

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Syed Hasan Azhar Rizvi
Mr. Justice Aqeel Ahmed Abbasi

Civil Petitions No.154-K of 2022 & 166-K of 2022

[Against the Order dated 15.12.2021 passed by the High Court of Sindh in
C.P.No.D-756 of 2013 and C.P.No.D-3575 of 2013]

Waheed Gul Khan

(In Civil Petition No.154-K/2022)

Mumtaz Ali

(In Civil Petition No.166-K/2022)

...Petitioner(s)

Versus

Province of Sindh and others

(in both cases)

...Respondent(s)

For the Petitioner(s) : Mr. Qaim Ali, ASC
(in both cases)

For Respondents No.1-3 : Mr. Sibtain Mehmood, Additional
Advocate General Sindh
Ms. Lubna Parvez, AOR
a/w Maqsood Ahmed Kalhoro,
Additional Secretary Food Department
Nisar Ahmed Memon, SEO
(in both cases)

Date of Hearing : 26.07.2024.

JUDGMENT

Syed Hasan Azhar Rizvi, J.- Through these petitions, the petitioners have called in question the order dated 15.12.2021 (**“impugned order”**) passed by the High Court of Sindh (**“High Court”**) whereby the constitutional petitions (*C.P.No.D-756 of 2013 and C.P.No. D-3575 of 2013*) filed by them were dismissed through a consolidated order.

2. Facts in brief are that petitioners applied for a job in the Food Department, Government of Sindh that was announced pursuant to advertisement dated 14.02.2010 and passed the

written test and were called for an interview *vide* letter dated 26.12.2011. The grievance of the petitioners is that after the interview they received no information about the result. Petitioners further allege that they came to know that certain candidates were appointed who never appeared in the written test. Therefore they filed constitutional petitions which were dismissed *vide* impugned order, hence these petitions.

3. Learned counsel for the petitioners contends that impugned order failed to consider the grievance of the petitioners correctly; that alleged appointment have been made in violation of law; that alleged appointments are liable to be declared illegal and that petitioners are entitled to be appointed.

4. On the contrary, learned Law Officer submits that interview result cannot be challenged in the writ jurisdiction before the High Court and that impugned order being well-reasoned needs no interference.

5. We have considered the contentions advanced by learned counsel for the parties and have gone through the material available on record with their able assistance.

6. Present case raises the question that whether mere passing a written test and being called for interview creates any right/interest in the favour of the candidates and secondly whether interview result can be challenged in the constitutional jurisdiction of the High Court.

7. It is a settled principle of law that mere qualifying for the interview does not create any vested right for appointment to a specific post in favour of the candidates.

8. This court in the case of Secretary Finance and others v. Ghulam Safdar (2005 SCMR 534) has held that:-

“10. Be that as it may, it is difficult to sustain the prayer of the respondents since mere selection in written examination and interview test would not, by itself, vest candidates with a Fundamental Right for enforcement as such in the exercise of Constitutional jurisdiction of the High Court. Admittedly, the appellants had not issued any offer of appointment to the respondents and their appointment was subject to clearance by the Establishment Division under the Centralised System of Recruitment till it was discontinued in November, 1996, which again coincided with the imposition of ban on fresh recruitments, which could not be safely ignored by the appellants...”

9. An interview is inherently a subjective evaluation, and a Court of law does not have jurisdiction to substitute its opinion with that of the Interview Board to provide relief to anyone. The role of the Interview Board is to evaluate candidates based on a variety of subjective criteria, which may include interpersonal skills, presentation, and other intangible qualities that are difficult to measure objectively. These assessments are inherently qualitative and depend on the opinion of interviewers, who are appointed for their expertise and ability to make such evaluations. However, this does not mean that the decisions of the Interview Board are beyond scrutiny. If there were any indications of *mala fides*, bias, or significant errors in opinion that are apparent from the records, the Court would certainly be compelled to intervene.

10. This court in the case of Muhammad Ashraf Sangri v. Federation of Pakistan (2014 SCMR 157), has ruled that:-

“Essentially an interview is a subjective test and it is not possible for a Court of law to substitute its own opinion for that of the Interview Board in order to give the petitioner relief. What transpired at the interview and what persuaded one member of the Board to award him only 50 marks is something which a Court of law is certainly not equipped to probe and to that extent we cannot substitute our own opinion with that of the Interview Board. Obviously if any *mala fides* or bias or for that matter error of judgment were floating on the surface of the record we would have certainly intervened as Courts of law are more familiar with such improprieties rather than dilating into question of fitness of any candidate for a

particular post which as observed above is subjective matter and can best be assessed by the functionaries who are entrusted with this responsibility...”

11. It is an admitted position that petitioners passed the written examination but did not succeed in the interview, which was a mandatory requirement for the test. Written test measures a candidate's knowledge and expression skills but does not evaluate important personality traits like communication skills, leadership qualities, and decision-making abilities. These traits are assessed during the interview. The interview process allows evaluators to see how candidates interact and respond in real-time, offering a complete picture of their suitability for the job. In the instant case, however, the petitioners failed to pass the interview examination as they did not meet the necessary standards in the interview. Thus, learned High Court was correct in its view that constitutional jurisdiction cannot be invoked for challenging the interview process.

12. The contention of the learned counsel for the petitioners that the appointments of certain candidates are illegal because they did not appear in the written test was rightly discarded by the learned High Court. The learned High Court has correctly observed that these individuals were not made parties to the case, nor any specific prayer was made regarding their appointments. Therefore, in the absence of such inclusion, their appointments cannot be examined in the constitutional jurisdiction.

13. We have carefully examined the impugned order and find that reasoning advanced by the learned High Court is justified and plausible. Learned counsel for the petitioners has failed to

point out any illegality or infirmity, hence, no case for interference has been made out.

14. Consequently, these petitions, being devoid of merit, are dismissed and leave is refused.

15. Above are the reasons for our short order pronounced on even date.

Judge

Judge

Karachi,
26th July, 2024
APPROVED FOR REPORTING
*Paras Zafar, LC**