

FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
(Original/Appellate/Advisory Jurisdiction)

PRESENT:

Justice Amin-ud-Din Khan, Chief Justice
Justice Ali Baqar Najafi

CPLA No. 536-P of 2023

[against the impugned judgment dated 20.06.2023
passed by Peshawar High Court, Peshawar in
W.P.No.2940-P of 2022]

Musa Hayat

.... Petitioner (s)

Versus

Provincial Housing Authority through its Respondent (s)
Director General and others

For the Petitioner (s) : Mr. Afroz Ahmad, ASC

For the Respondent(s) : Mr. Sabah-ud-Din Khattak, ASC for
respondents No.1 & 2.
Mr.Eraj Wazir, AD (L)
Nemo for respondents No.3 to 6.

Date of Hearing : 15.10.2026

JUDGMENT

ALI BAQAR NAJAFI, J. Through this petition under Article 185(3) now 175F(1)(C) of the Constitution of the Islamic Republic of Pakistan, 1973, leave to appeal is sought against the impugned judgment dated 20.06.2023 passed by Peshawar High Court, Peshawar whereby the writ petition filed by the petitioner was dismissed.

2. The facts, in brief, are that respondent No.1 advertised various posts, including those of Junior Clerk and Sub-Engineer, in the Daily Newspaper “Aaj” on 05.03.2022, inviting applications from eligible candidates. Pursuant thereto, the petitioner, claiming to fulfil the prescribed eligibility criteria for the post of Junior Clerk, submitted his application and was issued a roll number to appear

in the written examination conducted by respondent No. 6 on 24.04.2022. The petitioner secured 56 marks in the written examination and claimed to have qualified for the next stage of the recruitment process. Subsequently, the petitioner was issued a call letter to appear in the interview, which was conducted on 31.05.2022. The petitioner claimed that he performed well in the interview and stood at the top of the merit. The petitioner maintained that, after appearing in the interview, he remained hopeful of being appointed to the post of Junior Clerk. He allegedly visited the offices of the respondents on several occasions to inquire about his appointment and was repeatedly assured that his appointment order would be issued shortly. However, despite the passage of considerable time, no appointment order was issued in favour of the petitioner. Upon making further inquiries, the petitioner came to know that respondents Nos. 3 to 5 had allegedly been appointed to the advertised posts. The petitioner thereafter requested the official respondents to provide him with the merit list; however, his request was not acceded to. Consequently, he approached the Right to Information Commission under the Right of Access to Information Act, 2013, seeking the relevant recruitment documents. In response thereto, respondent No. 2 provided the merit list to the petitioner vide letter dated 13.07.2022. According to the petitioner, the merit list revealed that respondents No. 3 to 5 had been recommended by the Departmental Selection Committee and subsequently appointed. Being aggrieved, the petitioner approached the Peshawar High Court, Peshawar, by filing W.P. No. 2940-P/2022 which was dismissed vide impugned judgment, hence this petition.

3. We have heard the learned counsel for the parties and have examined the available record. The principal question requiring determination is whether the petitioner could be denied consideration for appointment on the ground that his previous experience was required, particularly when the advertisement issued for the post did not expressly stipulate any specific condition regarding the nature or duration of the experience. However, during the course of arguments, a specific question was put to the

representative of the respondent as to whether the advertisement prescribed any condition requiring the candidates to possess experience for the post of junior clerk. In response, it was stated that the relevant condition appeared on of the advertisement under the clause in general terms. However, no satisfactorily explanation was furnished as to the precise nature of the required experience, the applicable policy governing the same or the manner in which the said condition was to be applied to the candidates. The question whether the petitioner's experience as a trainee was a relevant experience cannot be determined merely by reference to the designation of post for which such experience was obtained. The nature of the duties performed, the applicable recruitment rules, the relevant policy and the precise wording of the experience requirement must be mentioned, therefore, we are of the considered view that where a recruitment authority prescribes eligibility criteria for appointment to a public post, it must be clear and unambiguous, transparent and consistent with the applicable recruitment rules and policy. A candidate cannot be prejudiced by an ambiguous or misinterpretation of a general clause in the advertisement. The recruitment process must be conducted in accordance with the prescribed rules, and the same standards must be applied uniformly to all candidates.¹

4. In the present case, the respondents counsel failed to satisfactorily explain their position against the petitioner. The matter, therefore, required examination in the light of the actual terms of the advertisement and the applicable recruitment policy. The impugned judgment, to the extent that it sustained the decision adverse to the petitioner without adequately resolving this material issue, cannot be maintained.

¹ "Uzma Manzoor Vs. Vice Chancellor Khushal Khan Khattak University Karak & others (2022 SCMR 694)

5. In view of what has been discussed above, this petition is converted into an appeal and is **allowed**. Consequently, the impugned judgment dated 20.06.2023 passed by Peshawar High Court, Peshawar is set-aside.

CHIEF JUSTICE

Islamabad
15.10.2026
"NOT APPROVED FOR REPORTING"
A.Qadoos*

JUDGE