconstitute the selection committee and to compel the respondents to conduct a skill/typing test. These matters, however, pertain to policy implementation and administrative discretion, which fall outside the purview of this Court's constitutional jurisdiction and therefore cannot be granted through the writ jurisdiction.

5. It is for the employer to determine whether a test is to be conducted, and if so, to conduct it strictly in accordance with the recruitment policy framed by the competent authority. As for the petitioner's plea under clause (c), he is free to apply afresh in any future recruitment cycle, and if eligible and successful, he may be considered for appointment on merit by the competent authorities.

6. The petitioner's contention that securing the passing marks entitles him to appointment is misconceived. It is a trite principle of service jurisprudence that mere inclusion in a merit list does not confer any vested right to appointment. Appointment is contingent upon

fulfilling all required conditions and the discretion of the appointing authority, subject to the availability of posts and budgetary approvals. The Hon'ble Supreme Court in the case of **Secretary Finance and others vs. Ghulam Safdar (2005 SCMR 534)** authoritatively held that even qualified candidates do not possess a vested right to be appointed merely by virtue of securing passing marks. No obligation is cast upon the appointing authority to fill all advertised posts or to select from amongst candidates based solely on test performance.

7. In light of the factual and legal position elaborated above, this petition is devoid of merit and is accordingly dismissed.

Judge

Judge

ARBROHI