

IN THE HIGH COURT OF SINDH, AT KARACHI

C.P. No. D-1806 of 2024

(Dr Fakhur un Nisa Memon v/s Chief Minister Sindh & others)

Priority

- 1. For Order on Office Objection*
- 2. For hearing of CMA No 8289 of 2024*
- 3. For Hearing of main case*

PRESENT:

MR. JUSTICE MUHAMMAD FAISAL KAMAL ALAM

MR. JUSTICE NISAR AHMED BHANBHRO

Petitioner:	Dr Fakhurnisa Memon in person
Respondents No 2 to 5	Karachi University Through M/S Shoaib Mohiuddin Ashraf, Ameeruddin, Dr Sharukh Shahnawaz and Samina Advocate(s)
Respondents No 6 to 8:	Through Mr Usman Farooq, Advocate
Federation of Pakistan:	Through Mr. Sibtain Mehmood Learned DAG
Province of Sindh	Through Mr Abdul Jaleel Zubaidi Learned AAG
Date of hearing	: 20.02.2025, 27.02.2025, 06.03.2025 & 14.04.2025
Date of Order	: 13.06.2025

JUDGMENT

Nisar Ahmed Bhanbhro, J. Though instant Petition, the Petitioner has challenged the recommendations dated 05.03.2024 of Selection Board of University of Karachi, wherein her selection to the post of Associate Professor in the department of Analytical Chemistry was declined and Respondents No 5 to 8 were recommended for appointment. The Petitioner has claimed following relief:

- “a. That this Honorable Court may very kindly be declare the recommendation of Selection Board and approval of recommendation by Syndicate for appointment of Associate Professor to Respondents No 5 to 8 is illegal.
- b. To direct the Respondent No 2 for appointment of Petitioner as Associate Professor (BPS – 20) in Analytical Chemistry Department of Chemistry as the Petitioner is eligible for the appointment of Associate Professor (BPS – 20).”

2. The facts of the case as averred by Petitioner Dr. Fakhr-ul-Nisa are that She is a highly qualified research scholar. She has done her PhD from National Centre of Excellence in Analytical Chemistry (NCEAC) Jamshoro, Post Doctorate Research from Selcuk University Konya Turkey and she has worked as a Lecturer since 2015 - 2017, Assistant Professor in Shah Abdul Latif University Khairpur in year 2017 then as Assistant Professor in University of Karachi from 2018 to date. The University of Karachi invited applications for appointment to the post of Associate Professor in Analytical Chemistry Department through advertisement dated 13.02.2019. Petitioner fulfilling the required criteria for the post. Petitioner was issued an interview call for appearance before Selection Board of University on 05.03.2024. Petitioner appeared before Selection Board but was shocked to know that she was not recommended for appointment by the Selection Board. University Authority acted mala fide

in the case of Petitioner, misplaced her CV from dozier sent to referee for analysis. As per advertisement the candidates having a PhD degree in Analytical Chemistry were eligible for appointment but Selection Board recommended candidates having PhD in Chemistry. She was better qualified than the other candidates who were recommended for appointment. Petitioner was having Post Doctorate Degree whereas Respondents No 5 to 8 did not possess such qualification. One of the members of Syndicate put a note of dissent on selection of Associate Professors in Analytical Chemistry Department. Petitioner sought directions for her appointment as Associate Professor and declaring the appointment of Respondents No 5 to 8 as illegal.

3. The Respondents No 2 to 4 (Vice Chancellor, Registrar, Selection Board, University of Karachi) filed joint reply. In their reply they attacked the maintainability of petition asserting that University of Karachi has its own rules for selection of faculty members which are non-statutory, Petition shall not be maintainable on the said account. The Petitioner has failed to point out infringement of her fundamental rights or violation of laws in appointment process. Petitioner was found eligible for appointment by scrutiny committee but she was not found suitable by the Selection Board and University has not role to play in appointment process, it is done purely on merit.

4. The Respondents No 5 to 8 in their joint reply controverted the assertions of Petitioner. They have averred that they were having better qualifications and more experience than that of Petitioner. Respondent No 5 did his PhD in Chemistry from University of Alberta Canada and Respondents No 6 to 8 have done PhD in Chemistry from University of Karachi. They have more teaching and research experience compared to Petitioner and they were recommended for appointment by the Selection Board purely on merits on the basis of referee reports, their qualification and experience.

