

## IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

C. P No. D- 621 of 2023

**Present:**

Mr. Justice Zulfiqar Ali Sangi  
Mr. Justice Abdul Hamid Bhurgri.

**Petitioner** : Nisar Ahmed Nagrejo, through Mr. Sikander Ali Junejo, Advocate

**Respondents** : Province of Sindh through Chief Secretary, Sindh Secretariat, Karachi & others, through Mr. Shahriyar Imdad Awan, Assistant Advocate General Sindh

Date of hearing : **16.04.2025**  
Date of decision : **16.04.2025**

### **ORDER**

**ABDUL HAMID BHURGRI, J:-** Through this petition, the petitioner has sought judicial relief by asserting his entitlement to appointment as a Primary School Teacher under the Recruitment Policy 2012. The case presented is that the petitioner, being eligible, applied pursuant to an advertisement issued by the Education Department for the posts of Primary and Junior School Teachers. He participated in the test held under the said policy and secured 77 marks for the post of Primary School Teacher from Union Council Jhando Mashaikh. According to the petitioner, four posts of Primary School Teacher were lying vacant in the said Union Council at the time of advertisement. It is his assertion that, as per the contents of official records, at least two of those positions remain unfilled to date as certain candidates who obtained higher marks have not joined.

**2.** The petitioner claims to have approached the office of respondent No.4 on several occasions for inclusion in the merit list and for appointment but was allegedly met with inaction and hollow assurances. He contends that despite clear vacancy positions existing in the relevant Union Council, the respondents have failed to issue him an appointment order.

**3.** Comments were filed by the District Education Officer, Primary Khairpur (respondent No.5) through the learned Assistant Advocate General. As per their version, four seats were available in Union Council Jhando Mashaikh two for the male category and two for the female category. Respondent No.5 submitted the final merit list, which reflected that the last appointed candidate from said Union Council had secured 87 marks. In contrast, the petitioner had secured 77 marks hence, could not qualify for inclusion in the final list. It was further submitted that

the list had been duly verified, signed by all members of the District Recruitment Committee, and was prepared strictly in accordance with the applicable Recruitment Policy, 2012.

4. The learned counsel for the petitioner argued that since the petitioner had passed the recruitment test with 77 marks, and since some selected candidates had either declined to join or resigned post-appointment, a vacancy had consequently arisen and the petitioner had an accrued right to be appointed against that vacancy. He insisted that the respondents were under a legal obligation to issue the appointment letter in the petitioner's favour.

5. Conversely, the learned Assistant Advocate General argued that, although the petitioner passed the recruitment test, he did not fall within the qualified zone of selection. The merit list culminated at 87 marks, and the petitioner's score fell substantially below that threshold. It was contended by him that the respondents had acted strictly within the confines of the Recruitment Policy, 2012 and in a manner devoid of arbitrariness or favouritism.

6. After hearing the parties and examining the record, it is manifest that the recruitment process for Primary School Teachers in which the petitioner had participated was conducted in the year 2012. The instant petition has been filed in the year 2023 after a delay of eleven long years without any plausible explanation for such extraordinary and unexplained inaction. It is a settled principle of law that courts do not lend assistance to a party who has remained indolent in the assertion of their rights. The doctrine of laches squarely applies to the present case. A right not pursued in time, particularly in matters relating to public employment, is deemed to have been waived.

7. In the case of Muhammad Arif v. Province of Sindh (Civil Petition No. 186-K of 2013), the Honourable Apex Court has categorically held that **"Additionally, the Constitution Petition suffered from laches. By now, almost 8 years have passed by when the selection was made and it is too late in the day to direct the appointment of the petitioners. The petition is, therefore, dismissed and leave declined."**

8. In another case of *State Bank of Pakistan through Governor and another v. Imtiaz Ali Khan and others (PLJ 2012 SC 289)*, the Honourable apex Court has held as follows:-

*"---Laches was a doctrine whereunder a party which may have a right, which was otherwise enforceable, loses such right to the extent of its endorsement, if it was found by the Court of law that its case*

*was hit by the doctrine of laches/limitation----Right remains with the party, but he cannot enforce it---Limitation is examined by the Limitation Act, 1908 or by special laws which have inbuilt provisions for seeking relief against any grievance within the time specified under the law and if party aggrieved does not approach the appropriate forum within the stipulated period/time, the grievance though remains, but it cannot be redressed because if on the one hand there was a right with a party which he could have enforced against the other, but because of principle of Limitation/laches, same right then vests/accrues in favour of the opposite party.”*

Likewise, in the case of *Asghar Khan and 5 others v. Province of Sindh through Home Secretary Government of Sindh and 4 others (2014 PLC (C.S) 1292)*, it was held as under:-

*“We feel no hesitation in our mind to hold that the petition is hit by laches. The consideration upon which the court refuses to exercise its discretion where the petition is delayed is not limitation but matters relating to the conduct of parties and change in the situation. Laches in simplest form mean failure of a person to do something which should have been done by him within a reasonable time if remedy of constitutional petition is not availed within reasonable time the interference can be refused on the ground of laches. Even otherwise, grant of relief in writ jurisdiction is discretionary, which is required to be exercised judiciously. No hard and fast rule can be laid down for the exercise of discretion by the Court for grant of refusal for the relief in the exercise of extraordinary jurisdiction”.*

**9.** Besides the involvement of laches, there appears no case on merits. The respondents have substantiated their stance by placing on record the relevant merit list, clearly demonstrating that the last appointed candidate from the Union Council had secured 87 marks 10 marks more than the petitioner. The petitioner’s counsel has failed to demonstrate any illegality, procedural impropriety, or violation of recruitment policy. Nor has he produced any evidence to show that the petitioner was entitled to appointment through force of legitimate expectation. The policy relied upon does not contain any clause mandating automatic advancement to the next candidate in case of non-joining by selected individuals. In view of the foregoing discussion and the authoritative case law cited supra, this Court finds no merit in the instant petition, which stands dismissed along with listed applications, if any.

**10.** Above are the reasons of our short order of even date.

Judge  
Judge