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JUDGMENT SHEET
LAHORE HIGH COURT
MULTAN BENCH MULTAN
JUDICIAL DEPARTMENT

Writ Petition No.15167 of 2023

Hafiz Malik Muhammad Umar vs. Government of Punjab, etc.

JUDGMENT

Date of Hearing:	13.02.2024
Petitioner by:	Mr. Mahmood Ashraf Khan, Advocate.
Respondents by:	Syed Wajid Hussain Rizvi, Assistant Advocate General along with Muhammad Ijaz, Assistant Director Food, Multan Division.

Anwaar Hussain, J. This constitutional petition is directed against the impugned order dated 06.07.2023 passed by the Appellate Authority by virtue of which the petitioner's appeal was dismissed.

2. By way of factual background, it has been noted that the petitioner applied for the post of Naib *Qasid*, pursuant to an advertisement dated 27.01.2022. He is admittedly a person with special ability as well as *Hafiz-e-Quran*. Per advertisement, the candidates were required to be literate (خواندہ) and in case of holding additional qualification of Matric, the extra marks were to be awarded to such candidate. The petitioner, while applying for the said post, mentioned his additional qualification of *Al-Shahadat-us-Sanwiya Al-Aama* (as equivalent to Matric) and was awarded 20 extra marks. As a result, his total marks were calculated to be 65 inclusive of 20 extra marks for the additional qualification and his name was reflected at Serial No.1 in the final merit list. However, he was not appointed, which constrained the petitioner to file W.P. No.19336/2022 that was dismissed by this Court, *vide* order dated 28.02.2023, on the ground that the petitioner obtained

additional qualification after the lapse of period of 190-days, which is the period of validity for the merit list, under the Recruitment Policy, 2022. Against order dated 28.02.2023 passed by this Court in W.P. No.19336/2022, an Intra-Court Appeal was preferred, which was disposed of and the matter was remitted to the Appellate Authority to re-examine the same. Through the impugned order, the said representation/appeal has been dismissed.

3. Learned counsel for the petitioner contends that the only qualification required for the post of Naib Qasid was that a candidate should be literate and no additional educational qualification was required, therefore, the petitioner should have been appointed when his name was reflected at serial No. 1 of the merit list. Adds that the delay by the department in not verifying the additional qualification of *Al-Shahadat-us-Sanwiya Al-Aama* (as equivalent to Matric) and intimating the deficiency therein to the petitioner, within period of validity of merit list cannot be attributed to the petitioner and this material aspect of the matter has been overlooked by the Appellate Authority while passing the impugned order, hence, the same is liable to be declared illegal.

4. Conversely, learned Law Officer supports the impugned order.

5. Arguments heard. Record perused.

6. It is undisputed that the qualification of course of *Al-Shahadat-us-Sanwiya Al-Aama*, as a matter of policy, does not *ipso facto* equate with and is not equivalent to the matriculation qualification unless a candidate having passed the said course also undertakes and clears the examination of three additional subjects i.e., Urdu, English and Pakistan Studies. The said course coupled with these three subjects collectively makes up the qualification of matriculation and only then entitled to equivalence. It is admitted on both hands that the said examination of three subjects had not been passed and/or undertaken by the petitioner before or at the time when the merit list of 02.03.2022 was finalized. When the merit list was finalized, the respondents relied

on the additional qualification of the petitioner, which earned him 20 extra marks and he was placed at Serial No.1, but admittedly, on the said date, the petitioner did not possess the requisite qualification and the process of verification was initiated through letter dated 28.06.2022 written by Deputy Director Food, Multan Division, Multan and the fact that the petitioner was required to pass three additional papers was intimated to the petitioner through letter dated 06.09.2022 and in the meanwhile, the validity of the merit list expired and the petitioner passed the said extra papers.

7. It is the case of the petitioner that verification process was to be initiated by the department and concluded within a period of 190-days of the preparation of final merit list and any delay occurred thereof cannot be attributed to the petitioner and had the petitioner been informed well in time about the deficiency in his additional qualifications that earned him extra marks and placed him at first position in the recruitment process, the same could have been rectified. The argument is hard to persuade and is devoid of merits. The department invited applications from the general public which entitled all the participants to be considered as per their qualification and credentials on the basis of equal treatment with the additional marks to be awarded only to those candidates which possessed additional qualification at that relevant time. The petitioner was awarded additional marks on account of his averment that he possessed such additional qualification at that time which later on turned out that he did not possess the said qualification. This in fact put other applicants/contestants on a disadvantageous position and inverse discriminatory treatment was meted out to the other contestants/applicants as the petitioner was awarded extra marks to the exclusion of the other contestants, which he was not entitled to at the time of preparation of the merit list. Though the petitioner has not been appointed on account of expiry of the validity period of the list, the turn of events as spelled out above itself render the entire process of awarding 20 additional marks to the petitioner unlawful and

discriminatory against the other contestants for the post of Naib Qasid. Therefore, even if the validity period of merit list/waiting list had not elapsed, the appointment of petitioner, if made, on account of extra marks awarded for additional qualification which he did not possess at that time cannot sustain in the eyes of law and flies in the face of the equality clause. The petitioner should have been aware about the equivalence requirements for a candidate possessing qualification of the course of *Al-Shahadat-us-Sanwiya Al-Aama*, before submitting his application and admittedly, as on the date when the final merit list was prepared, the petitioner was not entitled to the equivalence certificate on account of the deficiency discussed hereinabove.

8. This Court is of the opinion that, in any recruitment process, the purpose of preparation and affixation of the waiting list is that if any selected candidate does not join then the candidate next in line would be considered for appointment. Certainly, the object of maintaining a waiting list is not to enable a candidate to make up any deficiency in his additional qualifications entitling him to the award of extra marks as the requisite qualification for a post has to be complete as on the cut-off/closing date of the job application. If someone is deficient with respect to the requisite qualification (including additional qualifications forming basis of award of extra marks) on the cut-off date/closing date, the subsequent improvement would not operate retrospectively unless some law and/or policy so envisages. Learned counsel for the petitioner has not been able to refer any such legal provision or policy of the Government. Therefore, the petitioner has no vested right to be appointed to the post of Naib Qasid on the basis of extra marks obtained on the account of additional qualification, which he did not possess on the cut-off/closing date of submission of application or at the time of finalization of the final merit list when the extra marks for such additional qualification were awarded.

9. In view of what has been discussed above, this petition has no merits, hence, **dismissed**. No order as to costs.

(ANWAAR HUSSAIN)
JUDGE

Approved for reporting

Maqsood

Judge