5. Petitioner Dr Fakhurnisa Memon contended that She was the only candidate having PhD Degree in Analytical Chemistry and Respondents No 5 to 8 were having a Degree in Chemistry, thus, they did not fulfill the required criteria for appointment as per University and Higher Education Commission Rules. The Referees appointed by University of Karachi did not belong to Analytical Chemistry Subject but they were related to Chemistry Department, as such their reports did not carry weight. The University deliberately with mala fide intentions in order to deprive Petitioner constituted a team of irrelevant referees and did not send her CV with Dozier. She contended that recommendation of Selection Board for appointment of Respondents No 5 to 8 in Analytical Department was illegal as they did not possess required qualification and such selection process has been dissented by one of the members of Syndicate. She prayed for allowing her petition. She placed reliance on the case of Dr Muhammad Ehsanuddin Versus University of Karachi (CPD 5353 / 2023), Dr Shahista Parveen Versus university of Karachi (CPD 5727 / 2018), Dr Imran Ali Hashmi versus University of Karachi (CPD 5776/2018), Dr Zahid Hussain versus University of Karachi (CPD 3001/2019), Mohammed Rafi and others Versus Federation of Pakistan and others 2016 SCMR 2146 and Pakistan Defense Officers Housing Authority and others Versus Lt. Col. Syed Jawed Ahmed (2013 SCMR 1707).

6. Mr Shoaib Mohiuddin Learned Counsel for Respondents No 2 to 5 (University of Karachi) so assisted by Mr Sibtain Mehmood Learned Deputy Attorney General for Pakistan and Mr Abdul Jaleel Zubaidi Learned Assistant Advocate General Sindh contended that Petition was not maintainable as Petitioner has failed to demonstrate infringement of her fundamental rights, or any violation of law in appointment process. Petitioner was not found

suitable for appointment by Selection Board and Syndicate of the University approved the recommendations of Selection Board, pursuant thereto appointment orders were issued to the recommended candidates and they have joined services. The job is not a vested right of Petitioner, since she was not found suitable by Selection Board, any exercise on the part of Court would amount to assume the role of appointing authority, which this Court cannot do under its constitutional jurisdiction. He relied upon the case of Asif Hussain Versus Sabir Hussain reported in 2019 SCMR 1720, Arshad Ali Tabsaum Versus Registrar Lahore High Court, Dr Mir Alam Jan Versus Dr Muhammad Shahzad 2008 SCMR 960 and PLD 2006 SC 564, he prayed for dismissal of Petition.

7. Mr Usman Farooq Learned Counsel for Respondents No 6 to 8, vehemently opposed this Petition, he contended that Petition is not maintainable, as University of Karachi does not have statutory rules and relationship between the employees (Petitioner and Respondents No 6 to 8) and employer (University of Karachi) is that of Master and Servant. He contended that Respondents No 5 to 8 possess PhD qualification and required teaching experience. They have more research publication to that of Petitioner, their dozier were examined by the scrutiny committee and they were found eligible for appointment to the Post of Associate Professor in Analytical Chemistry Department. Petitioner did not raise objection to the eligibility of Respondents No 5 to 8 before relevant forum. He contended that referee reports and interview panel recommended Respondents No 5 to 8 for appointment and Petitioner was not considered for appointment on the basis of experience and research. He contended that matter involves factual controversy as this Court cannot resolve the controversy of eligibility of Petitioner and Respondents No 5 to 8 under its writ jurisdiction. He placed reliance on 2013 MLD 9. He prayed for dismissal of Petition.

8. Heard arguments, examined record.

9. The contention of Respondents that Petition is not maintainable, as University does not have statutory rules of service is without force, as instant petition does not relate to any issue involving terms and conditions of service of employees. Petition questions the appointment of teaching faculty in a public sector University, more so, Petition questions the qualification of Respondents / appointees, violation of rules and laws in appointment process, which can be inquired by this Court under writ jurisdiction and if appointment is found in violation of law or rules a writ in nature of quo warranto can be issued to rectify the wrong. The objection of Respondents therefore does not sustain, Petition is held maintainable.

10. Adverting to the issue of Appointment, the Petitioner has challenged the appointment of Respondents No 6 to 8 as Associate Professor on three grounds that Respondents No 6 to 8 were not possessing the Degree of PhD in Analytical Chemistry, Referees/ Experts appointed by University did not belong to Analytical Chemistry Department and one of the Members of Syndicate recorded his Dissenting Note dated 05.04.2024 on the recommendations of Selection Board, as such the appointments of Respondents No 6 to 8 was not sustainable. As far as selection of Referee/Expert is concerned, Rule 6 of the First Statutes (University Code) provides for constitution of Selection Board for appointment of members of teaching faculty. Rule 6 reads as under:

6. Selection Board: (1) The Selection Board shall consist of:
 - (i) the Vice Chancellor
 - (ii) the chairman, or a member of the Sindh Public Service Commission to be nominated by the Chairman;
 - (iii) the Dean of the Faculty concerned;

