

IN THE HIGH COURT OF SINDH, KARACHI

Const. Petition No. D-2157 of 2008
alongwith
CP. D-2963/2011, D-4061/2013, D-7051/2021
and D-1221/2022

Date	Order with signature of Judge(s)
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Before:

**Justice Muhammad Saleem Jessar
Justice Nisar Ahmed Bhanbhro**

1. For orders on CMA No. 21360/2025
2. For orders on CMA No. 20224/2024
3. For orders on CMA No. 10324/2024
4. For hearing of CMA No. 22121/2024
5. For hearing of CMA No. 22422/2023
6. For hearing of CMA No. 10009/2023
7. For hearing of CMA No. 19254/2022

Date of hearing: 04.02.2026
Dated of Order: 04.02.2026
Dated of Reasons: 12.02.2026

Petitioner No.1 Muhammad Saleem Shaikh alongwith, petitioner No. 2, Azizullah Chandio, Petitoiner No. 14 Imdad Hussain Siddiqui and Mr. Zahid Depar Petitioner in CP.No.2963 of 2013 is present.

Mr. Rafiq Ahmed Kalwar Advocate for Petitioner
Mr. Raj Ali Wahid Kunwar & Zahoor Ahmed advocates.
Mr. Ali Assadullah Bullo, advocate for petitioner.
Mr. Muhammad Yasir, advocate for petitioners in CP.No.D-2157/2008 and 2963/2011

Mr. Abdul Jaleel Zubedi, A.A.G.
Mr. Saeed Ahmed Leghari, Addl. Secretary SGA& CD alongwith
Bhuromal, Addl. Director Law and SGA&CD and Mr. Sanaullah Qazi,
Section Officer, SGA&CD, Karachi.

ORDER

NISAR AHMED BHANBHRO, J. This petition along-with other connected petitions was disposed of through a common order dated 13.02.2020. The captioned CMAs have been filed for implementation of the order and issuance of directions for appointment of petitioners on the basis of result of Combined Competitive Examination 2003 (CCE - 2003). Since common questions of fact and law are agitated therefore we proceed to decide the captioned applications through this single order.

2. Petitioners in person and Learned Counsel for the Petitioners contended that the Petitions were disposed of vide order dated 13.02.2020 with directions to the Respondents to constitute an inquiry commission to probe into the anomalies in CCE 2003. It was contended that the inquiry commission was constituted but Inquiry Commission failed to furnish its recommendations conforming to the directions contained under para 22(vi) of the order. It was further contended that Petitioners were meritorious candidates and were deprived of right to job by pick and chose of blue eyed boys. They contended that one Zameer Ahmed Abassi was taken into service by the Government of Sindh though he was not recommended by SPSC as such a right in favor of Petitioners accrued as they had secured more marks than said Zameer Ahmed Abassi. They prayed to direct Government of Sindh to induct petitioners in service in terms of para 22(vi) of the order.

3. Learned AAG vehemently opposed the applications. It was contended that the Court's orders were complied with in letter and spirit. Inquiry Commission comprising of the Senior Officers was constituted to probe into the matter. He argued that inquiry commission did not recommend for the appointment of petitioners as no record was found available. He contended that it was obligation upon petitioners to prove that they stood successful on merits and were deprived of the job through colorful exercise. He contended that allegations of selection on favoritism or nepotism could not be established, as such the applications were misconceived and liable to dismissed.

4. Heard arguments. Since the Applicants (Petitioners) seek implementation of para 22 of the order dated 13.02.2020, for the sake of understanding it would be conducive to reproduce Para No.22 of the aforesaid order herein below:

"22. As a result of above discussion, the petitions are disposed of in the following terms:

i. The Chief Secretary, Government of Sindh is directed to constitute an Inquiry Commission, consist of three members i.e. senior member SPSC, Secretary, Service General Administration & Coordination Department (SGA&CD) and Secretary Law, Government of Sindh.

ii. The Chief Secretary shall notify the Inquiry Commission with the names of its members within fifteen days.

