

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
Constitution Petition No.D-504/2025

Indra Sindhi and another Versus VC University of Larkano and others

Before:

Mr. Justice Muhammad Saleem Jessar
Mr. Justice Nisar Ahmed Bhanbhro

Petitioner: Indra Sindhi & Shagufta Saleem (In person)

Respondents No.1 to 3: Through Mr. Safdar Ali Ghauri, Advocate.

Mr. Liaqat Ali Shar,
Additional Advocate General.

Date of hearing: 10-09-2025

Date of Decision: 10-09-2025

ORDER

Nisar Ahmed Bhanbhro J.- Through the instant petition, the petitioners have claimed following relief:

- a. *That this Honorable Court may be pleased to declare that the act of respondents is illegal, null, void and against the law of natural justice.*
- b. *That this Honorable Court may be pleased to direct the respondents to continue the petitioners as Lecturers and also their services may kindly be regularized and two formal prayers.*
- c. *That this Honorable Court may be pleased to declare that the act of respondents so also the minutes of the Syndicate held on 14-04-2025 is illegal, null, void and against the law of natural justice.*
- d. *That this Honorable Court may further be pleased to direct the respondents to continue the petitioners as Lecturers and also their services may kindly be regularized while considering their experience and qualification.*

2. The petitioners Indra Sindhi and Shagufta Saleem Shaikh contended that they were well qualified, possessing M. Phil degrees in business administration and were pursuing PhD program. They argued that they were appointed as contract lecturers in the University of Larkano but later on they were forced to resign. The Petitioners argued that they preferred petition No.736/2024 before this court which was disposed of vide orders dated 18-03-2025 with directions to the respondent University to review the case of petitioners by convening the meeting of Syndicate within one month time to investigate the petitioner's claim that they were coerced to resign from job. It was further observed that in case Syndicate validates the petitioners' claim their services will be continued. Petitioners

further argued that pursuant to the directive of this court, meeting of Syndicate was convened. The syndicate discussed the issue and resolved to appoint petitioners as teaching assistants on fixed salary remuneration of Rs.60,000/- per month with effect from date of joining. Petitioners argued that Respondents did not comply with this Court's orders and victimized the petitioners for unknown reasons. They argued that the career of the petitioners was put into stake. They prayed for allowing this petition.

3. Mr. Safdar Ali Ghouri, learned counsel for the Respondents No 1 to 3 (University of Larkano) contended that pursuant to the Court's directions contained in earlier order, the meeting of syndicate was held on 14-04-2025, in which it was decided that Petitioners may be taken into service as teaching assistants. He contended that salary package of the teaching assistant was enhanced from Rs.30,000/- to Rs.60,000/- which was equivalent to the package of contract lecturers. He contended that there was no illegality in the orders under challenge, therefore, the petition was misconceived and liable to be dismissed. He prayed for dismissal of the petition. Learned Additional Advocate General supported the stance of Learned Counsel for the Respondents No 1 to 3 and prayed for dismissal of the Petition.

4. Heard arguments. Perused material available on record.

5. It is the case of petitioners that they were appointed as lecturers on contract basis through appointment letter dated 29.04.2024 by the orders of Vice Chancellor University of Larkano. The Petitioners were forced to resign from the contract job. Petitioners filed petition No.736/2024 Re: "Indra and another V. Registrar of University of Larkano and others", before this Court with prayers to set aside the retrenchment order and further to regularize the services. The Petition was disposed of vide order dated 18-03-2025 with direction to review the case of Petitioners through syndicate of the University. The Para No.9, 10 and 11 of the order dated 18.03.2025 in CPD 736/2024 being relevant are reproduced for the ease of reference:

9. This court has reviewed the present case, considering Articles 4, 9, 10-A and 22(3)(b) of the 1973 Constitution of Pakistan. The petitioners specifically agitate that adverse action was taken against them without affording them a hearing.

10. Based on the preceding analysis, we firmly believe that the right to be heard is a fundamental right. Depriving any individual of this right is unconstitutional.