- (iv) the Chairman of the Teaching Department concerned and
- (v) one member of the Syndicate and two other men of eminence, to be appointed by the Syndicate, provided that none of the three are employees of the University.
- (2) The members mentioned in sub clause (v) of clause (1) shall hold office for two years.
- (3) (a) Four members shall form the quorum for the selection of a Professor or an Associate Professor, and three members for the selection of other Teachers.
- (b) In case of Officers other than teachers, the Selection Board shall consist only of members at sub-clauses (i), (ii) and (v) of clause (1)
- (4) No member who is a candidate for the post to which appointment is to be made shall take part in the proceedings of the Board.
- (5) In selecting candidates for the posts of Professors and Associate Professors, the Selection Board shall co-opt or consult three experts in the subject concerned, and in selecting candidates for other teaching posts, two experts in the subject concerned, to be nominated by the Vice Chancellor, from a standing list of experts for each subject approved by the syndicate on the recommendation of the Selection Board and revised from time to time.

This provision of First Statutes of University envisages the constitution of Selection Board for appointment of Professors and other members of teaching faculty, wherein clause 5 of Rule 6 binds the Selection Board to co-opt or consult three experts in the subject concerned.

11. Per claim of the petitioner that experts co-opted or consulted by Selection Board did not belong to subject of Analytical Chemistry, Petitioner was required to substantiate her claim through solid evidence, so that University Authorities could have been asked to account for this substantial flaw in the appointment process. Petitioner throughout Selection Process did not raise any objection regarding the appointment of irrelevant Experts/Referees, she was required to raise this objection outrightly at the time when she sent her Dozier for Scrutiny, she even did not move any application to the Selection Board complaining the appointment of irrelevant experts or before the Syndicate where the recommendations of Selection Board were sent for approval, she for the first time raised this objection before this Court. Petitioner did not provide the details of experts co-opted by Selection Board. In absence of such an information, the stance of Petitioner cannot be taken for granted and approved. The Petitioner failed to establish her stance that experts associated for selection purpose did not belong to Analytical Chemistry, as such this objection did not hold field and dispelled accordingly.

12. Coming to the next contention of Petitioner that Respondents No 5 to 8 did not possess required PhD degree in the subject of Analytical Chemistry, though this question involves a factual controversy but a cursory glance at the memo of petition and objections filed by the Respondents No 6 to 8 revealed that Petitioner possessed PhD Degree in Analytical Chemistry and required 10 years teaching experience enabling her to compete for the position of Associate Professor, at the same time Respondents No 6 to 8 possessed PhD Degree in Chemistry and required 10 years teaching experience. The Petitioner did not produce any law or rules excluding a person holding PhD Degree to teach in the Department of Analytical Chemistry. In Our view Chemistry is the mother subject having fields of Analytical, Organic, Inorganic Chemistry etc, To enable us to form a view that PhD Degree in Chemistry was not relevant to the Subject of Analytical Chemistry or a PhD Degree in Analytical Chemistry was

irrelevant to the Subject of Chemistry. Petitioner was required to provide such law and rules which supported her stance, but she failed. In absence of any rule or law excluding the researchers of subject of Chemistry to perform duties as teachers in subject of Analytical Department, it cannot be held that Respondents No 6 to 8 possessed a degree not relevant to the subject of Analytical Chemistry. The Petitioner did not object the qualification of Respondents No 6 to 8 during selection process meaning thereby she knew, that they were equally qualified to compete for the positions of Associate Professor. Even such an objection with regard to the Degree of Respondents No 6 to 8 was not agitated before the Syndicate in her representation dated 02.04.2024. The Petitioner was required to establish her claim through solid proof to hold that appointment of Respondents No 5 to 8 was done in violation of law and they lacked requisite qualification to be appointed as Associate Professor in Analytical Chemistry Department. Our education system is yet to flourish, we can only compete with the world when our scholars put their maximum to train the fresh brains and to equip them latest technology, but unfortunately it does not happen and teachers spend most of their time in getting higher scales instead of engaging them in research work.

13. Adverting to the contention of Petitioner that one of the members of Syndicate put his dissenting note on Selection Process. Under Rule 7 of the First Statutes, Selection Board is required to send its recommendations of suitable candidates for appointment to teaching and other posts to Syndicate for approval or otherwise. Per section 23 of the Karachi University Act 1972, decisions in Syndicate are made on the basis of majority vote. The Syndicate of University is empowered to accept or reject the recommendations of Selection Board for appointment of teaching posts. The law does not in any manner require that the recommendations of Selection Board were subject to the Unanimous Approval of Syndicate. Clause (4) of Rule 7 of First Statutes provides solution to a situation wherein the recommendation of Selection Board remains unresolved. In that event the matter shall be referred to Chancellor of University (Chief Minister) for a final decision. Clause (4) of Rule 7 reads as under:

(4) In the event of an unresolved difference of opinion between the Selection Board and the Syndicate, the matter shall be referred to the Chancellor whose decision shall be final.