iii. *The venue of inquiry shall be the office of Secretary, SGA&CD, Government of Sindh*

iv. *The Inquiry Commission shall examine the entire competitive examination 2003 process and also summon the relevant record including the inquiry report and recast result.*

v. *The Inquiry Commission shall also summon all the petitioners, private respondents including those who have filed applications under Order I Rule 10 CPC for impleading them in the petitions either to support or oppose and the persons who participated in the process and declared successful but not made party to the aforesaid petitions. The Inquiry commission shall vet the list of successful candidates also so that equal opportunity should be provided to all concerned persons. The Inquiry Commission shall provide ample opportunity of hearing to all concerned. The first date of inquiry shall be communicated in writing at least ten days before the first inquiry session.*

vi. *The Inquiry Commission shall take stock of illegalities committed in the appointment process of 2003 competitive examination that how incompetent or unsuccessful candidates were appointed and deserving candidates were declared failed, the Inquiry Commission shall submit the comprehensive report with practicable and rational recommendations to the competent authority. It was also addressed to us during course of hearing that some of the candidates who were declared failed by fraudulent means are already in Government jobs through different process even so in a different service structure and they have also claimed the treatment at par with those who were appointed in 2003 process on account of favoritism and nepotism. The recommendation of the inquiry commission shall also take account of equable pathway for those candidates if proved that they appeared in the process and passed the examination but declared failed by hook or by crook and were deprived and left out despite merit then what is most possible venue of progression commensurate to their existing jobs for ventilation and alleviation of sufferings, injustice and long-drawn-out distress.*

vii. *The Inquiry Commission shall conclude the proceedings within six months and Secretary Law, Government of Sindh shall submit the report duly signed by all inquiry commission members to the Chief Secretary, Sindh.*

viii. *The competent authority shall consider the recommendations and pass necessary orders within one month without any discrimination or favor or bias and communicate the outcome to all concerned. However, no adverse action shall be taken against any person without serving show cause notice and providing a fair right of personal hearing.*

ix. *Since we have already provided right of audience by the Inquiry Commission to all petitioners and private respondents including those who applied under Order 1 Rule 10 C.P.C by their separate applications to become party in the above petitions so we also deem them proper and necessary party consequently, they are impleaded and all the pending applications filed under Order 1 Rule 10 C.P.C are disposed of accordingly. The amended title may be filed by the petitioners in the concerned petitions.*

x. The compliance report shall be submitted by the Chief Secretary Sindh through Advocate General Office

xi. In the end, we also feel it our utmost sense of duty to direct Sindh Public Service Commission to uphold transparency, fairness and impartiality in all examinations conducted by them in future and make selection on merit alone which is keystone and foundation for maintaining their integrity and uprightness as an institution of repute.

xii. Copy of this judgment may be transmitted to the Chief Secretary Sindh, Chairman SPSC, Secretary, Service General Administration & Coordination Department (SGA&CD), Secretary Law, Government of Sindh and learned Advocate General Sindh for compliance."

5. Pursuant to the Court's order, the Government of Sindh constituted Inquiry Commission to probe into the matter. The Inquiry Commission constituted by the Government of Sindh vide notification dated 30.04.2020, conducted an inquiry in the matter and furnished its report before this Court. Inquiry Commission furnished its findings and recommendations in Paras No.454, 455, 456 and 457 of the report, for the ease of reference said paras of the report are reproduced below:

"454. On comprehensive and detailed examination of the record, statements, verbal deliberations, the crucial observations of the Inquiry Commission are as under:

i. The SPSC made the CCE-2003 controversial and doubtful by way of making alterations in the marks of the candidates.

ii. The issue of missing of the answer copies of some of the candidates, particularly those of the Private Respondents made the entire process more controversial and doubtful.

iii. The legal basis and validity of the recast result and its submission directly before the court by the than Member of the SPSC without taking into confidence the Chairman, SPSC or SGA&CD also raised many questions.

iv. Non-availability of a considerable portion of the original record with the SPSC also created many complications and doubts.

v. The pendency of the Reference in the matter before the Honourable National Accountability Court at Hyderabad, availability of original record with the NAB and non provision of record to the Inquiry Commission in spite of correspondence with the NAB also made the things more difficulties for the Inquiry Commission.

vi. The sequence of events and happenings discussed above are sufficient to lead towards conclusion that strong possibilities of manipulation and tampering cannot be ruled out during the process of CCE-2003.

vii. 25 successful candidates of CCF-2003 qualified Competitive Examination (CSS) through Federal Public Service Commission and were allocated in different service groups and they preferred to join Federal Service. Besides, one of the successful candidates namely Mr. Saifullah Abro also qualified CSS Exam and was allocated in Audit & Accounts Group, which he joined. Subsequently, on appointment through CCE 2003, he left Audit & Accounts Service and joined Provincial service. As such, on appointment through CCE-2003, out of 77 successful candidates 35 (45.50%) either did not join service or left the service due to their selection through CSS or any other exam.

viii. The findings of E&ACE, CMIT and the recast result of SPSC cannot be completely relied for the reason that in a considerable number of cases the candidates who were alleged to have qualified the examination by way of manipulation and tampering subsequently qualified another CCE examination held by the FPSC and they were allocated group of Pakistan Administrative Service, Police Service of Pakistan, etc.

ix. A considerable number of disputed candidates alleged to have been selected by way of manipulation and tampering have been promoted to BS-18 and BS-19.

x. One of such candidates has even retired from government service on attaining the age of superannuation i.e. 60 years around a year ago.

xi. A reportedly, the Reference before the Honourable Accountability Court at Hyderabad is also being heard on fast track and is expected to be decided soon.

