ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P.No.2515 of 2016
Saddam Hussain
Versus
Federation of Pakistan, through Secretary, M/o Interior and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	08.11.2016	**Mr. Muhammad Irfan Kiani, Advocate for the petitioner,** **Mr. Arshad Khan Jadoon, learned Deputy Attorney-General,** **Mr. Azhar Hussain Shah, DSP (Legal) and Rauf Khan Inspector (Legal).**

The petitioner, Saddam Hussain, is aggrieved by the decision of the respondents not to appoint him as a "Constable" in the Islamabad Capital Territory Police, against the quota for the Province of Balochistan.

2. The record shows that an advertisement was published by the National Testing Service ("NTS") at the instance of the Islamabad Capital Territory Police (Rapid Response Force) inviting applications for appointment against various posts. Out of 258 total posts for the whole of Pakistan, Balochsitan had a quota of 11 posts. In response to the said advertisement, the petitioner, who is a permanent resident of Balochistan, applied for the post of Constable (BPS-05) against the quota for Balochsitan, and appeared in the test. The petitioner secured 50 marks in the test. The petitioner appeared for an interview on 22.05.2016. The petitioner claims to have been successful in the interview. It is also the petitioner's contention that one Khurram Saleem obtained 49 marks (i.e. one mark less than the petitioner) and was appointed, whereas the petitioner was unlawfully left behind.

3. Parawise comments were filed on behalf of respondents No.1 to 3, wherein it has been admitted that the petitioner had applied for the post of Constable against the quota for the Province of Balochistan, and was able to secure 50 marks in the written test. It is also admitted that the petitioner appeared for an interview before the Interview Board at Quetta. As per the written comments, the sole reason for not appointing the petitioner was that his height was 2 cm short of the required standard of height for the post of Constable i.e. 5 feet, 8 inches.

4. In response to the notices issued by this Court, Mr. Sajid Abbas, Inspector (Legal), tendered appearance before this Court on behalf of respondents No.2 and 3 and confirmed that the sole reason why the petitioner was not selected was because his height was less than 5 feet, 8 inches. He further submitted that the Medical Officer at the Police Lines Headquarters, Islamabad, can carry out the height measurement of the petitioner. Consequently, it was ordered that the petitioner's height be accurately measured and a report in this regard be submitted to the Court. The said order dated 13.10.2016 is reproduced herein below:-

> *"After briefly hearing the learned counsel for the contesting parties, it is transpired that the only dispute is whether the petitioner's height is 5.8" or less than this.*
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> *2. The learned D.A-G submits that if the petitioner's height is less than 8.5" he would not qualify to be appointed. Since this is a simple issue, Mr. Sajid Abbas, Inspector (Legal) submits that Medical Officer at the Police Line Headquarters Islamabad will carry out the height measurement of the petitioner and a report in this regard shall be submitted before the next date of hearing. The petitioner's height may be accurately measured and a report in this regard may be submitted to this Court within a period of ten days."*

5. On the next date of hearing i.e. 24.10.2016, Mr. Sajid Abbas brought on record letter No.5060/Admin-I, dated 21.10.2016, from the Senior Superintendent of Police (Logistic) Islamabad to the Inspector General of Police, Islamabad, the operative part whereof reads as follows:-

> *"In view of the above, the Superintendent of Police (Headquarters) Islamabad, who is appointing authority, shall afford an opportunity of fair and adequate hearing to the petitioner within a period of two weeks from today and pass an order strictly in accordance with the law."*

6. Annexed to the said letter dated 21.10.2016 is the report of the Medical Officer, Islamabad Capital Territory Police-Headquarters, Islamabad, wherein it has been certified that the petitioner's height is 5 feet, 8.1 inches.

7. Now the stance taken by the respondents earlier (that the petitioner was not appointed because his height was found to be less than 5 feet 8 inches) is belied by the respondents own report and letter dated 21.10.2016. In this view of the matter, on 24.10.2016, it was ordered that the Superintendent of Police (Headquarters), Islamabad, who was the appointing authority, shall afford an opportunity of adequate and fair hearing to the petitioner within a period of 02 weeks and pass an order strictly in accordance with the law. On 08.11.2016, Mr. Azhar Hussain Shah, DSP (Legal) and Mr. Rauf Khan Inspector (Legal), tendered appearance in the Court and submitted that even though the Medical Officer Islamabad Capital Territory Police had certified that the petitioner's height was more than the standard required height of 5 feet, 8 inches, and that the Senior Superintendent of Police had issued letter dated 21.10.2016 in that regard,

since the petitioner in his interview in May, 2016 was found to be less than 5 foot 8 inches, he cannot be appointed as a Constable.

8. The petitioner's identity card appended with the petition shows that he was born on 01.06.1995. Being 21 years of age, it is highly unlikely for the petitioner to have grown taller in five months. The superior courts have time and again emphasized that public functionaries are expected to act fairly and justly and in a manner which should not give to any one any cause of complaint on account of irrational or discriminatory treatment. It has also been held time and again that since Pakistan is founded on the basis of the religion of Islam, efforts should be made to bring out an egalitarian society based on the Islamic concept of fair play and social justice. The contradictory stance taken by the respondents in this case shows that the said enunciations by the superior courts have fallen on deaf ears.

9. Since in the respondents' comments it has not been denied that Khurram Saleem S/o Muhammad Saleem, who obtained less marks than the petitioner had been appointed as a Constable, and since the respondents' own Medical Officer had certified that the petitioner's height is more than the 5 feet, 8 inches, I am inclined to allow this writ petition with the direction to the respondents to appoint the petitioner as a Constable against the quota for the Province of Balochistan. There shall be no orders as to costs.

(MIANGUL HASSAN AURANGZEB)
JUDGE

Qamar Khan*

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