14. In the case of Petitioner, there was no unresolved difference of opinion between Selection Board and Syndicate, only one of its members recorded his reservations to the recommendations of Selection Board which did not affect the process of Selection in any manner. The Selection was approved by a majority vote of Twelve against One member, though objections raised by one of the members of Syndicate Dr Riaz Ahmed were very serious in nature, but Syndicate being top body of the University did not endorse such reservations and approved recommendations of Selection Board This Court cannot step into the powers of Syndicate and cannot in any manner exercise act as Appellate Authority to decisions of Syndicate. The powers of this Court under its writ jurisdiction are limited and only exercised when it manifested that executive authority went beyond the bounds of law and acted contrary to law and rules.

15. Transparency and high standards of merits are expected in appointment process specifically when it pertains to the selection of teachers in higher education institutions like University of Karachi in the present case.

16. Honorable Supreme Court of Pakistan in the case of Mohsin Raza Goondal and others Versus Sardar Mahmood and others reported in 2025 S C M R 104 has emphasized for a transparent and high standard fair process of appointment and observed as under:

15. We are constrained to observe here that appointments in the public sector based on corruption, nepotism, favoritism, lack of due process, and misuse of authority have long been a significant issue in our society. These practices undermine the principles of fairness and equality, eroding public trust in governmental institutions. When positions are filled not on merit but through personal connections or corrupt practices, it not only deprives deserving candidates of opportunities but also weakens the overall efficiency and integrity of the public sector. This Court has repeatedly stressed the need for transparency, merit, and open competition in public sector employment. Upholding these values is essential for fostering a system where the most qualified individuals serve, ensuring that public resources are utilized effectively and justly for the benefit of all. Without adherence to these principles, the public sector risks becoming a tool for the powerful rather than a service for the people, perpetuating cycles of inequality and inefficiency. Therefore, it is imperative that the recruitment and promotion processes in the public sector be conducted with the highest standards of fairness and accountability, free from any undue influence or bias.

17. The case laws relied upon by the Learned Counsel for the parties with due deference are distinguishable and do not apply to the facts of the present case.

18. We are of the considered view that the appointment of Respondents No 6 to 8 as Associate Professor in Analytical Chemistry did not suffer from any illegality, irregularity or violation of law requiring interference by this Court. But at the same time, We failed to comprehend that why Petitioner was not found suitable for appointment to the post of Associate Professor when she fulfilled all the requirements, possessed the required qualification and experience and her name came under consideration before Selection Board for appointment. Selection Board was required to render definite deliberations as to the suitability of Petitioner assigning a reason for her non selection, which did not find mention in the recommendations of Selection Board. Record further reflects that petitioner being aggrieved of the recommendations of Selection Board moved an application dated 02.04.2024 to the Chairman of Syndicate seeking her consideration for the post of Associate Professor. In her application she requested Syndicate of the University to consider her suitability for appointment to the post of Associate Professor which was not placed in the meeting of Syndicate held on 05.04.2024 which has transparency, which tantamount to denial of fundamental rights guaranteed under article 4, 9, 10-A and 27 of the Constitution.

19. The Petitioner has been condemned unheard, she has not been informed of the reasons for her unsuitability to appointment as Associate Professor in Analytical Chemistry Department, which in our view is contrary to law, calling for interference by this Court under its writ jurisdiction. Consequently, case for issuance of writ against University of Karachi is made out, therefore we dispose of this Petition and direct the Respondent Karachi University to place the application dated 02.04.2024 moved by the Petitioner before the Syndicate of University in its forthcoming meeting and decide such application in accordance with law after giving an opportunity of hearing to the Petitioner. If the Petitioner succeeds in making out a case for appointment to the post of Associate Professor, her case shall be dealt with accordingly. In case the Syndicate affirms recommendations of Selection Board finding Petitioner unsuitable for appointment as Associate Professor in Analytical Chemistry Department, it shall pass a speaking order on the application dated 02.04.2024 filed by the

Petitioner. The meeting of the Syndicate shall be convened within six weeks of receipt of this Order and in case of recommendation by Syndicate for appointment she shall be given appointment with effect from the date of decision of Syndicate.

The Petitioner has failed to make out any case against the appointment of Respondents No 6 to 8, which in our view does not suffer from any illegality, irregularity or violation of law and to that extent petition stands dismissed.

The Petition stands disposed of in above terms along with listed applications if any.

Karachi

Judge

Dated: .05.2025

Judge