11. To guarantee due process and respect the petitioners' right to a hearing, we mandate that the respondent university's syndicate

review this case. The syndicate must convene a hearing within one month to specifically investigate the petitioners' assertion that they were coerced into resigning from their contractual roles. If the syndicate validates the petitioners' claim, they are authorized to issue directives for the continuation of their service. Alternatively, they syndicate may, based on the petitioners' qualifications and experience, determine and implement a more suitable resolution.

6. This Court directed the Respondents to place the matter of the petitioners before syndicate within one month time. It was further observed that if the syndicate validated petitioners' claim of being condemned unheard, the syndicate will issue directions for continuation of the services of petitioner or alternatively the syndicate may implement more suitable resolution based on the petitioners' qualification and experience. Pursuant to this court's order, the meeting of syndicate was convened on 14-04-2025. The petitioners were heard at length. The syndicate validated the claim of the petitioners however decided to engage the services of petitioners as Teaching Assistants on fixed pay of Rs.60,000/- per month.

7. It appears that the syndicate was not properly assisted about the Court order. The syndicate was not directed to authorize the competent authority to issue a fresh appointment order as Teaching Assistant but was directed to examine the case of Petitioners, in case the grievance of Petitioners was found genuine and justified, direct the authority to continue the service of petitioners as Lecturer. The syndicate failed to catch the intent and spirit of the order passed by this court.

8. We have examined the provisions of University of Larkano Act, 2023, which empowers the Vice Chancellor of the University to issue any orders including the appointment of the staff. Perusal of the provisions of University Code, the regulations for appointment of teaching faculty elucidated that there were only 04 categories of teachers in teaching faculty. Under junior rank teaching faculty post of Lecturer and Assistant Professor and under the senior rank there were positions of Associate Professor and Professor. The powers for regular appointment of teaching faculty vested with the Selection Board of University. We have been informed that process for the regular appointment under teaching faculty was yet to commence, thus to facilitate taught and to conduct regular classes appointments of teachers are made on the contract basis.

9. We have examined the qualification of the petitioners; they were holding M. Phil degrees in Business Administration and were pursuing PhD program. They were engaged in the service of University as Lecturer on contract basis 29th April 2024. Prior to the

appointment of petitioners as contract lecturers, they were appointed as Teaching Assistant vide orders dated 31-01-2024. Per reply filed by respondent there was no adversity as to the efficiency and eligibility of the petitioners to perform job as lecturers in the teaching faculty of the university. Both the petitioners were working in the department of business administration and there were no complaints as to their performance.

10. University syndicate; found petitioners eligible for the appointment. However, they were not considered for the position of lecturer, but as a teaching assistant. Under the university laws there was no position of teaching assistant in teaching faculty, therefore, the syndicate was required to recommend the continuation of the services of the Petitioners for the position of Lecturer.

11. The discriminatory treatment with the teachers is totally ill-founded, prejudicial and inequitable. Instead of providing more congenial working conditions and environment to encourage the noble profession of teaching and to effectively implement and comply with the obligations enshrined under Article 25-A of the Constitution, the teachers were being treated in a manner prejudicial to their noble work, which cannot in any manner help in promoting education. Teachers play an important role in shaping society. Teachers shape the students' career mold them into a brighter future from raw material. The teachers are ray of hope and lifeline of the nation. Teachers are the builders of a better and brighter tomorrow and are considered the main pillars of a civilized and cultured society. The future development and wellbeing of every country is highly dependent on good educationists being a vivid source of learning, achievements and enlightenment for the benefit of their students. Goal of a civilized and developed nation cannot be achieved without good teachers working wholeheartedly, with devotion and dedication. Quality of the teachers would shine if they are placed in a hygienic atmosphere that caters not only to academic needs but also to the financial needs of teachers. It is needless to say that university without teachers would be nothing but a gathering hall for the people to come and enjoy gup shup.