E. RECOMMENDATION

455. The Inquiry Commission found this portion of the report very crucial, decisive and difficult. The crucial question for the Commission was to conclude that whether the CCE-2003 was marred with manipulation and tampering or otherwise. From record provided before the Inquiry Commission and the written statements and verbal deliberations of the all the stakeholders, the Inquiry Commission does not feel any hesitation in answering the above question in affirmative for the reasons recorded in the preceding paras. This follows another supplementary question that whether the manipulation and tampering was upto the level as claimed by the Petitioners /Intervenors / Applicants and as claimed in the recast result of the Sindh Public Service Commission, Inquiry of the Enquiries & Anti-Corruption Establishment, Chief Minister's Inspection, Enquiries & Implementation Team, etc. For the proper answer of this question the Inquiry Commission concluded that those claims cannot be thoroughly relied upon for the reason that a considerable number of disputed candidates qualified the CCE of Federal Public Service Commission (CSS). The Inquiry Commission also concluded that for all the above referred mess in the prestigious Constitutional Institution, the then Chairman, concerned Members of the Commission and the administration of the Sindh Public Service Commission particularly that of Examination Branch were prima facie responsible.

456. Passage of a significant period of more than one and a half decade coupled with unavailability of crucial portion of record with the Sindh Public Service Commission made the things more difficult and complicated for the

Inquiry Commission to reach practicable and conclusive recommendation. In such circumstances, the Inquiry Commission could not find it in the interest of justice and fair play to make sweeping and conclusive recommendations regarding the candidates declared either passed or failed. Number of reasons behind this has already been elucidated at Para-454. However, for the candidates who were declared successful / recommended for appointment and are serving in the Sindh Government, the Inquiry Commission recommends that their suitability may be assessed by a three (03) members committee comprising two BS-21 Officers with the Senior Member of the Sindh Public Service Commission, to be headed by the Senior BS-21 Officer. The Committee may co-opt two senior technical members of highest repute from private / public sector.

457. However, in order to avoid such unfortunate incidents in future and in order to ensure fool-proof transparency and merit in the selections by the Sindh Public Service Commission, there should have been a proper mechanism in the SPSC. In order to suggest such mechanism a Committee under the Chairmanship of Chairman, Planning & Development Board, with Chairman, Enquiries & Anti-Corruption Establishment, Sindh, Chairman, Chief Minister's Inspection, Enquiries & Implementation Team, Senior Member, Board of Revenue, Chairman, Sindh Public Service Commission and Secretary (Services), Services, General Administration & Coordination Department, may be constituted to submit its recommendations within 90 days.

6. In all the CMAs, the petitioners have referred to sub-para (vi) of Para-22 of the order, wherein this Court had directed the Inquiry Commission to find an equitable pathway for the candidates who were deprived of the right to appointment. If proved that they passed the examination but declared failed by hook or by crook and they were not considered for the job under extraneous considerations, the necessary action may follow. The applicants have also pleaded discrimination, claiming that one Zameer Ahmed Abbasi who secured 703 marks in the CCE 2003 was later on appointed in Civil Service of the province of Sindh, the petitioners were left out despite having secured more marks than the said Zameer Abbasi.

7. Since this Court is seized with the matter for implementation of the original Order, therefore, cannot go beyond the relief granted in the said order dated 13.02.2020. We proceed to examine whether this Court's order dated 12.03.2020 has been complied with or not and proceedings for contempt of court can be initiated? and whether the directions for accommodation of the Petitioners/ Applicants in civil service on the basis of CCE - 2003 results can be issued?

