

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**

Constitutional Petition No. D-6407 of 2019  
(*Amber Iqbal versus Registrar High Court of Sindh*)

Date	Order with signature of Judge(s)
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**Before:**  
**Justice Mohammad Karim Khan Agha**  
**Justice Adnan-ul-Karim Memon**

**Date of hearing and order: 02.5.2025**

Malik Naeem Iqbal advocate for the petitioner  
Mr. Ali Safdar Depar, Assistant AG

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**ORDER**

**Adnan-ul-Karim Memon, J.** The petitioner prays that this court declare that her discharge from service order dated 13.2.2017 from the post of Civil Judge-cum-Judicial Magistrate (BPS-18) does not permanently disqualify her from future employment. She further seeks a declaration to the effect that Impugned Action is illegal, and that this court allow her to participate in future examinations for which she is eligible.

2. The petitioner, qualified for the position of Civil Judge-cum-Judicial Magistrate (BPS-18) in the 2015 recruitment, and was appointed in June 2016, and praised for her performance. However, in January 2017, she received a memo regarding a tempered matriculation certificate, and her probationary services were dispensed with in February 2017 under Rule 9(2) of the Sindh Judicial Rules, 1994, without any stigma or permanent disqualification. Subsequently, her application for the Additional District and Sessions Judge post in 2019 was initially accepted, but her name was later removed from the eligible list with the remark "not allowed by the competent authority." Her request for objection removal went unanswered. The same rejection occurred for a subsequent Additional District and Sessions Judge advertisement. The petitioner submitted that this rejection violates natural justice as she was not informed of the objection or given a hearing. She submitted that she was never dismissed or convicted, and the initial discharge from the probationary period was without stigma or permanent disqualification, thus not barring future applications for appointment. She asserted her right to profession and equal protection under the law was/is infringed.

3. Learned counsel for the petitioner underscored that the Chief Justice's order from February 13, 2017, did not explicitly disqualify her client from future employment. He stressed that while the termination under Rule 9(2) of the Sindh Judicial Rules, 1994, stemmed from allegations of a tampered SSC certificate, no

formal investigation was ever carried out. Consequently, the counsel argued that simply ending the petitioner's probationary service ought not to be seen as a negative mark ("stigma") preventing future appointments, especially since she was not formally dismissed in a way that would bar future employment. Furthermore, the petitioner's counsel pointed out that the petitioner has never been convicted of any morally reprehensible offense in court and was not afforded a hearing as guaranteed by Article 10-A of the Constitution. He also asserted that Articles 18 and 27 of the Constitution protect an individual's right to seek employment, meaning the current action should not perpetually disqualify the petitioner. Therefore, the counsel requested a declaration affirming that this past termination should not impede the petitioner's ability to seek employment in the future, according to the law.

4. The learned Assistant Advocate General (AAG) defended the challenged order, arguing that this court cannot rule on the administrative decisions made by this court itself on its administrative side. The AAG further contended that the petitioner cannot seek employment using a tampered SSC Certificate. While acknowledging that the challenged order does not explicitly label the petitioner with any negative stigma, the AAG stated that her future employment hinges on her ability to produce a valid SSC Certificate. The Sukkur Board's report dated December 9, 2016, indicated that the previously submitted certificate had been tampered with. Consequently, the AAG requested the dismissal of the petition. In response, the petitioner's counsel clarified that the petitioner's SSC Certificate, bearing No. 658571 and Seat No. 102581, was/is not fake. Instead, the Sukkur Board's verification report deemed it "tempered" because while the original certificate with the same seat number remains valid, the date of birth was altered from June 9, 1983, to June 9, 1985. The counsel conceded that this altered document would not be used in future job applications. However, he argued that the petitioner should not be penalized based on her original and authentic SSC Certificate.

5. We have heard the learned counsel for the parties on the maintainability of the instant petition in terms of law laid down by the Supreme Court in the case of Gul Taiz Khan Marwat (PLD 2021 SC 391) and perused the record with their assistance.

6. The record shows that Judicial Officer Ms. Amber Iqbal (petitioner) explained to the competent authority of this court that her father altered her SSC birth year from 1983 to 1985 to correct an error, unintentionally. However, the competent authority observed a clear alteration on the SSC certificate. Considering her legal background and concealment of this fact during her judicial application, the competent authority deemed her explanation unjustified,

indicating a lack of required honesty. Consequently, her probationary services as Civil Judge-cum-Judicial Magistrate were dispensed with on February 13, 2017, under Rule 9(2) of the Sindh Judicial Rules, 1994. A subsequent review application, where she repeated her explanation but could not deny submitting the tempered certificate, was also dismissed after verification by the Sukkur Board confirmed the original birth year as 1983 rather than 1985.

7. The question now before this court is twofold:

- i. *Does this court, under Article 199 of the Constitution, have the authority to review an administrative decision made by the administrative side of this very court?*
- ii. *Can the petitioner be declared disqualified from future public appointments based on the reasoning used in the administrative decision made by this court on its administrative side?*

8. Regarding the first question of jurisdiction, the Supreme Court's ruling in Gul Taiz Khan Marwat (supra) established that appeals must be statutory and cannot be assumed. Consequently, a writ petition under Article 199 generally cannot directly challenge a High Court's administrative decisions, as the High Court in its administrative capacity is typically excluded from the definition of "person" under Article 199(5) of the Constitution. Therefore, based on this Supreme Court precedent, this Court lacks jurisdiction to entertain the petition against its own administrative decision dated 17.2.2017. This objection of the AAG is upheld to the extent of the jurisdiction of this court under Article 199 of the Constitution.

9. Concerning the second point raised, although the administrative decision cited a "lack of honesty" as the reason for ending the petitioner's judicial probation, it did not explicitly prevent her from future employment. However, there is a subtle restriction that she cannot apply for future judicial roles based on the previously submitted tampered SSC Certificate. Generally, disqualification from public sector jobs is usually defined by specific regulations that list reasons such as criminal convictions or dismissals related to moral turpitude. A broad disqualification for all public positions based solely on the reasoning of this particular administrative decision, without a clear legal basis in the relevant rules for those other positions, could potentially violate the candidate's constitutional right to choose a profession, as guaranteed by Article 18. While the finding of a "lack of honesty" is important and could be taken into account by the competent authority when making decisions, it does not automatically and legally disqualify her from *all* future public appointments, provided she possesses genuine academic qualifications. A candidate's eligibility depends on the specific recruitment rules for each post. Therefore, a blanket disqualification based purely on a similar rationale could be legally challenged if it infringes upon the candidate's rights.

10. For judicial positions specifically, a clean record and thorough background checks are crucial. While a conviction for a serious offense would disqualify a candidate, mere unproven involvement in an issue might not automatically lead to the rejection of their application.

11. Considering the aforementioned facts and circumstances, and without commenting on the legal validity of the order dated February 13, 2017, this petition is disposed of with the understanding that the petitioner is free to apply for future appointments or employment, provided she possesses the genuine academic qualifications required for any such future position.

**JUDGE**

**HEAD OF CONST. BENCHES**