12. The petitioners were working as lecturer per earlier appointment letter dated 29.04.2025, through fresh recommendations they were demoted to the post of Teaching Assistant, which tantamount to exploitation. The Petitioners were not provided due treatment as envisaged under the law. It is the fundamental right of every citizen to be dealt in accordance with law as enshrined under article 04 of the constitution. The state organs were obliged to shun exploitation in any manner as articulated under Article 3 of the constitution. The respondent university was required to give a reasonable treatment to the petitioners by granting them a job commensurate with their qualifications. Even it has been observed in the minutes of meeting of the syndicate that the salary package of the petitioners was equal to the contract lecturers, thus issue of financial impact was not

involved too. Perusal of the recruitment rules of Higher Education Commission and University revealed that for appointment in senior rank of teaching faculty the qualification cum teaching experience was a mandatory requirement. The petitioners if continue working as teaching assistant they may not be eligible to seek appointment to higher position for want of the experience in the relevant category. As position of Teaching Assistant was not recognized under recruitment rules of the university. More particularly when syndicate itself decided to allow petitioners fixed monthly package equal to that of contract lecturers, therefore, no reason existed to recommend the appointment of petitioners as teaching assistant which post did not exist under the university laws.

13. To enjoy the protection of law and to be treated in accordance with the law is the inalienable right of every citizen. The purpose of Article 4 of the Constitution is to strengthen the doctrine of equality before law or equal protection of law, and no action detrimental to the life and liberty of any person can be taken without due process of law. Public functionaries are supposed to execute and perform their duty in good faith, honestly and within the precincts of their legally recognized powers so that the person concerned may be treated in accordance with law. The objective of good governance cannot be achieved by exercising discretionary powers unreasonably or arbitrarily without rhyme or reason, but such objective can only be met by adhering to the rules of justness and fairness as enshrined under Articles 4 and 25 of the Constitution. In the case in hand, the appointment of Petitioners as Teaching Assistant was an act detrimental to the career of the petitioners and tantamount to the offend their fundamental rights. Article 3 of the Constitution casts an obligation upon the State to ensure the elimination of all forms of exploitation, and the gradual fulfillment of fundamental principles from each according to their ability, to each according to their work. Whereas under Article 38, it is provided that the State shall secure the wellbeing of the people, irrespective of sex, caste, creed, or race by raising their standard of living, by preventing concentration of wealth and the means of production and distribution in the hands of a few to the detriment of general interest and by ensuring equitable adjustment of rights between employers and employees.

14. Learned Counsel for the Respondents failed to demonstrate the reasons, those weighed before the University Syndicate to recommend the appointment of petitioners on a demoted position of Teaching Assistant. The approach adopted by the Respondents to deal with the petitioner was colorful exercise of the powers, which cannot be regarded as an action in accordance with law. While discharging official functions, efforts should be made to ensure that no one is prevented from earning his livelihood because of unfair and discriminatory acts on the part of persons at the helm of affairs.

15. Appointment of qualified persons against the posts which did not exist under the law in an institution like university baffled the wit and wisdom of a prudent mind. It is never expected that the University which is the center of research will deal with its teacher in manner detrimental to their career. This depicted a gloomy state of affairs. University must avoid making such appointments which did not suit to the prestige of a person called “teacher”. This sort of the practice is heartbreaking and an act of exploitation of joblessness of the highly qualified persons, which cannot be allowed to perpetuate. It is expected that University of Larkano shall make measures to ensure that the teacher is respected and given due patronage for research to cherish and flourish.

16. This view finds support from the judgment of Learned Apex Court in the case of Ikram Bari and 524 others versus National Bank of Pakistan through President and another reported as 2005 SCMR 100, wherein Honorable Supreme Court held that:

15. An Islamic Welfare State is under an obligation to establish a society which is free from exploitation wherein social and economic 'justice is guaranteed to its citizens. The temporary Godown staff and the daily wages employees were continued in service of the Bank on payment of meagre emoluments fixed by the Bank. In most of the cases of these employees, there were artificial breaks in their service so as to circumvent the provisions of the Labour Laws and the Rules of the Bank and to deny them the salaries and other service benefits of regular employees. In some cases, the Bank did not issue formal letters of appointment or termination to the employees so as to preclude them to 'have access to justice. There was no equilibrium of bargaining strength between the employer and the employees. The manner in which they had been dealt with by the Bank was a fraud on the Statute. A policy of pick and choose was adopted by the Bank in the matter of absorption/ regularization of the employees. By Article 2-A of the Constitution, which has been made its substantive part, it is unequivocally enjoined 'that in the State of Pakistan principle of equality, social and economic justice as enunciated by Islam shall be fully observed which shall be guaranteed as fundamental right. The principle of policy contained in Article 38 of the Constitution also provide, inter alia, that the State shall secure the well being of the people by raising their standards of living and by ensuring equitable adjustment of rights between employers and 'employees and provide for all citizens, within the available resources of the country, facilities for work and adequate livelihood and reduce 'disparity in income and earnings of individuals. Similarly, Article 3 of the Constitution makes it obligatory upon the State to ensure the elimination of all forms of

exploitation and the gradual fulfilment of the, fundamental principle, from each according to his ability, to each according to his work. It is difficult to countenance the approach of the Bank that the temporary Godown staff and the daily wages employees should be continued to be governed on disgraceful terms and conditions of service for an indefinite period. In view of section 24-A of the General Clauses Act 1897, the National Bank was required to act reasonably, fairly and justly. An employee being jobless and in fear of being shown the door had no option but to accept and continue with the appointment on whatever conditions it was offered by the Bank.

17. In the case of Pir Imran Sajid and others versus Managing Director/General Manager (Manager Finance) Telephone Industries of Pakistan and others reported as 2015 SCMR 1257, Honorable Supreme Court held that:

11. It hardly needs to be emphasized that the whole edifice of governance of the society has its genesis in the Constitution and laws aimed at to establish an order, inter alia, ensuring the provisions of socio-economic justice, so that the people may have guarantee and sense of being treated in accordance with law that they are not being deprived of their due rights. Provision of Article 4 embodies the concept of equality before law and equal protection of law and save citizens from arbitrary/discriminatory law and actions by the Governmental authorities. Article 5(2) commands that every body is bound to obey the command of the constitution¹. Every public functionary is supposed to function in good faith, honestly and within the precincts of its power so that persons concerned should be treated in accordance with law as guaranteed by Article 4 of the Constitution. It would include principles of natural justice, procedural fairness and procedural propriety². The action which is mala fide or colourable is not regarded as action in accordance with law. While discharging official functions, efforts should be made to ensure that no one is prevented from earning his livelihood because of unfair and discriminatory act on their part.

12. It is now well laid down that the object of good governance cannot be achieved by exercising discretionary powers unreasonably or arbitrarily and without application of mind but objective can be achieved by following the rules of justness, fairness, and openness in consonance with the command of the Constitution enshrined in different Articles including Articles 4 and 25. The obligation to act fairly on the part of the administrative authority has been evolved to ensure the rule of law and to prevent failure of the justice.

18. The University issued appointment letters to the Petitioners for the post of teaching assistant which were not accepted by the Petitioners for very plausible reasons discussed hereinabove. The petitioners' entitlement to appointment as lecturers was not disputed by the university itself as they were earlier appointed as lecturers on contract basis through appointment letters dated 29.04.2024, such an entitlement was strengthened by passage of time through experience of teaching.

19. For what has been discussed hereinabove, the petitioners have made out a case for indulgence of this court. Consequently, this petition is allowed. The recommendation of Syndicate of University of Larkano for appointment of petitioners as Teaching Assistant in its meeting dated 14.04.2025 is declared to be illegal, unlawful and unjustified, thus set at naught. The university administration is directed to issue fresh appointment letters in favor of the petitioners as contract lecturers within a period of 07 days from today, by continuing their services since the date of their earlier appointment as contract lecturers with back benefits as the petitioners were not at fault for the discontinuity in their services.

The Petition stands disposed of in above terms. Office is directed to send copy of this order to the Respondents by fax for compliance. The Additional Registrar of this Court is directed to ensure compliance.

JUDGE

JUDGE

Asgar/P.A

Approved for reporting

Larkana

10.09.2025