8. So far as the compliance of the Court order and contempt proceedings are concerned, it transpired from the record and as discussed supra that

pursuant to the order dated 13.02.2020 an inquiry commission was constituted by the Government of Sindh comprising of the Senior Officers. On conclusion of inquiry, the inquiry commission furnished its report through MIT of this Court which was carefully perused and found in consonance with the directions contained in the order. The contention of the Petitioners that inquiry commission did not render findings for an equitable pathway for the deprived candidates is without force, as the report clearly mentions that the Inquiry Commission was constituted in the year 2020, fifteen years (15) years after conducting the examination. The petitions were filed in the year 2008; therefore, much time had already elapsed and the SPSC was not under an statutory obligation to retain the record of examination for a long period of time and large number of the candidates (34 out of 75) allegedly favored by SPSC later on left jobs as being recommended for appointment by Federal Public Service Commission to better positions. Record further reflected that the inquiry commission opined that appointees of the Combined Competitive Examination -2003 (CCE-2003) cannot be penalized as due to the passage of time crucial record was not available with the SPSC. Inquiry Commission concluded in unequivocal terms that the malpractice prevailed in the Sindh Public Service Commission (SPSC) for which its Chairman, Members and staff was held responsible. Inquiry Commission in its recommendations emphasized to devise mechanism to avoid such lapses in future in SPSC examinations. It can be safely held that the inquiry commission complied with the Court's directives contained under order dated 13.02.2020 in letter and spirit. Otherwise initiation of the contempt proceedings was a matter between the Court and alleged contemnors, from perusal of the report of inquiry commission, no case for initiating contempt proceedings is made out, contempt applications accordingly fail and are hereby dismissed.

9. Adverting to the relief claimed by the applicants / petitioners for appointment in civil service pursuant to examination result of CCE 2003. The issue relating to the appointment of Petitioners / applicants and the progression commensurate with the other appointees of the CCE 2003 was left at the discretion of the Inquiry Commission as is spelt out from para 22(vi) of the order dated 13.02.2020. It is a matter of the record that the Inquiry Commission has not recommended for the appointment of any of the petitioners. The inquiry commission in its para 456 of the report concluded that by passage of a significant period of more than one and a half decade

time and coupled with unavailability of crucial portion of record with the Sindh Public Service Commission made the things more difficult and complicated for the Inquiry Commission to reach practicable and conclusive recommendation. In such circumstances, the Inquiry Commission could not find it in the interest of justice and fair play to make sweeping and conclusive recommendations regarding the candidates declared either passed or failed. However, for the candidates who were declared successful / recommended for appointment and are serving in the Sindh Government, the Inquiry Commission recommended that their suitability may be assessed by a three (03) members committee comprising of two BS-21 Officers with the Senior Member of the Sindh Public Service Commission, to be headed by the Senior BS-21 Officer. The Committee may co-opt two senior technical members of highest repute from private / public sector. The opinion so formed by the Inquiry Commission was the result of inquiry. Moreover it was claimed by the Petitioners that they were declared failed or given less marks and successful candidates were given extra marks, thus they were the Petitioners burdened to prove this assertion before Inquiry Commission, which they failed despite being its part.

10. Under the provisions of Sindh Civil Servants Act, 1973 and the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 (**APT Rules**), the governing laws regulating the appointment in civil service of the Government of Sindh, the mechanism of the initial appointment for positions in Grade-16 and above is laid down. Rule 10 of the APT Rules being relevant provision is reproduced below:

“10. Initial appointment to posts in Basic Scales 16 to 22, shall be made if the posts, -

(a) fall within the purview of the Commission, on the basis of examination or test to be conducted by the Commission;

(b) do not fall within the purview of the Commission, in the manner as may be determined by Government.

11. The above provision of law made it crystal clear that the positions in Grade-16 to 22 shall be filled by the SPSC on the basis of examination or test to be conducted by the Commission. SPSC is the recommending authority for the appointments in Grade-16 and above for the positions falling within its purview. Under Section 8 of SPSC Act, 2022, the functions of the SPSC have been enunciated in the following manner:

“8. The functions of the Commission shall be-

Functions of the Commission.

(i) to conduct tests and examinations for recruitment for initial appointment to-

(a) such posts connected with the affairs of the Province of Sindh;

(b) such posts in or under a Corporation or other Autonomous Body or Organization set up by Government under any law or otherwise as may be prescribed;

(ii) to advise Government on any matter which Government may refer to the Commission;

(iii) to hold such departmental or language examination as may be prescribed.”

12. After conducting examination, the SPSC advises the Government for the appointment of officers in Grade -16 and above. The recommendation of the SPSC is mandatory for such appointments. When confronted, learned counsel for the petitioners and the petitioners present in person frankly conceded that no such recommendation has been tendered in the favor of Petitioners by the SPSC. Petitioners cannot claim appointment in civil service in absence of the recommendation of SPSC, this Court by exercising its discretion of judicial review, cannot direct the Government of Sindh to make appointment of the Petitioners directly. The indulgence of this Court in the matter would tantamount to judicial overreach and such practice has been deprecated by the Hon’ble Apex Court. It would be a fallacy of thought to treat this Court as a recommending authority for appointments in civil service, which is purely an administrative function and has to be performed in the manner provided under the law.

