

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT: Justice Qazi Faez Isa, CJ
Justice Amin-ud-Din Khan
Justice Athar Minallah

Civil Petitions No. 231 and 183-K/2022 and 827/2023

Ayaz, etc.	(in CP 231/2022)
Province of Sindh through its Secretary Forest & Wildlife Department, Government of Sindh, etc.	(in CP 183-K/2022)
Abdul Aziz	(in CP 827/2023)
	Petitioners
Versus	
Mustafa Saeed, etc.	(in all) Respondents

In CP 231/2022

For the Petitioners:	Mr. M. Aqil Awan, Sr. ASC (through Video Link, Karachi)
For Respondent Nos. 1 to 5:	Mr. Ghulam Sarwar Baloch, ASC (through Video Link, Karachi)
For Respondent No. 6:	Mr. Miran Muhammad Shah, Addl. AG (through Video Link, Karachi)
For Respondent No. 16:	Syed Qamar Hussain Sabzwari, ASC

In CP 83-K/2022

For the Petitioners:	Mr. Miran Muhammad Shah, Addl. AG Dr. Abdul Jabbar Kazi, Addl. Secretary, Forest & Wildlife (through Video Link, Karachi)
For Respondent No. 7:	In-person (through Video Link, Karachi)
For Respondent No. 13:	Syed Qamar Hussain Sabzwari, ASC

In CP 827/2023

For the Petitioner:	Syed Qamar Hussain Sabzwari, ASC
For the Respondents:	Nemo
Date of Hearing:	27.11.2023

ORDER

We are informed that the Sindh Public Service Commission (**'the Commission'**) had issued advertisement No. 04/2020, dated 13 July 2020, in respect of a number of posts, including selection of suitable candidates in the Forests and Wildlife Department for two Assistant Conservator of Forests in BPS-17. Only applicants between 21 years to 30 years of age were eligible to apply. The applicants were required to have a degree in B.Sc in Forestry or Agriculture or Physical Sciences in at least 2nd class from a recognized university. Subsequently, a corrigendum was issued stating, that to maintain the urban and rural quota one post will be considered to be urban and the other rural. Thereafter, an addendum was issued on 8 September 2020, based upon Notification No.SO-II(SGA&CD)5-64/2011 dated 27 July 2020 (**'the Notification'**), which provided that, *'Government of Sindh are pleased to allow relaxation upto maximum of fifteen (15) years in the upper age limit to all the applicants applying for the vacancies in all the Departments of Government of Sindh (except Police Service & the posts to be filled through Combined Competitive Examination by the Sindh Public Service Commission).'* Moreover, the number of posts were increased from two to seven by a letter dated 27 October 2020 written by *'Section Office-I for Secretary to Govt. of Sindh'* addressed to the Commission. This letter also stipulated that the selection was for, *'STIPENDIARY CANDIDATES FOR M.SC (FORESTRY COURSE 2020-2022 AND B.SC (FORESTRY) COURSE 2020-24 AT PAKISTAN FOREST INSTITUTE PESHAWAR FOR INITIAL APPOINTMENT TO THE POSTS OF ASSISTANT CONSERVATOR OF FORESTS (BS-17) AND RANGE FOREST OFFICE (BS-16).'* The direction of this Court that every government servant must mention his name and designation in every notification, memorandum, order, etc. has not been complied with, as neither the name of Section Officer nor of the said Secretary is mentioned.

2. The impugned judgment, by a Division Bench of the High Court, had set aside the selection process and directed that the posts be advertised afresh by the Commission. The province of Sindh as well as some private parties have assailed the decision of the High Court.

3. There is no one to represent the Province of Sindh before us at Islamabad. Unlike other provinces the office of the Advocate General, Sindh has no presence at Islamabad. The learned Advocate-General Sindh was sent for and he informed us (through video-link) that even though the province has 80 law officers yet it flies in an Additional Advocate General every week, which undoubtedly, must constitute a major expense on the public exchequer. We were informed that the person who was supposed to fly in today could not do so, and are being addressed by Mr. Miran Muhammad Shah, Additional Advocate-General ('AAG') through video-link. The salary of an AAG we are told is half a million rupees. Unfortunately, we cannot proceed to decide these petitions because learned AAG was not able to answer the questions put to him.

4. Rule 12(1) of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 ('the Rules') stipulates that the education, qualification, experience and age limit for the post be provided. Rule 12(2) of the Rules states that the stipulated age may be relaxed to the extent mentioned in the Table by the authorities mentioned therein, which provides that upto one year age can be relaxed by the Head of the Department in all grades, for grade 16 and above the power to relax age of one year vests in the Head of the Department, for a period of three years the Secretary of the Department can relax it, upto five years the Chief Secretary can do so and upto 10 years the Minister Incharge or the Chief Secretary (if there is no Minister) can relax age. In the instant case, age has been relaxed by fifteen years, which means that candidates who are about forty-five years may also apply.

5. The following questions arise:

- (i) If a rule provides a maximum age for a post why should it be *relaxed*?
- (ii) If at all age is to be relaxed should it not be in respect of an individual seeking it, provided he could justify it?
- (iii) Does blanket age relaxation not defeat the intent of the law, and defeat rule 12(1) of the Rules?
- (iv) Whether the Notification, granting 15 years age relaxation conforms with the law?

- (v) Whether the interest of the people of the province is served when age is relaxed, who may only then have the benefit of the selected candidate's service for less than 15 years, since the retiring age is 60 years?
- (vi) Whether age should be relaxed when there is high unemployment and qualified candidates are available?
- (vii) What is a *stipendiary candidate*?
- (viii) The advertisement issued by the Commission stipulated selection of Assistant Conservator of Forests possessing certain educational qualification, and did not mention *stipendiary candidates*, therefore, why are *stipendiary candidates* to be selected?
- (ix) Why, after the publication of advertisement arbitrarily changes were made, and if so why fresh publication was not made?

6. A copy of this order be sent to the Advocate-General, Sindh, Chief Secretary Sindh, Chairperson and Members of the Sindh Public Service Commission and the Law Department, Government of Sindh, who should file concise statements with regard to the above. Concise statements to be filed latest by 31 December 2023.

7. To come up in the month of January 2024.

Chief Justice

Judge

Judge

ISLAMABAD
27.11.2023
(Farrukh)

Approved for Reporting