

THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Const. Petition No.D-232 of 2024
(*Ali Muhammad Shah v. P.O. Sindh & others*)

PRESENT:

MR. JUSTICE ZULFIQAR ALI SANGI
MR. JUSTICE RIAZAT ALI SAHAR

Petitioner : Ali Muhammad Shah through Mr.
J.K Jarwar, Advocate.

Respondents: Through Mr. Zulfiqar Ali Naich,
Assistant A.G Sindh.

Date of Hearing : 14.10.2025

Date of Decision : 14.10.2025

ORDER

RIAZAT ALI SAHAR J: - By means of instant petition, the petitioner has prayed for the following relief(s):

- A. *“To pass an order to direct the respondents No.1,2,3 to 5 issue offer letter to the petitioner who is successful candidate and total vacant posts were 70 out of them 54 were filled up and remaining posts were/are 16 are still lying vacant for the post of Head Master/Head Mistress.*
- B. *To restrain the respondents No.1 to 5 from disturbing the merit list and issuing the offer letters to the strangers/beyond the merit list.*

2. The case of the petitioner is that the respondents-department, in order to fill vacancies of Head Masters/Head Mistresses in selected schools, published an advertisement in the Daily Kawish newspaper dated 01.05.2015. The petitioner applied through proper channel, and SIBA Testing Service, Sukkur IBA, issued a confirmation letter dated 14.12.2015 bearing Reference No. STS/Rgr/15/2429 under the signature of

the Registrar. Upon conducting the examination, the initial result was announced on open merit, wherein the petitioner's name appeared at Serial No.1005, followed by a second list where his name appeared at Serial No.292. Subsequently, Respondent No.4 issued a letter dated 15.07.2016, directing the petitioner to appear before the Recruitment Committee for an interview scheduled on 21.07.2016 at the Camp Office of Sindh Textbook Board, adjacent to D.J. Sindh Government College, Karachi, along with original documents. The interview was conducted, limited to verification of eligibility criteria. However, to the petitioner's surprise, his name was not included in the final merit list issued by Respondent No.4. The petitioner thereafter submitted a grievance application to Respondent No.1 on 24.04.2017, where officials from Respondents No.1 to 5 acknowledged that the omission was due to an oversight or excessive workload, and assured the petitioner that his grievance would be redressed and an offer order would be issued. Despite repeated visits and follow-up, no action was taken, and the petitioner was only given false assurances. Another application was submitted by the petitioner to the Secretary, Education & Literacy Department, Government of Sindh, on 10.05.2017. The petitioner alleges that Respondents No.1 to 4 ignored his merit for reasons best known to them, despite issuing both joint and separate merit lists for male and female candidates. In District Naushahro Feroze, out of 70 advertised posts, 61 were announced, 54 candidates joined, and 16 positions remain vacant. The entire recruitment process and correspondence were conducted through the offices of the respondents at Karachi and Sukkur, with the final grievance application also addressed to Respondent No.4 at Karachi.

3. Pursuant to notices, respondents No.1 to 4 filed their respective comments. Respondent No.1 (Secretary to Government of Sindh, School Education & Literacy Department) in his comments submitted that mere appearance in the written test and interview does not create any vested right to appointment unless the candidate fully meets the prescribed eligibility criteria and falls within the merit position for available vacancies; that the petitioner, having secured only 48 marks and standing at Merit No.61 out of 61 candidates in District Naushahro Feroze, has no enforceable right to claim appointment, especially when all higher-ranked candidates have already been accommodated and the petitioner was disqualified under the eligibility conditions clearly mentioned in the advertisement; that the petitioner was already serving as a Junior School Teacher (JST) on a contract basis through the NTS recruitment process, and the advertisement explicitly barred such contract employees from eligibility for appointment to the post of Head Master/Head Mistress (BPS-17); that the recruitment process was conducted strictly in accordance with the applicable recruitment rules, policy, and on the basis of merit, without any deviation or illegality warranting interference by this Court; that no fundamental right of the petitioner has been violated, the petitioner had an alternate remedy under the law, which he failed to avail within the prescribed time, and that the petition suffers from laches, as the petitioner delayed approaching this Court without sufficient cause; that the relief sought is misconceived, not maintainable under the law, and the petition is liable to be dismissed.

4. Respondent No.5 (Registrar, Sukkur IBA, University) in his comments stated that the issuing of appointment orders is not the core responsibility of respondent No.5 and that the School

Education & Literacy Department has the authority to issue appointment orders.

5. Learned counsel for the petitioner reiterated the factual background of the case as alleged in the petition, that the petitioner, having participated in the recruitment process and appeared in the interview, was entitled to be issued an appointment order, particularly in view of the remaining vacant posts.

6. Conversely, the learned Additional A.G., while relying upon the comments filed by the official respondents, supported their stance and contended that the petitioner neither fulfilled the eligibility criteria nor possessed any vested right to claim appointment, especially in light of his merit position and the specific bar imposed upon contract employees under the advertisement. He further argued that the petition suffers from gross laches, as the petitioner has approached this Court after an inordinate and unexplained delay of several years, thereby rendering the claim stale and not maintainable.

7. We have heard the learned counsel for the parties and perused the record. Upon examination of the record, it clearly transpires that the petitioner neither fulfilled the prescribed eligibility criteria nor possessed any vested right to appointment merely on account of having participated in the written test and interview. Respondent No.1 has categorically stated that the **petitioner secured only 48 marks** and stood at Merit No.61 out of 61 candidates in District Naushahro Feroze, while all higher-ranked candidates were duly accommodated in accordance with the recruitment policy. **It has further been clarified that the petitioner, being a contract employee appointed through NTS, was expressly declared ineligible under the terms of the**

advertisement. The recruitment process was carried out strictly in accordance with the applicable rules and policy, and on the basis of merit, without any deviation or illegality warranting interference by this Court.

8. The petitioner has also failed to satisfactorily explain the inordinate delay of several years in approaching this Court, which renders his claim hit by the principle of laches.

9. Keeping in view the above background, it is observed that in the present case, there is no occasion to further scrutinize the selection process, which appears to be transparent, as the petitioner has not alleged any foul play in the recruitment proceedings. Rather, he is aggrieved on the ground that he secured the highest marks, which is contrary to the record. Therefore, in such circumstances, this Court heavily relies upon the view taken by the Apex Court in the case law reported as 2008 SCMR 960 (Dr. Mir Alam Jan Vs. Dr. Muhammad Shahzad and others), wherein it has been held that—

“Art. 199—Constitutional jurisdiction of High Court—Scope—Civil Service—Appointment—High Court, in exercise of the constitutional jurisdiction under Art. 199 of the Constitution, was not expected to perform the functions of a selection authority in service matters so as to substitute its opinion for that of competent authority.”

Similarly, another view has been taken by the Apex Court in the case law reported as 2015 SCMR 112 (Arshad Ali Tabassum Vs. The Registrar Lahore High Court, Lahore), wherein it has been held that:

“Art. 184(3)—Constitutional petition before the Supreme Court under Art. 184(3) of the Constitution—Post of Additional District and Sessions Judge—Interview—Interview Committee opinion—Non-interference by the Supreme Court—Allegation of

malice on part of members of Interview Committee—Supreme Court could not substitute opinion of the Interview Committee on a bald allegation made by an unsuccessful candidate, who lost his chance in the interview—Constitutional petition was dismissed accordingly.”

10. In view of the foregoing, the instant petition, being misconceived and barred by laches, was dismissed vide short order dated 14.10.2025, and these are the reasons in support thereof.

JUDGE

JUDGE

Ahmad