

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.D- 1477 of 2024

[Mushraf vs. Province of Sindh and others]

Present:

**Justice Abdul Mubeen Lakho.
Justice Arbab Ali Hakro.**

Date of hearing: **29.09.2025.**

Date of Order: **10.10.2025**

Petitioner present in person.

Mr. Muhammad Ismail Bhutto, Additional A.G alongwith
Kareem Bux Soomro, DEO (ES & HS), Jamshoro.

ORDER

ABDUL MUBEEN LAKHO, J:- Through this Petition, the petitioner has
prayed for the following relief(s):-

*“A. That honourable Court may kindly be pleased to declare
the petitioner eligible for appointment to the post of JEST
(BPS-14) in accordance with law.*

*B. That honourable Court may kindly be pleased to direct
Respondent No.1 to 4 to issue appointment order to
petitioner for the post of JEST (BPS-14) in accordance with
law.”*

2. The case of the petitioner, in essence, is that he, being a differently-abled person (DAP), applied for the post of Junior Elementary School Teacher (JEST) (BPS-14) in the School Education and Literacy Department under the reserved quota for DAPs, pursuant to an advertisement published in various newspapers during March 2021. The recruitment process was duly conducted by the Sukkur IBA Testing Service (SIBA) on

18.09.2021. Subsequently, the recruitment policy was amended to reduce the qualifying threshold to 33% for candidates falling under the categories of DAPs, Minorities and Hard Areas. The petitioner and other candidates from his batch were declared successful for the post of JEST (BPS-14) under the DAP quota at Taluka Thana Bula Khan, having secured 37 marks within the Hard Area category. However, upon scrutiny of documents by the District Selection Committee (DSC) / District Recruitment Committee (DRC) on 29.11.2021, the petitioner was denied appointment, whereas his batch-mates were appointed to the said post. The petitioner was subsequently issued an Offer Letter dated 13.07.2023. However, immediately upon receipt of the Offer Letter, the recruitment process was frozen pursuant to orders issued by the Government of Sindh. The ban was later lifted vide letter dated 15.04.2024, restoring the recruitment process. In view of the prevailing policy, the petitioner remains eligible for appointment to the subject post.

3. Upon issuance of notice, the respondents filed their comments, asserting that although the minimum qualifying marks had initially been reduced to 33%, this Court at its Sukkur Bench, in C. P No. D-297/2022, vide Order dated 12.01.2023, declared such reduction unwarranted. The said Order has attained finality. Consequently, in compliance with the said judicial pronouncement, the respondents adopted the revised minimum threshold of 40% instead of 33%, thereby rendering the petitioner ineligible for appointment under the revised criteria. It was further contended that while the petitioner's batch-mates were appointed under the earlier policy in September 2022, the petitioner's appointment was withheld due to acts and omissions attributable to the DSC Jamshoro. Moreover, although the petitioner was issued an Offer Letter under the earlier policy, the said policy was subsequently declared unwarranted by this Court in the aforementioned petition.

4. We have heard the petitioner in person as well as the learned Additional Advocate General (A.A.G.) and have also perused the material available on record.

5. Admittedly, the petitioner was declared successful under the reserved quota for differently abled persons and was issued an Offer Letter dated 13.07.2023. However, his appointment was withheld by the respondents, citing the Order dated 12.01.2023, passed by the Division Bench of this Court at Sukkur Bench in C.P No.D-297 of 2022. In their comments, the respondents have contended that the minimum qualifying threshold was revised to 40% in compliance with the said Order; therefore, the petitioner, having secured 37 marks, was rendered ineligible. However, this contention is fundamentally flawed and reflects a misinterpretation of the judicial pronouncements governing the matter. In such circumstances, it is imperative to examine the legal framework and precedents relevant to the issue at hand. In C.P No.D-297 of 2022, the Divisional Bench of this Court, while addressing the policy of reduced passing marks in hard areas, observed as follows:

“With regard to policy for appointment below 40% marks, this Court takes judicial notice and restrains the SEL Department to recruit or issue any appointment order to any candidate who secured/obtained below 40% marks, even in the hard areas.”

6. However, the scope of this Order was confined to appointments made under the "Hard Area" relaxation policy. It did not extend to appointments under the disabled quota. This distinction was emphatically clarified in subsequent judgments. In C.P No.D-511 of 2025 (Meer Shahnawaz Khoso v. Province of Sindh), vide Judgment dated 17.3.2025, the Division Bench of this Court at Principal Seat Karachi held:

*“The blanket termination letter/impugned order referred to above lead to the termination of the petitioner and many others because they did not obtain 40 marks in their examination. However we find that concerned department by terminating the petitioner through this blanket letter/impugned order misinterpreted the court order which was referred to therein and reproduced above as it did not apply to those person who had been appointed on a disable quota who only needed to score above 33 marks in the examination and the petitioner scored 34 marks which qualified him through the disabled quota and as such he was wrongly terminated. **His case did not fall within one of a hard area.** The 40 mark requirement had not relevance to the petitioner who had been appointed*

on the disabled quota under Section 11 (2) of the Sindh Empowerment of “Persons with Disabilities” Act 2018 as referred to above.”

[Emphasis is supplied]

7. The Honourable Supreme Court of Pakistan subsequently maintained the above judgment vide Order dated 03.07.2025 passed in C.P.L.A No.672-K/2025, thereby attaining finality and binding effect under Article 189 of the Constitution. Similarly, in the judgment passed in C.P No.D-163 and D-192 of 2025, the Division Bench of this Court reiterated:

“We have examined the cases of Petitioners, they were appointed under a particular quota of 5 per cent reserved for them under section 11(12) of the Sindh Empowerment of Persons with Disabilities Act 2018. They secured minimum 33 qualifying marks and Disability Certificates in their favor were issued by the Sindh Persons with Disabilities Protection Authority established under the Department of Empowerment of Persons with Disabilities Government of Sindh, thus were qualified to be appointed as teachers. The School Education Department issued the impugned letter dated 22.01.2025 by misinterpreting the (C.P No.D-163 and 192 of 2025) order of this Court which related to the appointment of teachers on merits in Hard Areas...”

[Emphasis is supplied]

8. Section 11(12) of the Sindh Empowerment of Persons with Disabilities Act, 2018 mandates that *“A minimum of five percent of the total number of vacancies in Government departments shall be reserved for persons with disabilities, and such persons shall be provided reasonable accommodation in recruitment processes.”* The petitioner, having secured 37 marks above the 33% threshold applicable to DAPs and having been issued an Offer Letter, stands fully qualified under the prevailing policy and statutory framework. His disability is certified, his marks are verifiable (Annexure-D, Page-27 of Court file), and his appointment was unjustly withheld due to misapplication of a judicial order that did not pertain to his category.

9. The respondents' reliance on the Order dated 12.01.2023 passed in C.P No.D-297 of 2022 is misplaced and legally untenable. That Order pertained exclusively to Hard Area appointments and did not override the statutory protections afforded to differently abled persons under the 2018 Act. The petitioner's case is further strengthened by his batch-mates being

appointed under the same policy framework and in a similar situation. The denial of his appointment, despite issuing an Offer Letter and fulfilling all criteria, constitutes discrimination and violates Articles 25 and 27 of the Constitution of the Islamic Republic of Pakistan.

10. In view of the foregoing discussion, the petition in hand is **allowed**. Consequently, the respondents are directed to process and finalise the appointment of the petitioner forthwith to the post of JEST (BPS-14) under the disabled quota, in accordance with the Offer Letter dated 13.07.2023.

JUDGE

JUDGE

AHSAN K. ABRO