13. Adverting to the claim of the petitioners for appointment under the doctrine of equality articulated under Articles 25 and 27 of the Constitution of the Islamic Republic of Pakistan, 1973. It is claimed by the petitioners that one Zameer Ahmed Abbasi has been appointed by the Government of Sindh in civil service, who was also one of the candidates in CCE-2023 and had secured 703 marks, he too was not recommended by the SPSC. Since the case of Zameer Ahmed Abbasi is not before us, nor such directions were contained in the order dated 13.02.2020 to examine the case of the Petitioners on the said account, needless to say, even if Zameer Ahmed Abbasi, as claimed by the petitioners, has been appointed by the Government of Sindh without recommendations by the SPSC, it will not furnish a ground for the petitioners for their appointments. The doctrine of equality enshrined under articles 25 and 27 of the constitution did not nurture the concept of negative

equality. A person can claim a right which was available and not granted to him that however, was granted to similarly placed persons in accordance with the law. However concession of equality against the wrong done by the authority cannot be claimed.

14. From perusal of the Court's file, it reflects that the appointment of Zameer Ahmed Abassi came under discussion in the instant proceedings. The Court's order dated 25.03.2022 reflects that the learned Law Officer appearing on behalf of Government of Sindh had sought time for consideration of the cases of the candidates who secured more than 703 marks in CCE - 2003. The order dated 25.3.2022 is reproduced below for sake of reference:

"Vide order dated 24.03.2022, learned Advocate General, Sindh sought some time to place on record a via media through which these petitions could be resolved. He has placed before us a Notification dated 17th January, 2022 issued by the Services, General Administration & Coordination Department, Government of Sindh, whereby the Government of Sindh has established a Committee to examine whether any of the petitioners did in fact pass the exam in the year 2003 and are to be retained in employment by the Government of Sindh. All those petitioners, who fall within this Notification may apply under the same.

2. *Learned Advocate General, Sindh has also informed us that every petitioner before this Court can put forward any original documentation showing that back in the year 2003 he passed relevant exam in minimum mark of 703 and that the same Committee notified on 17th January, 2022 will examine their case in an open minded manner and if legally permissible try to accommodate as many of the affectees, as possible Those petitioners shall therefore, at the first instance shall approach the Committee, with all relevant documents which they may have in their possession which in particular should be in original and the Committee will examine such documentation and shall give particular finding on the genuineness of the documentation which might be, for example, determined through title or font at that time in the application for whether it was typewriter or signature that matched or any other means that makes it possible to reach a determination that the petitioner did in fact pass the exam and is entitled to employment. This exercise shall be completed within six (6) months of the date of this order*

3. *Some of the petitioners are still of the view that they have some additional grievance in this matter which have not been covered by this order. After they have gone before the Committee, those petitioners will be free to re-agitate the issue which they believe has not been so covered however, in respect of all disposed of petitions, learned counsel for tis petitioners shall address this Court firstly on the question of maintainability.*

4. *With regard to Respondent No 2 Zamir Ahmed Abbasi, in CP No.D- 1221 of 2022 this quo warranto petition shall come up on 29 03 2022 and be separated from this bunch of petitions. Issue direct intimation notice to Mr. Nehal Khan Lashari learned counsel for the petitioner. Interim order to remain in place until next date of hearing.*

5. *It is made clear that all the petitioners before us can approach the Committee with documentation as mentioned above, for verification*

6. *The remainder of the petitions shall come up on 24.06.2022 This matter shall not be placed before a Bench of which one of us (Mr. Justice Khadim Hussain Tunio) is member. Office to place copy of this order in connected petitions."*

15. The undertaking furnished by the Law Officer of Government had no statutory backing as such cannot pave a way for appointment of the Petitioners in absence of the recommendations of the SPSC. We have been informed that writ of quo warranto filed against Zameer Ahmed Abbasi was dismissed as withdrawn as such no further deliberation are required on the issue. The petitioners were not recommended by the SPSC or the Inquiry Commission, they cannot be considered for appointments on the basis of CCE-2003.

16. In the wake of above discussion the applications filed under section 151 CPC being without merits are dismissed with no order as to the cost. The files are consigned to record.

17. The captioned CMAs were dismissed vide short order dated 04.02.2026 and these are the reasons for the same.

JUDGE

**JUDGE
HEAD OF CONST. BENCHES**

Nadir*

Approved for reproting