

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Constitution Petition No.D-596 of 2025

Before:

Mr. Justice Zulfiqar Ali Sangi;

Mr. Justice Abdul Hamid Bhurgri.

Petitioner : Akbar Ali, Atif Ali Shah and Kaleem
Hyder, through Mr. Waseem Ahmed
Sundrani, Advocate.

Respondents : Province of Sindh and others,

Date of Hearing: 30.04.2025.

Date of Judgment: 30.04.2025.

J U D G M E N T

Abdul Hamid Bhurgri, J. The petitioners through this constitutional petition have assailed the recruitment process for the post of Junior Elementary School Teachers (JEST) BPS-14 under Recruitment Policy 2021 and sought the following reliefs;-

- (a) That this Hon'ble Court may be pleased to declare the act of official respondents by not adding/including the extra 02 Marks of the petitioners in the light of B.Ed/Diploma in ADE (Associate Degree in Education) as per Recruitment Policy 2021, as the result announced by the SIBA Test Service, is illegal, unlawful and against the norms of justice, hence the said act may be declared null and void.*
- (b) That this Hon'ble Court may be pleased to direct the respondents to add/include (02) Marks of B.Ed/Diploma in ADE (Associate Degree in Education) as per Recruitment Policy-2021 in the final result of each of the petitioners and to issue them appointment order in their favor forthwith.*
- (c) That this Hon'ble Court may be pleased to direct the respondents to submit the entire record of Recruitment Process of District Ghotki particular Junior Elementary Teacher (BPS-14) before this Hon'able Court.*
- (d) To grant any other relief, which this Honourable Court deems fit and proper under the circumstances of the case.*
- (e) To award costs of the petition.*

2. According to the petitioners, they had applied for the said posts from their respective Talukas/Union Councils of District Ghotki in pursuance of the advertisement dated 26.03.2021 issued by Respondent No.1 under the Recruitment Policy 2021. Pursuant to this, on 13.09.2021, the recruitment test for JEST (BPS-14) was conducted at IBA Public School, Military Road Sukkur. The petitioners appeared in the said test and secured 40+ marks in accordance with the result issued by the respondents.

3. They further contended that as per the Recruitment Policy notified vide letter No.SO(GA)SELD/Recruitment/Policy/2021 dated 24.02.2021, additional marks for professional qualifications were to be awarded to those candidates who had completed degrees such as B.Ed (Hons), BS Ed, M.Ed, and ADE (Associate Degree in Education) from recognized institutions prior to the publication of the advertisement. Despite the petitioners possessing such degrees, including B.Ed and ADE, they were not granted the two (02) additional marks in their final score sheets. They asserted that this was a violation of the Recruitment Policy 2021. It was alleged that the candidates who secured less marks, i.e., between 41-42, were selected while the petitioners were unfairly left out by not awarding the two marks.

4. The petitioners submitted that they approached the official respondents from District Ghotki for redressal of their grievance, but no heed was paid, and under political influence, the respondents ignored their legitimate claims. The deliberate omission to award two (02) marks is alleged to be an illegal act that deprived the petitioners of their legal and fundamental right to be considered for appointment. Further, they requested that all relevant records of the 2021 recruitment process be brought before this Honourable Court.

5. Counsel for the Petitioners contented that the petitioners had duly appeared and passed the recruitment test for the post of Junior Elementary School Teacher (JEST) in accordance with the Recruitment Policy, 2021. It was contended that, under said policy, the official respondents were under a legal obligation to award two (02) additional marks to the petitioners on account of their possession of an additional

professional qualification namely, the Associate Degree in Education (ADE). However, the respondents, with mala fide intent and in contravention of the governing policy, willfully omitted to award the said marks in order to extend undue favour to candidates of their own choosing, allegedly influenced by political patronage. Learned counsel further argued that this arbitrary and discriminatory conduct of the official respondents unjustly deprived the petitioners of their lawful entitlement. Accordingly, the instant petition has been preferred, seeking issuance of a writ directing the respondents to award the omitted two (02) marks to the petitioners and to issue appointment letters in their favour.

6. We have heard the learned counsel for the petitioners and perused the material available on record.

7. The petitioners challenged the appointment process carried out under Recruitment Policy 2021 after a lapse of four years. Although they claimed to have approached the official respondents multiple times, no cogent documentary evidence supporting this assertion is found in the record. Their alleged efforts remain unsubstantiated.

8. This conduct suggests that the petitioners never formally sought redressal from the authorities. The present petition, filed after a delay of four years, is marred by inordinate and unexplained laches.

9. Though delay alone may not be fatal, once rights accrued in favour of others, a belated challenge by the petitioners cannot be entertained. Recruitment having concluded in 2021 and appointments made accordingly, the petitioners' long and unexplained silence renders their claim abandoned.

10. This Court finds the petition hit by the doctrine of laches. This doctrine, rooted in equity and fairness, presumes that persons aware of their rights must act promptly to enforce them. The petitioners were aware of the policy provisions, yet failed to act in a timely manner.

11. The Supreme Court of Pakistan, as well as Indian and English jurisprudence, consistently hold that discretionary relief can be denied where there is unexplained and unreasonable delay. The maxim 'delay

defeats equity' is squarely attracted to the present case. Accordingly, the petitioners' delay of four years in asserting their claim renders this petition incompetent. Courts do not aid the indolent who sleep over their rights. This petition, thus, fails on the ground of laches and is liable to be dismissed.

12. The apex Courts upholds the principle that equitable relief must be sought with diligence, and unreasonable delay may result in dismissal of a petition on the ground of laches. The law universally favours the vigilant and not those who sleep over their rights.

13. Looking into the facts of the present matter the law of laches squarely applies to it. In this regard this Court rely upon case law reported in **2012 PLC (C.S) 218 State Bank v. Imtiaz Ali Khan and others**, the Honourable apex court has held as under:-

"---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."

The Honourable Supreme Court in the case of **Jawad Mir Muhammad and others v. Haroon Mirza and others reported in PLD 2007 SC 472**, has held as under:-

"Article 199. Constitution petition. Laches. Principles. Laches per se is not a bar to the constitutional jurisdiction and question of delay in filing would have to be examined with reference to the facts of each case. Question of delay/laches in filing constitutional petition has to be given serious consideration and unless a satisfactory and plausible explanation is forthcoming for delay in filing constitutional petition, the same cannot be overlooked or ignored subject to facts and circumstances of each case".

Likewise in the case of **Chairman PCSIR v. Dr. Mrs. Khalida Razi reported in 1995 SCMR 698**, the Honourable Supreme Court observed as under:-

“Article 185. Constitution of Pakistan 1973, Employee's Constitutional petition before High Court suffered from gross laches. Such fact by itself was sufficient to deny her relief sought in the constitutional petition. Anyone seeking restoration to the office from which he/she had been removed in an illegal manner was required to show some measure of diligence which had been entirely wanting in the case”.

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 down for the exercise of discretion by the Court for grant refusal for the relief in the exercise of extraordinary jurisdiction".

CONCLUSION.

14. In view of what we have discussed above this petition hit by doctrine of laches consequently the same is **dismissed in limine** along with listed applications, if any.

Judge

Judge

ARBROHI